

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
September 14, 2004 (9:00 a.m.)**

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

Michael Redifer, 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

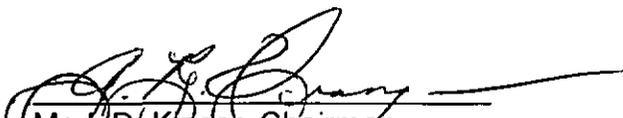
- | | |
|---|----------------------|
| 1. Palmer's Crane & Welding Service
File Number 2005-00323 (Lic) | Stuart D. Palmer – A |
| 2. Stuart Dale Palmer
File Number 2005-00387 (Disc) | Palmer – R |
| 3. Robert Jentilucci
t/a Dominion Building and Construction of VA
File Number 2004-02731 (Disc) | None |
| 4. Robert Jentilucci
t/a Dominion Building and Construction of VA
File Number 2004-02261 (Disc) | None |
| 5. Seldon French
t/a Star City Paving
File Number 2004-01189 (Disc) | None |
| 6. United Paving Inc.
File Number 2004-01862 (Disc) | None |
| 7. United Paving Inc.
File Number 2003-01769 (Disc) | None |

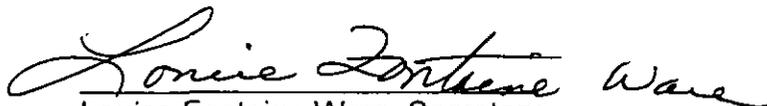
8. Howard B. Hughes
File Number 2004-02169 (Disc)

None

The meeting adjourned at 1:20 p.m.

BOARD FOR CONTRACTORS


Mark D. Kinsek, Chairman


Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

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

Re: Palmer's Crane & Welding Service, Inc.
Application

File Number: 2005-00323

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On July 29, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Palmer's Crane & Welding Service, Inc. ("Palmer's Crane & Welding"). The Notice included the Informal Fact-Finding Conference Referral Memorandum, which contained the facts regarding the application. The certified mail was signed and received.

On August 12, 2004, a letter to reschedule the Informal Fact-Finding Conference ("IFF") was mailed, via certified mail, to Palmer's Crane & Welding. The letter included an Amended IFF Referral Memorandum. The certified mail was signed and received.

On September 14, 2004, an Informal Fact-Finding Conference was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Stuart Palmer, President of Palmer's Crane & Welding, Applicant; Jennifer Kazzie, Staff Member; and Michael Redifer, Presiding Board Member.

PRIOR CRIMINAL CONVICTIONS

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

Palmer was convicted of felony arson in 1977; felony statutory burglary in Lynchburg Circuit Court on May 18, 1982; and misdemeanor possession of marijuana and misdemeanor driving under the influence in Amherst County General District Court on November 13, 2003.

Palmer explained that the 1977 conviction for arson involved a stolen car that was subsequently burned. Palmer further indicated that he was in the wrong place at the wrong time.

Palmer explained, regarding his conviction in 1982 for burglary, he was 23 years old at the time of the crime, and does not remember much about the events of the time, because he was "staying drunk".

Palmer explained, regarding his convictions in 2003 for possession of marijuana and driving under the influence, that he pleaded guilty to the charges on the advice of counsel. Palmer stated that his driver's license was suspended because he refused to submit to a breathalyzer examination. Palmer further stated that he is still currently on probation, but that he did complete a rehabilitation program.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. The arson and statutory burglary convictions were over twenty years ago. There is no relationship between the crimes and the profession of contracting.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

Based upon the above information, it does not appear that granting Palmer's Crane and Welding a license will encourage any criminal activity.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

Palmer has been in business since 1997 as a sole proprietor, none of the evidence presented is related to his operation as a contractor. Due to the circumstances of the crimes, there is no relationship between such crimes and Palmer's fitness to conduct licensed activity.

5. The extent and nature of the person's past criminal activity;

Palmer was convicted of two felonies and two misdemeanors.

6. The age of the person at the time of the commission of the crime;

Palmer was 18 years of age at the time of his conviction for arson, 23 years of age at the time of his conviction for statutory burglary, and 44 years of age at the time of his convictions for possession of marijuana and driving under the influence.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The last offenses occurred on or about July 11, 2003.

8. The conduct and work activity of the person prior to and following the criminal activity; and

Palmer stated that he went to welding school in 1985, and that he subsequently worked for 12 to 13 years with another employer. Since 1997, Palmer has operated his own firm performing steel erection and welding. He currently has five employees.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

While incarcerated for his first offense, Palmer obtained his GED. As part of his sentence for his misdemeanor convictions, Palmer attended VASAP for ten weeks, performed twenty hours of community service, and is currently serving twelve month unsupervised probation. Palmer currently has a restricted driver's license.

