

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
July 6, 2004 (2:00 p.m.)**

The Board for Contractors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Robert Kirby, Board member, presided. No other Board members were present.

Jennifer Kazzie appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Disc = Disciplinary Case
Lic = Licensing Application
RF = Recovery Fund Claim
Trades = Tradesmen Application

C = Complainant/Claimant
A = Applicant
R = Respondent/Regulant
W = Witness
Atty = Attorney

Participants

1. David C. White
t/a Atlantic Drafting & Designs
File Number 2003-01344 (Disc)

White – R
Denis Englisby – R Atty
Bradford Jacob – C

2. Oliver T. Trimiew
t/a OT Trimiew Plumbing & Heating
File Number 2003-03437 (Disc)

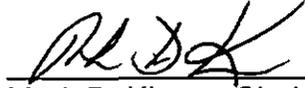
Trimiew – R
Darryl Parker – R Atty
R.P. Raval – R Atty
Cecil Nedrick – W
Denise Jefferson – C
Catherine Anderson – W

3. Oliver T. Trimiew
t/a OT Trimiew Plumbing & Heating
File Number 2003-01037 (Disc)

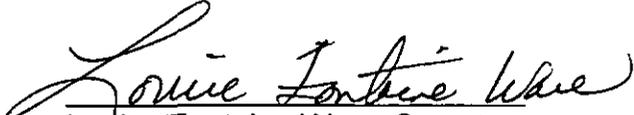
Trimiew – R
Darryl Parker – R Atty
R.P. Raval – R Atty
Cecil Nedrick – W

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The meeting adjourned at 4:52 p.m.

BOARD FOR CONTRACTORS



Mark D. Kinser, Chairman



Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

Re: David C. White, t/a Atlantic Drafting & Designs

File Number: 2003-01344
License Number: 2705066573

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 28, 2003, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to David C. White, t/a Atlantic Drafting & Designs to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service and was marked "Attempted, Not Known".

On September 30, 2003, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the September 30, 2003, IFF: Bradford C. Jacob; Complainant; Jennifer Kazzie, Staff Member; and Robert M. Kirby, Presiding Board Member. Neither David C. White nor anyone on his behalf appeared at the IFF.

On November 26, 2003, a Notice to reconvene the IFF was mailed, via certified mail, to Denis C. Englisby, Esq. The certified mail was received by Denis C. Englisby, Esq.

On March 9, 2004, the IFF was reconvened.

The following individuals participated at the March 9, 2004, IFF: David C. White, Respondent; Denis C. Englisby, Esq., Attorney for Respondent; Michael White, Witness; Norman Ray White, Witness; Charles Curtis, Witness; Jennifer Kazzie, Staff Member; and Robert M. Kirby, Presiding Board Member.

On May 24, 2004, a Notice to reconvene the IFF was mailed, via certified mail, to David C. White through his attorney Denis C. Englisby, Esq. The certified mail was received by Denis C. Englisby, Esq.

On July 6, 2004, the IFF was reconvened.

The following individuals participated at the July 6, 2004, IFF: David C. White, Respondent; Denis C. Englisby, Esquire, Attorney for Respondent; Bradford C. Jacob, Complainant; Jennifer Kazzie, Staff Member; and Robert M. Kirby, Presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the IFF Memorandum:

At the reconvened IFF, Bradford Jacob presented depositions that appeared to indicate that Ed Hald had been an authorized agent for Atlantic Drafting & Design. Upon questioning David White, it was learned that Ed Hald had been an employee of Atlantic Drafting & Design, however, at no time had Atlantic Drafting & Design performed construction work.

Bradford Jacob could not present a credible explanation as to why he paid individuals other than Atlantic Drafting & Design for work performed at the property. I note that the only payment made by Bradford Jacob to Atlantic Drafting & Design was for the actual design of the addition to the Jacob residence.

Count 1: Board Regulation (Effective September 1, 2001)

Since White did not perform contracting work, I recommend that Count 1 of this file be closed with a finding of no violation of 18 VAC 50-22-210.3.

Count 2: Board Regulation (Effective September 1, 2001)

Since White did not perform contracting work, I recommend that Count 2 of this file be closed with a finding of no violation of 18 VAC 50-22-230.A.

Count 3: Board Regulation (Effective September 1, 2001)

Therefore, I recommend that Count 3 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.27.

Count 4: Board Regulation (Effective September 1, 2001)

Therefore, I recommend that Count 4 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.9.

Count 5: Board Regulation (Effective September 1, 2001)

Therefore, I recommend that Count 5 of this file be closed with a finding of no violation of 18 VAC 50-22-230.B.