RECOMMENDATION

Based upon the evidence and the IFF, including the information obtained from the Central Criminal Records Exchange, and in consideration of the criteria outlined in § 54.1-204.B, the following is recommended regarding the application as outlined in the IFF Conference Referral Memorandum:

Palmer stated, regarding his outstanding debt to the Internal Revenue Service, that he did not realize how much he owed the government at the end of the year, but that he has paid off this debt.

Palmer stated, regarding a question of his assets to hold a Class B license, that he had \$100,000.00 in hard assets in the form of construction machinery.

Palmer stated, regarding his failure to inform the Board of his prior convictions on his 1997 license application, that his bookkeeper checked "NO" in response to the relevant

question on the application, and that he failed to verify that the information in the application was correct.

Therefore, I recommend that Palmer's Crane and Welding application be approved.

By: _____
Michael Redifer
Presiding Board Member

Board for Contractors

Date: _____



AMENDED

**REGULATORY PROGRAMS DIVISION
APPLICATION REVIEW
INFORMAL FACT FINDING CONFERENCE REFERRAL MEMORANDUM**

To: Adjudication Section, Enforcement Division Date: 7/28/04

From: Eric Olson Board: Contractors

Re: Applicant Name: Palmer's Crane & Welding Service, Inc./2705-083933

Applied For: License / Certification / Registration Class: A / B / C

Type Applied For: CIC/HIC (as marked on application)

Reviewed By: _____
Board Member
Eric Olson
Staff Member

IFF Requested by Whom: Applicant

When: 7/15/04 How: letter
(date) (letter, telephone, etc.)

COMMENTS: _____

The purpose of this proceeding is to review the criminal and financial history of Stuart Palmer, RM, DE, and QI of the applicant, Palmer's Crane and Welding Service, Inc.

BASIS UPON WHICH APPLICANT MAY NOT MEET BOARD REGULATORY REQUIREMENTS:

CRIMINAL CONVICTION(S)

Pursuant to VA Code or Board Regulation §: 54.1-204; 54.1-1108(A); 18 VAC 50-22-50(G)
FACTS: (Include name of Court, convicted of, Code §, misdemeanor or felony and date of order.)

Lynchburg Circuit Court; Statutory Burglary; Felony; 3/24/82

Amherst General District Court; Possess of Marijuana; Misdemeanor; 11/13/03

NOTE: The CCRE indicates imprisonment in the State Penitentiary – Richmond, 11/21/77 for Arson (Felony), with a four year sentence. There is no documentation of the court venue or conviction date.

BASIS UPON WHICH APPLICANT MAY NOT MEET BOARD REGULATORY REQUIREMENTS:

ENTRY REQUIREMENT DEFICIT(S)

Pursuant to VA Code or Board Regulation §: 54.1-1108(A); 18-VAC 50-22-50(E)
FACTS: (Include information that specifically addresses why the applicant does not satisfy the Section of the Code or Regulation cited above.)

In that Stuart D. Palmer, RM, DE & QI for Palmer's Crane and Welding Service, Inc. incur an outstanding federal tax obligation involving their personal income tax (1040) in the amount of \$23,266.53. Documentation provided in the file indicates that Mr. Palmer has entered into a payment agreement with the IRS. As of May 5, 2004 the outstanding balance on the account is \$1,800.82. § 54.1-1108(A) of the Code of Virginia requires that the Board determine whether the past performance of the applicant, including his reputation for paying material bills and carrying out other contractual obligations, satisfies the purpose and intent of this chapter.

In that Stuart D. Palmer, RM, DE & QI for Palmer's Crane and Welding Service, Inc., in an application for licensure as a sole proprietor, received by the Board for Contractors in May 27, 1997, for Stuart Dale Palmer t/a Palmers Welding Service, license number 2705-039766, indicated in question 13 that the sole proprietor had never been convicted of any criminal offense, other than minor traffic violations. Documentation received with this current application indicates a conviction history from 1997 for Arson (as cited previously). Mr. Palmer's failure to indicate a past criminal history on a previous application should be reviewed in accordance with § 54.1-1108(A) to determine whether his past performance satisfies the purpose and intent of the statutes.

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

Re: Stuart Dale Palmer, t/a Palmer's Welding Service

File Number: 2005-00387
License Number: 2705039766

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 27, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Stuart Dale Palmer ("Palmer"), t/a Palmer's Welding Service to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed and received.

On September 14, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Palmer, Respondent; Jennifer Kazzie, Staff Member; and Michael Redifer, Presiding Board Member.

RECOMMENDATION

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

During the IFF, Palmer stated, regarding his conviction in 1982 for burglary, he was 23 years old at the time of the crime, and does not remember much about the events of the time, because he was "staying drunk".

Palmer stated, regarding his conviction in 1977 for arson, that the crime involved a stolen car that was subsequently burned. Palmer further indicated that he was in the wrong place at the wrong time.