Count 6: Board Regulation (Effective September 1, 2001)

Therefore, I recommend that Count 6 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.15.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
ENFORCEMENT DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

INFORMAL FACT FINDING CONFERENCE MEMORANDUM

BOARD: Board for Contractors
DATE: February 13, 2003
RE: 2003-01344; David C. White t/a Atlantic Drafting & Designs

BACKGROUND:

On October 31, 2002, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Bradford C. Jacob ("Jacob") regarding a contract entered into with David C. White ("White"), t/a Atlantic Drafting & Designs. (Exh. C-1)

On or about March 11, 2002, Jacob entered into a written contract with "Atlantic Drafting & Designs Inc.," in the amount of \$25,590.00, for an addition to Jacob's residence at 14320 Helmsley Road, Chesterfield, Virginia. (Exh. C-2)

On February 12, 2003, a review of the licensing records of the Board for Contractors revealed David C. White ("White"), t/a Atlantic Drafting & Designs, was issued Class C Contractor's license number 2705066573 on December 20, 2001, as a sole proprietorship. (Exh. I-1)

1. Violation of Code of Virginia or Board Regulation (Effective September 1, 2001)

18 VAC 50-22-210(3)

FACTS:

On or about December 13, 2001, the State Corporation Commission certified Atlantic Drafting & Designs Inc. as a corporation. (Exh. I-4)

White failed to obtain a new license within 30 days of the change in the business entity.

2. Violation of Code of Virginia or Board Regulation (Effective September 1, 2001)

18 VAC 50-22-230(A)

FACTS:

White failed to operate in the name in which the license was issued.

3. Violation of Code of Virginia or Board Regulation (Effective September 1, 2001)

18 VAC 50-22-260(B)(27)

FACTS:

White failed to obtain a Class B license in order to perform work in excess of the \$7,500.00 limit of a Class C license.

4. Violation of Code of Virginia or Board Regulation (Effective September 1, 2001)

18 VAC 50-22-260(B)(9)

FACTS:

The contract used by White in the transaction failed to contain the minimum provisions required by the Board's 2001 Regulation 18 VAC 50-22-260(B)(9), subsections (d) a plain language exculpatory clause, (f) disclosure of cancellation rights, and (h) the contractor's address, license number, expiration date, class of license/certificate, and classification or specialty services.

5. Violation of Code of Virginia or Board Regulation (Effective September 1, 2001)

18 VAC 50-22-230(B)

FACTS:

On or about November 18, 2002, Investigator Becky C. Angelilli, the Board's agent, made a written request to White at the address of record of 1901 Huguenot Road, Suite 302, Richmond, Virginia 23235. The letter was returned from the Postmaster and was stamped "Atlantic Drafting: moved left no address." (Exh. I-2)

The complaint form and Motion for Judgment indicated an address of 6000 Glenway Court, Richmond, Virginia 23225 for David C. White. (Exh. C-1)

On or about December 19, 2002, the Board's agent received information from the Postmaster that White received mail at 6000 Glenway Court, Richmond, Virginia 23225. (Exh. I-3)

On February 12, 2003, the licensing records of the Board for Contractors revealed White's address of record as 1901 Huguenot Road, Suite 302, Richmond, Virginia 23235. The records further revealed there was no change of address made by the Board. (Exh. I-1)

6. Violation of Code of Virginia or Board Regulation (Effective September 1, 2001)

18 VAC 50-22-260(B)(15)

FACTS:

On or about March 8, 2002, White started the contracted work by digging the footings, laying the foundation, completing the block and brick work, pouring the slab, and framing and applying plywood to the sides of the first and second floors.

On or about June 8, 2002, White left the project without completing the framing and applying plywood to the roof, installing the exterior doors and windows, installing siding, and removing any debris from the project. As of February 13, 2003, White failed to return and perform the contracted work.

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

Re: Oliver T. Trimiew, Jr., t/a O T Trimiew Plumbing & Heating

File Number: 2003-03437
License Number: 2705003763

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On October 31, 2003, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Oliver T. Trimiew, Jr., t/a O T Trimiew Plumbing & Heating through his attorney, Ann Bridgeforth Tribbey, Esq. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was received by Ann Bridgeforth Tribbey, Esq.

On March 9, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Denise Jefferson; Complainant; Jennifer Kazzie, Staff Member; and Robert Kirby, Presiding Board Member. Neither Oliver T. Trimiew, Jr. nor anyone on his behalf appeared at the IFF.

On May 3, 2004, a Notice to reconvene the IFF was mailed, via certified mail, to Oliver T. Trimiew, Jr., through his attorney, Darryl Parker, Esq. The certified mail was received by Darryl Parker, Esq.

On May 27, 2004, a Notice to reschedule the IFF was mailed, via certified mail, to Oliver T. Trimiew, Jr., through his attorney, Darryl Parker, Esq. The certified mail was received by Darryl Parker, Esq.

On July 6, 2004, the IFF was reconvened.