Count 1: Board Regulation (Effective March 31, 1995)

Palmer's furnishing of substantially inaccurate or incomplete information to the Board in obtaining his license is a violation of Board Regulation §5.7.B.2. Palmer stated, regarding his failure to inform the Board of his prior convictions on his 1997 license application, that his bookkeeper checked "NO" in response to the relevant question on the application, and that he failed to verify that the information in the application was correct. Therefore, I recommend that a monetary penalty of \$1000.00 and remedial education be imposed.

The Basic Contractor Licensing Course (remedial education) must be successfully completed by a member of the responsible management within six (6) months of the entry of the order.

Count 2: Board Regulation (Effective January 1, 2003)

Palmer's conviction of a Class 1 misdemeanor after initial licensure is a violation of Board Regulation 18 VAC 50-22-260.B.22. Palmer stated, regarding his conviction in 2003 for driving under the influence, that he pleaded guilty to the charges on the advice of counsel. Palmer stated that his driver's license was suspended because he refused to submit to a breathalyzer examination. Palmer further stated that he is still currently on probation, but that he did complete a rehabilitation program. Therefore, I recommend that a monetary penalty of \$750.00 and remedial education be imposed.

The Basic Contractor Licensing Course (remedial education) must be successfully completed by a member of the responsible management within six (6) months of the entry of the order.

Count 3: Board Regulation (Effective January 1, 2003)

Palmer's failure to inform the Board, in writing, within thirty (30) days of his conviction is a violation of Board Regulation 18 VAC 50-22-260.B.23. Palmer stated that he was unaware of the requirement to report his convictions to the Board. Therefore, I recommend that a monetary penalty of \$750.00 and remedial education be imposed.

The Basic Contractor Licensing Course (remedial education) must be successfully completed by a member of the responsible management within six (6) months of the entry of the order.

By: _____
Michael Redifer
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
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Contractors
DATE: August 24, 2004

FILE NUMBER: 2005-00387
RESPONDENT: Stuart Dale Palmer
LICENSE NUMBER: 2705039766
EXPIRATION: October 31, 2005

SUBMITTED BY: Investigator Noelle B. Phillips

COMMENTS:

Stuart Dale Palmer ("Palmer"), t/a Palmers Welding Service, was at all times material to this matter a licensed Class B Contractor in Virginia (No. 2705039766).

Based on the investigation of this matter, there is probable cause to believe the respondent has committed the following violations of the Board's regulations:

BACKGROUND:

On August 3, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received information from Joseph C. Haughwout Jr., Legal Assistant, regarding Palmer. (Exh. C-1)

On October 6, 1997, Palmer was issued Class B Contractor's license number 2705039766 as a sole proprietorship. Stuart D. Palmer, individual certificate number 2706087566, is the Responsible Management, Qualified Individual, and Designated Employee of the license number 2705039766. (Exh. I-6)

1. Board Regulation (Effective March 31, 1995)

§5.7. Filing of charges; prohibited acts.

B. The following are prohibited acts:

2. Furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a license/certificate.

FACTS:

On May 27, 1997, the Board for Contractors ("the Board") received a license application from Palmer for a Class B contractor's license as a sole proprietorship. Stuart Dale Palmer was listed as the Responsible Management, Qualified Individual, and Designated Employee. (Exh. I-1)

On the license application, Palmer answered "NO" to question XIII, which asked "Has the sole proprietor, or any of the corporate officers, partners in the partnership, members of the association or Designated Employee of the firm making application ever been convicted of any criminal offense (other than a minor traffic violation) or pleaded nolo contendere to any such offense?" On May 6, 1997, Palmer affirmed his statements and answers as true and his signature was notarized on the license application. (Exh. I-1)

On March 19, 2004, the Board received a license application from Palmer's Crane & Welding Service Inc. for a Class B contractor's license as a corporation. Stuart Dale Palmer was listed as the Responsible Management, Qualified Individual, and Designated Employee. (Exh. I-1a)

On the license application, Stuart Dale Palmer disclosed a criminal conviction. (Exh. I-1a) Based on the disclosed criminal conviction, the Board obtained a Virginia criminal record for Stuart Dale Palmer. The criminal record indicated Stuart Dale Palmer was received by the state penitentiary on November 21, 1977, for a felony conviction of arson. The criminal record also indicated Stuart Dale Palmer was convicted on May 18, 1982, of statutory burglary, a felony. (Exh. I-2)

Palmer furnished substantially inaccurate or incomplete information to the Board on his 1997 license application.

2. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

22. Where the firm, responsible management as defined in this chapter, designated employee or qualified individual has been convicted or found guilty, after initial licensure, regardless of adjudication, in any jurisdiction, of any felony or of any misdemeanor, there being no appeal pending therefrom or the time of appeal having lapsed. Any plea of guilty or nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt.

FACTS:

On November 13, 2003, in the Amherst County General District Court, Palmer was convicted of Driving While Under the Influence ("DWI"), a Class 1 misdemeanor, in violation of § A.18.2-266 of the Code of Virginia. There is no appeal pending and the time for appeal has lapsed. (Exh. I-3)

3. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

23. Failure to inform the board in writing, within 30 days, that the firm, a member of responsible management as defined in this chapter, its designated employee, or its qualified individual has pleaded guilty or nolo contendere or was convicted and found guilty of any felony or of a Class 1 misdemeanor or any misdemeanor conviction for activities carried out while engaged in the practice of contracting.

FACTS:

Palmer failed to inform the board in writing, within thirty (30) days, of his conviction of a Class 1 misdemeanor.

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

Re: Robert Jentilucci, t/a Dominion Building and Construction of VA

File Number: 2004-02731
License Number: 2705006169

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 3, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Robert Jentilucci ("Jentilucci"), t/a Dominion Building and Construction of VA through his attorney D.S. Berenson, Esq. at 1350 Beverly Road, Suite 115, PMB 208. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed and received.

On September 14, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jennifer Kazzie, Staff Member; and Michael Redifer, Presiding Board Member. Neither Jentilucci nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

There does not appear to be a relationship between Jentilucci's business and the corporation. The contract was between Ottomanelli and the corporation and all dealings were with either Craig Tadlock or Craig Oliver. Therefore, the contractual obligations were with Dominion Building and Construction Corp., an unlicensed corporation who used Jentilucci's license.

Count 1: Board Regulation (Effective January 1, 2003)

Therefore, I recommend that Count 1 of this file be closed with a finding of no violation of 18 VAC 50-22-230.A.

Count 2: Board Regulation (Effective January 1, 2003)

Therefore, I recommend that Count 2 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.27.

Count 3: Board Regulation (Effective January 1, 2003)

Jentilucci's action of allowing another to use his license is a violation of Board Regulation 18 VAC 50-22-260.B.19. Based on evidence provided by Jentilucci's attorney, Jentilucci was aware his license was being used by the corporation. Therefore, I recommend that a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 4: Board Regulation (Effective January 1, 2003)

Therefore, I recommend that Count 4 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.15.

By: _____

Michael Redifer
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
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Contractors
DATE: July 29, 2004

FILE NUMBER: 2004-02731
RESPONDENT: Robert Jentilucci, t/a Dominion Building and Construction
of VA

LICENSE NUMBER: 2705006169
EXPIRATION: December 31, 2005

SUBMITTED BY:
APPROVED BY:

COMMENTS:

None.

Robert Jentilucci ("Jentilucci"), t/a Dominion Building and Construction of VA, was at all times material to this matter a licensed Class B Contractor in Virginia (No. 2705006169).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On January 6, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Michael Ottomanelli ("Ottomanelli") regarding Dominion Building and Construction Corp. (Exh. C-1)

On May 7, 2003, Ottomanelli entered into a written contract with Dominion Building and Construction Corp., in the amount of \$85,900.00, to build an addition and perform remodeling work at 4137 Evergreen Drive, Fairfax, Virginia. The contract indicated "VA Contractors Lic # 2705 006169." The contract was signed for by Craig Tadlock. (Exh. C-2)

On December 6, 1991, Jentilucci was issued Class B Contractor's license number 2705006169. (Exh. I-1)

1. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-230. Change of name or address.

- A. A licensee must operate under the name in which the license is issued. Any name change shall be reported in writing to the board within 30 days of the change. The board shall not be responsible for the licensee's failure to receive notices or correspondence due to the licensee's not having reported a change of name.

FACTS:

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

2. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

- B. The following are prohibited acts:

27. Practicing in a classification, specialty service, or class of license for which the contractor is not licensed.

FACTS:

Dominion failed to obtain a Class A license in order to perform work in excess of the \$70,000.00 limit of a Class B license.

3. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

- B. The following are prohibited acts:

19. Allowing a firm's license to be used by another.

FACTS:

On May 6, 2004, a review of the State Corporation Commission records revealed Dominion Building & Construction Corp. became incorporated on August 27, 2002. (Exh. I-2)

In a letter dated March 17, 2004, D.S. Berenson, attorney representing Dominion Building and Construction Corp. and Robert Jentilucci, stated "Dominion Building and Construction Corp. has entered into remodeling projects in Virginia with Mr. Jentilucci as their licensed representative." (Exh. R-2)

Dominion allowed its license to be used by another.

4. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

15. The intentional and unjustified failure to complete work contracted for and/or to comply with the terms in the contract.

FACTS:

The contract specified "The Contractor agrees to complete the structure within 84 days from the date the Contract has been signed and the building permit is issued, time not being of the essence." (Exh. C-2)

Ottomanelli made several attempts to contact Dominion regarding the incomplete work. (Exh. C-1)

As of January 2, 2004, Dominion failed to complete the work at the subject property.

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

Re: Robert Jentilucci, t/a Dominion Building and Construction of VA

File Number: 2004-02261
License Number: 2705006169

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 3, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Robert Jentilucci ("Jentilucci"), t/a Dominion Building and Construction of VA through his attorney D.S. Berenson, Esq. at 1350 Beverly Road, Suite 115, PMB 208. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed and received.