The following individuals participated at the IFF: Oliver T. Trimiew, Jr., Respondent; Darryl Parker, Esquire, Attorney for Respondent; R.P. Raval, Witness; Cecil Nedrick, Witness; Denise Jefferson; Complainant; Catherine Anderson, Witness; Jennifer Kazzie, Staff Member; and Robert Kirby, Presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the Counts as outlined in the IFF Memorandum:

Count 1: Board Regulation (Effective September 1, 2001)

Oliver T. Trimiew, Jr.'s failure to include minimum provisions in the contract is a violation of Board Regulation 18 VAC 50-22-260.B.9. During the IFF, Darryl Parker, Trimiew's attorney, provided a revised contract that Trimiew is currently using. Therefore, I recommend that a monetary penalty of \$250.00 be imposed. In addition, I recommend Trimiew successfully complete the Board's Basic Contracting licensing Class (remedial education) within six months of the entry of the Order.

By: _____
Robert M. Kirby
Presiding Board Member

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
ENFORCEMENT DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

INFORMAL FACT-FINDING CONFERENCE MEMORANDUM

BOARD: Board for Contractors
DATE: August 19, 2003
RE: 2003-03437; Oliver T. Trimiew Jr., t/a O T Trimiew Plumbing & Heating

BACKGROUND:

On June 4, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Denise Jefferson ("Jefferson") regarding a contract entered into with Oliver T. Trimiew ("Trimiew"), t/a O T Trimiew Plumbing & Heating. (Exh. C-1)

On October 23, 2002, Jefferson entered into a contract with Trimiew, in the amount of \$2,500.00, for the installation of a heat pump at 1904 Watts Lane, Richmond, Virginia. (Exh. C-2)

7. Violation of Code of Virginia or Board Regulation (Effective September 1, 2001)

18 VAC 50-22-260(B)(9).

FACTS:

The contract used by Trimiew in the transaction failed to contain: (a) when the work is to begin and the estimated completion date, (d) a "plain language" exculpatory clause, (e) statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, (h) the contractor's license number, expiration date, class of license/certificate, and classification or specialty services, and (i) a statement providing that any modification to the contract which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

**IN THE
COMMONWEALTH OF VIRGINIA
BOARD FOR CONTRACTORS**

Re: Oliver T Trimiew Jr, t/a O T Trimiew Plumbing & Heating
Richmond, VA 23261

File Number 2003-01037
License Number 2705003763

CONSENT ORDER

Respondent Oliver T Trimiew Jr, t/a O T Trimiew Plumbing & Heating ("Oliver T Trimiew Jr") recognizes and acknowledges being subject to and bound by the Regulations of the Board for Contractors ("Board"), as well as by all other applicable Virginia laws.

Board's 2001 Regulations provides:

18 VAC 50-22-200. Remedial education, revocation or suspension; fines.

The board may require remedial education, revoke or suspend a license or fine a licensee when a licensee has been found to have violated or cooperated with others in violating any provision of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia, or any regulation of the board.

Pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended:

On July 2, 2003, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Oliver T. Trimiew, Jr., t/a O T Trimiew Plumbing & Heating to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was received by Oliver T. Trimiew, Jr.

On August 6, 2003, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Oliver T. Trimiew, Jr., Respondent; Donnezeta Brown; Complainant, by telephone; Jennifer Kazzie, Staff Member; and Robert M. Kirby, Presiding Board Member.

On October 31, 2003, a Notice to reconvene the IFF was mailed, via certified mail, to Oliver T. Trimiew, Jr. through his attorney, Ann Bridgeforth Tribbey, Esq. The certified mail was received by Ann Bridgeforth Tribbey, Esq.

On March 9, 2004, the IFF was reconvened.

The following individuals participated at the IFF: Jennifer Kazzie, Staff Member; and Robert M. Kirby, Presiding Board Member. Neither Oliver T. Trimiew, Jr. nor anyone on his behalf appeared at the IFF.

On May 3, 2004, a Notice to reconvene the IFF was mailed, via certified mail, to Oliver T. Trimiew, Jr. through his attorney, Darryl Parker, Esq. The certified mail was received by Darryl Parker, Esq.

On May 27, 2004, a Notice to reschedule the IFF was mailed, via certified mail, to Oliver T. Trimiew, Jr. through his attorney, Darryl Parker, Esq. The certified mail was received by Darryl Parker, Esq.

On July 6, 2004, the IFF was reconvened.

The following individuals participated at the IFF: Oliver T. Trimiew, Jr., Respondent; Darryl Parker, Esquire, Attorney for Respondent; R.P. Raval, Esquire, Attorney for Respondent; Cecil Nedrick, Witness; Jennifer Kazzie, Staff Member; and Robert M. Kirby, Presiding Board Member.

The Informal Fact-Finding Conference Memorandum, which contains the facts regarding the regulatory and/or statutory issues in this matter, is incorporated with the Consent Order.