On September 14, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jennifer Kazzie, Staff Member; and Michael Redifer, Presiding Board Member. Neither Jentilucci nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

There does not appear to be a relationship between Jentilucci's business and the corporation. The contract was between Brooks and the corporation and all dealings were with either Craig Tadlock or Craig Oliver. Therefore, the contractual obligations were with Dominion Building and Construction Corp., an unlicensed corporation who used Jentilucci's license.

Count 1: Board Regulation (Effective January 1, 2003)

Therefore, I recommend that Count 1 of this file be closed with a finding of no violation of 18 VAC 50-22-230.A.

Count 2: Board Regulation (Effective January 1, 2003)

Therefore, I recommend that Count 2 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.27.

Count 3: Board Regulation (Effective January 1, 2003)

Jentilucci's action of allowing another to use his license is a violation of Board Regulation 18 VAC 50-22-260.B.19. Based on evidence provided by Jentilucci's attorney, Jentilucci was aware his license was being used by the corporation. Therefore, I recommend that a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 4: Board Regulation (Effective January 1, 2003)

Therefore, I recommend that Count 4 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.15.

By: _____

Michael Redifer
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
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Contractors
DATE: July 29, 2004

FILE NUMBER: 2004-02261
RESPONDENT: Robert Jentilucci, t/a Dominion Building and Construction
of VA
LICENSE NUMBER: 2705006169
EXPIRATION: December 31, 2005

SUBMITTED BY:
APPROVED BY:

COMMENTS:

None.

Robert Jentilucci ("Jentilucci"), t/a Dominion Building and Construction of VA, was at all times material to this matter a licensed Class B Contractor in Virginia (No. 2705006169).

Based on the analysis and/or investigation of this matter, there is probable cause to believe the respondent has committed the following violation(s) of the Code of Virginia and/or Board's regulation(s):

BACKGROUND:

On November 26, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Thomas and Gayle Brooks ("the Brooks") regarding Dominion Building and Construction Corp. (Exh. C-1)

On March 12, 2003, the Brooks entered into a written contract with Dominion Building and Construction Corp., in the amount of \$84,400.00, to build an addition at 10870 Hampton Road, Fairfax Station, Virginia. The contract indicated "VA Contractors Lic # 2705 006169." The contract was signed for by Craig Tadlock. (Exh. C-2)

On December 6, 1991, Jentilucci was issued Class B Contractor's license number 2705006169. (Exh. I-1)

1. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-230. Change of name or address.

- A. A licensee must operate under the name in which the license is issued. Any name change shall be reported in writing to the board within 30 days of the change. The board shall not be responsible for the licensee's failure to receive notices or correspondence due to the licensee's not having reported a change of name.

FACTS:

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

2. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

- B. The following are prohibited acts:

27. Practicing in a classification, specialty service, or class of license for which the contractor is not licensed.

FACTS:

Dominion failed to obtain a Class A license in order to perform work in excess of the \$70,000.00 limit of a Class B license.

3. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

- B. The following are prohibited acts:

19. Allowing a firm's license to be used by another.

FACTS:

On May 6, 2004, a review of the State Corporation Commission records revealed Dominion Building & Construction Corp. became incorporated on August 27, 2002. (Exh. I-2)

In a letter dated March 17, 2004, D.S. Berenson, attorney representing Dominion Building and Construction Corp. and Robert Jentilucci, stated "Dominion Building and Construction Corp. has entered into remodeling projects in Virginia with Mr. Jentilucci as their licensed representative." (Exh. R-1)

Dominion allowed its license to be used by another.

4. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

15. The intentional and unjustified failure to complete work contracted for and/or to comply with the terms in the contract.

FACTS:

On April 29, 2003, Dominion commenced work. On June 23, 2003, the building permit was issued. (Exh. C-1)

On August 20, 2003, the Brooks received a letter from Dominion that the partnership was breaking up. (Exh. C-1)

On October 23, 2003, Dominion installed columns at the subject property. As of October 23, 2003, Dominion has not performed any work at the subject property. (Exh. C-1)

On November 17, 2003, the Brooks left a message for Dominion. On November 21, 2003, the Brooks faxed a letter to Dominion regarding the incomplete work. On November 24, 2003, the Brooks faxed a revised letter to Dominion regarding the incomplete work. On November 26, 2003, the Brooks faxed a letter to Dominion requesting bond and license information and lien releases. The Brooks did not receive a response from Dominion regarding the message or faxes. (Exh. C-1)

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

Re: Seldon French, t/a Star City Paving

File Number: 2004-01189
License Number: 2705077611

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 3, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Seldon French ("French"), t/a Star City Paving 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 signed and received.

On September 14, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jennifer Kazzie, Staff Member; and Michael Redifer, Presiding Board Member. Neither French nor anyone on his behalf appeared at the IFF.