The Board and Oliver T Trimiew Jr, as evidenced by the signatures affixed below, enter into this Consent Order. Oliver T Trimiew Jr knowingly and voluntarily waives any further proceedings in this matter under Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

By signing this Consent Order, Oliver T Trimiew Jr acknowledges an understanding of the charges and hereby admits to the violation(s) of the Counts as outlined in the Informal Fact-Finding Conference Memorandum. Oliver T Trimiew Jr consents to the following term(s):

	Count 1	18 VAC 50-22-260(B)(9)	\$200.00
	Count 2	18 VAC 50-22-260(B)(31)	\$150.00
	Count 3	18 VAC 50-22-260(B)(28)	\$2,500.00
	Count 4	18 VAC 50-22-260(B)(6)	\$200.00

	TOTAL		\$3,050.00

In addition, Oliver T Trimiew Jr agrees to successfully complete the Board's Basic Contracting Licensing Class (remedial education) within six months of the entry of this order for violation of Count 1.

In addition, Oliver T Trimiew Jr agrees to revocation of his license for violation of Count 3. However, the Board agrees to waive imposition of the \$2,500.00 monetary penalty and license revocation if Oliver T Trimiew Jr satisfies the \$5,864.00 judgment within twelve (12) months of the entry of this order.

Any monetary penalties, costs, and/or sanctions are to be paid/performed within thirty days of the effective date of this consent order unless otherwise specifically noted above. Oliver T Trimiew Jr acknowledges any monetary penalty and costs as a debt to the Commonwealth and agrees that in the event of a default, or the return of a check for insufficient funds, Oliver T Trimiew Jr will be responsible for a penalty fee of 10% and interest at the underpayment rate prescribed in Section 58.1-15 of the 1950 Code of Virginia, as amended, and for all reasonable administrative costs, collection fees, or attorney's fees incurred in the collection of whatever funds are due.

Oliver T Trimiew Jr acknowledges that failure to pay any monetary penalty or cost and/or to comply with all terms of this Order within the specified time period, shall result in the automatic suspension of Oliver T Trimiew Jr's license until such time as there is compliance with all terms of this Order. Oliver T Trimiew Jr understands the right to have this automatic suspension considered in an IFF pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended, but knowingly and voluntarily waives any rights to the proceeding and hereby waives any further proceedings under the Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

The effective date of this Order shall be the date of execution by the Board.

SEEN AND AGREED TO:

_____ Date

t/a O T Trimiew Plumbing & Heating

Printed Name and Title of Person Signing on behalf of Entity

CITY/COUNTY OF _____
COMMONWEALTH OF VIRGINIA

Sworn and subscribed before me this _____ day of _____, 2004.

Notary Public

My Commission Expires: _____

SO ORDERED:

Entered this _____ day of _____, 2004.

Board for Contractors

BY: _____
Louise Fontaine Ware, Secretary

VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
ENFORCEMENT DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

AMENDED
INFORMAL FACT FINDING CONFERENCE MEMORANDUM

TO: Adjudication Section
BOARD: Contractors
DATE: February 3, 2003 (revised July 6, 2004)
RE: 2003-01037; Oliver T. Trimiew Jr., t/a O.T. Trimiew Plumbing & Heating

LICENSE, CERTIFICATION, OR REGISTRATION NUMBER:
2705003763

EXPIRATION DATE OF LICENSE:
August 31, 2005

INVESTIGATOR: Becky C. Angelilli
ASSISTANT DIRECTOR: E. Wayne Mozingo

COMMENTS:

By: _____

Robert M. Kirby
Presiding Board Member

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

THE TOTAL MONETARY PENALTY RECOMMENDED HEREIN SHALL BE PAID WITHIN SIXTY (60) DAYS FROM THE DATE OF ENTRY OF THE FINAL ORDER IN THIS MATTER. FAILURE TO PAY THE TOTAL MONETARY PENALTY ASSESSED WITHIN SIXTY (60) DAYS OF THE DATE OF ENTRY OF SAID FINAL ORDER WILL RESULT IN THE AUTOMATIC SUSPENSION OF THE LICENSE, CERTIFICATE, OR REGISTRATION UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

M. Informal Fact-Finding Conference Forms - Document2 (7/04)

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

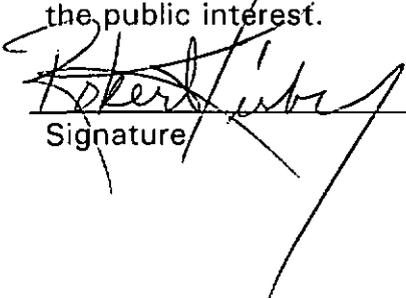
**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Robert Kirby
2. Title: Hearing Officer
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on July 6, 2004
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.



Signature

7-06-2004

Date