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 January 1, 2003)

French's failure to include minimum provisions in the contract is a violation of Board Regulation 18 VAC 50-22-260.B.9. Therefore, I recommend that a monetary penalty of \$350.00 be imposed.

Count 2: Board Regulation (Effective January 1, 2003)

French's failure to respond to the investigator is a violation of Board Regulation 18 VAC 50-22-260.B.13. Based on the record, French signed for the certified letter from the investigator and failed to respond. Therefore, I recommend that a monetary penalty of \$1,500.00 be imposed.

By: _____

Michael Redifer
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: Contractors
DATE: May 21, 2004 (revised July 26, 2004)
RE: 2004-001189; Seldon E. French, t/a Star City Paving

BACKGROUND:

On September 3, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Clifton Argabright ("Argabright") regarding Seldon E. French ("French"), t/a Star City Paving. (Exh. C-1)

On August 14, 2003, Argabright entered into a written contract with French, in the amount of \$5,000.00, to pave a driveway at 3950 Apache Road, Salem, Virginia 24153. (Exh. C-2)

1. Violation of Code of Virginia or Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260.B.9

FACTS:

The contract used by French in the transaction failed to contain subsections: (a) when the work is to begin and the estimated completion date, (c) a listing of specified materials and work to be performed, (d) a "plain-language" exculpatory clause, (e) a statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of cancellation rights, (h) contractor's license number, expiration date, class of license, and classifications or specialty services, and (i) 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. (Exh. C-2)

2. Violation of Code of Virginia or Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260.B.13

FACTS:

On October 20, 2003, Investigator Dale C. Amos, the Board's agent, made a written request to French at the address of record of P.O. Box 676, Max Meadows, Virginia 24360, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by November 11, 2003. (Exh. I-2)

On April 19, 2004, the Board's agent made a second written request to French, via certified mail, at the address of record of P.O. Box 676, Max Meadows, Virginia 24360, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by May 7, 2004. On April 29, 2004, the certified letter was signed for and received by Seldon French. (Exh. I-2)

As of May 21, 2004, French refused or failed to respond to the Board's agent.

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

Re: United Paving Inc.

File Number: 2004-01862
License Number: 2705027703

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 4, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to United Paving Inc. ("United Paving") through its attorney David Downes, Esq. at 14 Chester Street, Front Royal, Virginia 22630-3321. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed and received.

On September 14, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jennifer Kazzie, Staff Member; and Michael Redifer, Presiding Board Member. Neither United Paving nor anyone on its behalf appeared at the IFF.

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 January 1, 2003)

Grady's conviction of a misdemeanor after initial licensure is a violation of Board Regulation 18 VAC 50-22-260.B.22. Therefore, I recommend that a monetary penalty of \$750.00 be imposed.

Count 2: Board Regulation (Effective January 1, 2003)

Grady's conviction of a misdemeanor after initial licensure is a violation of Board Regulation 18 VAC 50-22-260.B.22. Therefore, I recommend that a monetary penalty of \$750.00 be imposed.

Count 3: Board Regulation (Effective January 1, 2003)

United Paving's failure to inform the Board, in writing, within thirty (30) days of Grady's conviction for a Class 1 misdemeanor is a violation of Board Regulation 18 VAC 50-22-260.B.23. Therefore, I recommend that a monetary penalty of \$750.00 be imposed.

Count 4: Board Regulation (Effective January 1, 2003)

United Paving's failure to respond to the investigator is a violation of Board Regulation 18 VAC 50-22-260.B.13. Therefore, I recommend that a monetary penalty of \$750.00 be imposed.

By: _____
Michael Redifer
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
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Contractors
DATE: June 7, 2004 (revised July 12, 2004)

FILE NUMBER: 2004-01862
RESPONDENT: United Paving Inc.
LICENSE NUMBER: 2705027703
EXPIRATION: April 30, 2005

SUBMITTED BY: Investigator Wayne J. Ozmore, Jr.
APPROVED BY: Investigations Administrator Kevin Hoefft

COMMENTS:

United Paving Inc. ("United") was at all times material to this matter a licensed Class C Contractor in Virginia (License No. 2705027703).

Based on the investigation of this matter, there is probable cause to believe the respondent has committed the following violations of the Board's regulations:

BACKGROUND:

On October 29, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received information regarding Christopher Mark Grady. (Exh. C-1)

On April 5, 1995, United was issued Class C Contractor's license number 2705027703 as a corporation. (Exh. I-1) Christopher M. Grady ("Grady"), individual certificate number 2706070623, is the Qualified Individual and Responsible Management of license number 2705027703. (Exh. I-1 and I-2)

1. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

22. Where the firm, responsible management as defined in this chapter, designated employee or qualified individual has been convicted or found guilty, after initial licensure, regardless of adjudication, in any jurisdiction, of any felony or of any misdemeanor, there being no appeal pending therefrom or the time of appeal having lapsed. Any plea of guilty or nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt.

FACTS:

On September 18, 2003, in the Circuit Court of Winchester, Christopher Mark Grady pleaded guilty and was convicted of possession of paraphernalia, a misdemeanor, in violation of § 54.1-3466 of the Code of Virginia. There is no appeal pending and the time for appeal has lapsed. (Exh. C-1)

2. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

22. Where the firm, responsible management as defined in this chapter, designated employee or qualified individual has been convicted or found guilty, after initial licensure, regardless of adjudication, in any jurisdiction, of any felony or of any misdemeanor, there being no appeal pending therefrom or the time of appeal having lapsed. Any plea of guilty or nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt.

FACTS:

On August 26, 2003, in the Circuit Court of Winchester, Christopher Mark Grady pleaded guilty and was convicted of shoplifting, a misdemeanor, in violation of § 18.2-103 of the Code of Virginia. There is no appeal pending and the time for appeal has lapsed. (Exh. C-1)

3. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

23. Failure to inform the board in writing, within 30 days, that the firm, a member of responsible management as defined in this chapter, its designated employee, or its qualified individual has pleaded guilty or nolo contendere or was convicted and found guilty of any felony or of a Class 1 misdemeanor or any misdemeanor conviction for activities carried out while engaged in the practice of contracting.

FACTS:

United failed to report to the Board, in writing, that Grady pleaded guilty to a Class 1 misdemeanor on September 18, 2003.

4. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

13. Failing to respond to an investigator or providing false, misleading or incomplete information to an investigator seeking information in the investigation of a complaint filed with the board against the contractor.

FACTS:

On November 14, 2003, Investigator Wayne J. Ozmore, Jr., the Board's agent, made a written request to United at the address of record of 289 Huntingridge Road, Winchester, Virginia 22603, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the written response and supporting documents be received by December 1, 2003. (Exh. I-3)

On December 29, 2003, the Winchester Postmaster certified that mail was delivered to Grady and United at 289 Huntingridge Road, Winchester, VA 22603. (Exh. I-5)

On June 3, 2004, at 2:00 PM, the Board's agent contacted directory assistance for Winchester, Virginia in an attempt to receive a telephone number for Grady and/or United. The operator was unable to locate a telephone listing for either Grady or United. (Exh. I-4)

As of June 3, 2004, Grady refused or failed to respond to the Board's agent.

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

Re: United Paving Inc.

File Number: 2003-01769
License Number: 2705027703

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 4, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to United Paving Inc. ("United Paving") through its attorney David Downes, Esq. at 14 Chester Street, Front Royal, Virginia 22630-3321. 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 signed and received.

On September 14, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jennifer Kazzie, Staff Member; and Michael Redifer, Presiding Board Member. Neither United Paving nor anyone on its behalf appeared at the IFF.

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)

United Paving's failure to use a written contract is a violation of Board Regulation 18 VAC 50-22-260.B.8. Based on the record, United Paving gave Wilkins a verbal quote of \$350.00; however, United Paving billed Wilkins \$7,400.00 after the work was performed. The reason for the discrepancy in the final cost is not disputed by United Paving. If United Paving had a written contract, the significant discrepancy of the final cost would not be unsubstantiated. Photos of the driveway indicate questionable quality of work by United Paving. Therefore, I recommend a monetary penalty of \$2,500.00 and a thirty (30) days license suspension be imposed.

By: _____
Michael Redifer
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
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

INFORMAL FACT-FINDING CONFERENCE MEMORANDUM

BOARD: Board for Contractors
DATE: September 30, 2003
RE: 2003-01769; United Paving Inc.

BACKGROUND:

On December 9, 2002, the Enforcement Division of the Virginia Department of Professional and Occupational Regulation received a written complaint from Lillian E. Wilkins ("Wilkins") regarding work performed by United Paving Inc. ("United"). (Exh. C-1)

On October 23, 2002, Wilkins entered into a verbal agreement with United, in the amount of \$350.00, to install an asphalt driveway at 4200 Tavern Road, Petersburg, Virginia. (Exh. C-1)

On December 18, 2002, a review of the licensing records of the Board for Contractors revealed United was issued Class C Contractor's license number 2705027703 on April 5, 1995. The records further revealed Christopher M. Grady ("Grady") was the Qualified Individual and the Responsible Management, as President, of United. (Exh. I-1)

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

18 VAC 50-22-260(B)(8)

FACTS:

On October 23, 2002, United installed of the asphalt driveway and requested payment, in the amount of \$7,400.00 for the work performed by United. (Exh. C-1) On October 23, 2002, Wilkins paid Grady \$7,400.00 by check. (Exh. C-3) Grady provided Wilkins a hand-written receipt that the work performed was paid in full. (Exh. C-2)

United failed to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed.

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

Re: Howard B. Hughes, t/a Hughes Construction Company

File Number: 2004-02169
License Number: 2705045858

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 4, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Howard B. Hughes ("Hughes"), t/a Hughes Construction Company to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed and received.

On September 14, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jennifer Kazzie, Staff Member; and Michael Redifer, Presiding Board Member. Neither Hughes nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

Count 1: Board Regulation (Effective January 1, 2003)

(THREE COUNTS)

Hughes's failure to satisfy the judgments is a violation of Board Regulation 18 VAC 50-22-260.B.28. According to the complainant's attorney, Hughes agreed to make payments of \$1,000.00 per month to satisfy the judgments obtained by Cifuentes, Deleon, and Reyes. As of August 11, 2004, Hughes failed to make any payments pursuant to this agreement and the judgments have gone uncollected. Therefore, I recommend that a monetary penalty of \$2,500.00 and license revocation for each count be imposed.

Count 2: Board Regulation (Effective January 1, 2003)

Hughes's failure to respond to the investigator is a violation of Board Regulation 18 VAC 50-22-260.B.13. Based on the record, Hughes received the written request and requested an extension; however, Hughes failed to provide a written response to the investigator. Therefore, I recommend that a monetary penalty of \$1,500.00 be imposed.

By: _____
Michael Redifer
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
COMPLIANCE & INVESTIGATIONS DIVISION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230-4917

REPORT OF FINDINGS

BOARD: Contractors
DATE: June 14, 2004 (revised July 7, 2004)

FILE NUMBER: 2004-02169
RESPONDENT: Howard B. Hughes
LICENSE NUMBER: 2705045858
EXPIRATION: September 30, 2004

SUBMITTED BY: Investigator Noelle B. Phillips
APPROVED BY: Investigations Administrator Kevin E. Hoeft

COMMENTS:

Howard B. Hughes ("Hughes"), t/a Hughes Construction Company, was at all times material to this matter a licensed Class A Contractor in Virginia (License No. 2705045858).

Based on the investigation of this matter, there is probable cause to believe the respondent has committed the following violations of the Board's regulations:

BACKGROUND:

On November 26, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Justin Mixon ("Mixon"), Esquire, on behalf of Melvyn Cifuentes, David DeLeon, and Marvin Reyers, regarding Hughes Construction Company and Howard B. Hughes ("Hughes"). (Exh. C-1)

1. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts. (THREE COUNTS)

B. The following are prohibited acts:

28. Failure to satisfy any judgments.

FACTS:

On March 26, 2003, in the Fairfax County General District Court, Melvin Cifuentes ("Cifuentes") was awarded a \$5,411.00 judgment against Hughes Construction Co., Inc. and Hughes. The judgment was based on failure to pay wages as promised and breach of contract. (Exh. C-2) As of June 14, 2004, Hughes has failed to satisfy the judgment. (Exh. I-4)

On March 26, 2003, in the Fairfax County General District Court, David DeLeon ("DeLeon") was awarded a \$2,060.00 judgment against Hughes Construction Co., Inc. and Hughes. The judgment was based on failure to pay wages as promised and violation of Fair Labor Standards Act. (Exh. C-3) As of June 14, 2004, Hughes has failed to satisfy the judgment. (Exh. I-4)

On March 26, 2003, in the Fairfax County General District Court, Marvin Reyes ("Reyes") was awarded a \$2,060.00 judgment against Hughes Construction Co., Inc. and Hughes. The judgment was based on failure to pay wages as promised and violation of Fair Labor Standards Act. (Exh. C-4) As of June 14, 2004, Hughes has failed to satisfy the judgment. (Exh. I-4)

2. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-260. Filing of charges; prohibited acts.

B. The following are prohibited acts:

13. Failing to respond to an investigator or providing false, misleading or incomplete information to an investigator seeking information in the investigation of a complaint filed with the board against the contractor.

FACTS:

On December 8, 2003, Investigator Noelle B. Phillips, the Board's agent, made a written request to Hughes at the address of record of 7116 Coventry Road, Alexandria, Virginia 22306, requesting a written response to the complaint filed with the Board. The Board's agent requested a response be received by December 29, 2003. (Exh. I-1)

On December 29, 2003, the Board's agent received an electronic mailing from Hughes stating he was in the process of writing a response to the allegations and the Board's agent would expect receipt to those allegations by January 20, 2004. (Exh. R-1)

On March 12, 2004, the Board's agent contacted Hughes by electronic mail requesting the immediate completion of his response. (Exh. I-2)

As of June 14, 2004, Hughes failed to respond to the Board's agent.

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

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

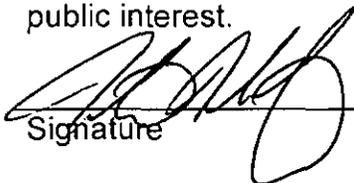
1. Name: Michael Redifer
2. Title: Presiding Board Member
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on September 14, 2004
5. Nature of Personal Interest Affected by Transaction: _____

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:

UPA/BA UPMA ILL IAEL NFPA

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


Signature

9-14-04
Date