Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
October 05, 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.

Kenneth Hart, Board member, presided. No other Board members were present.

Jeffrey Buckley 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. James and Lynn Martin and Sun Designs LLC File Number 2004-02675 (RF)	Lynn Martin – C
2. Laura Neff-Henderson and Robert V. Hartnett Jr. File Number 2004-04174 (RF)	Neff-Henderson – C
3. Dennis and Alecia Donhal and Goodman Mechanical Corporation File Number 2004-03042 (RF)	Dennis Dohnal – C
4. Mark and Mary Schaeffer and Millennium Pools & Spas Inc. File Number 2004-01065 (RF)	Mary Schaeffer – C
5. Denver Construction Corporation File Number 2003-02598 (Disc)	Dr. Frank Greco – C Seza Greco – C
6. Tewodros G Giorgis File Number 2005-00583 (Lic) (Tradesman)	G Giorgis – A Sirak Belayneh – W

The meeting adjourned at 2:45 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: James and Lynn Martin (Claimant) and Sun Designs LLC (Regulant)

File Number: 2004-02675
License Number: 2705035282

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 19, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to James and Lynn Martin ("Claimants") through their attorney Mark F. Hyson, Esq. and Sun Designs LLC ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail was signed and received by both the Claimant and the Regulant.

On October 5, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Lynn Martin, Claimant; Jeffrey Buckley, Staff Member; and Kenneth Hart, Presiding Board Member. Neither Lindy Funk nor anyone on the Regulant's behalf appeared at the IFF.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the recovery fund claim:

On May 7, 2001, the Claimants entered into a contract with the Regulant to construct a modular home at the Claimant's property.

In July 2001, a dispute arose between the Claimants and the Regulant regarding the quality of the work performed by the Regulant. In August 2001, the Regulant left the subject property and did not return to complete the work.

The Claimants and the Regulant submitted to arbitration in order to resolve the dispute, as was provided for in their contract. In July 2002, the arbitrator issued an award to the Claimants.

On February 25, 2003, in the Circuit Court of Culpepper County, the arbitration award was entered as a judgment against the Regulant, in the amount of $8,209.00, plus interest and $36.00 in court costs.

According to the Claim Review, the Claimants are seeking a payment from the Recovery Fund, in the amount of $8,245.00.

During the IFF, the Claimant stated that she is seeking a payment from the Recovery Fund, in the amount of $10,000.00. The difference is attributable to attorney's fees that were not initially presented in the Claimant's claim.

The Claimant stated that her concerns with the Regulant's work were not cosmetic in nature. The Claimant also stated that the arbitration with the Regulant was binding to both parties, but that the Regulant claimed to be out of business and would not pay the award amount.

The arbitrator's award stated that the Regulant "...failed to meet the requirements of the contract or the applicable plans and specifications, as well as the implied warranty of good and workmanlike manner..."; and that there was "...widespread unacceptable workmanship in all phases of the work on this job..." The Circuit Court awarded a judgment against the Regulant on this basis, which falls within improper or dishonest conduct under §54.1-1120(A)(7).

Therefore, I recommend that the recovery fund claim be approved for payment in the amount of $9,894.00.

By: _____

Kenneth Hart
Presiding Board Member

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: August 12, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of *James S. and Lynn Martin (Claimants) and Sun Designs, LLC t/a Sun* Design, LLC (Regulant)
File Number: 2004-02675

BACKGROUND

On February 25, 2003, in the Circuit Court of Culpeper County, James S. and Lynn P. Martin obtained a judgment Order against Sun Designs, LLC, in the amount of $8,209.00.

The claim in the amount of $8,245.00 was received by the Department of Professional and Occupational Regulation on September 30, 2003.

CLAIM FILE INFORMATION

Section 54.1-1120(A) requires the claimant to obtain a final judgment in a court of competent jurisdiction in the Commonwealth of Virginia against any individual or entity which involves improper or dishonest conduct.

> The Order recites '... that, pursuant to ..., the Arbitration Award dated July 29, 2002, be and hereby is confirmed and that judgment thereon, ..., be and hereby is entered against Defendant, ..." as the basis of the award.

Section 54.1-1120(A) also requires the transaction occurring during a period when such individual or entity was a regulant and in connection with a transaction involving contracting.

The claimants did contract with the regulant.

The Board issued Class A License Number 2705 035282 to Sun Designs, LLC, on October 28, 1996. The license expires on October 31, 2004. The claimants entered into a written contract with Sun Designs, LLC on May 7, 2001, to furnish the materials and perform the labor necessary for the completion of a modular home for the claimants.

Section 54.1-1120(A)(1) provides whenever action is instituted against a regulant by any person, such person shall serve a copy of the process upon the Board.

The Contractors Board was not served prior to the claim being filed.

Section 54.1-1120(A)(2) states a copy of any pleading or document filed subsequent to the initial service process in the action against a regulant shall be provided to the Board.

The Board did not receive pleadings and/or documents prior to the claim being filed.

Section 54.1-1120(A)(3) requires a verified claim to be filed no later than twelve months after the judgment becomes final.

The Order was entered on February 25, 2003. The claim was received on September 30, 2003.

Section 54.1-1120(A)(4) states the claimant shall be an individual whose contract with the regulant involved contracting for the claimant's residence.

The claimants entered into a written contract with Sun Designs, LLC to furnish the materials and perform the labor necessary for the completion of a modular home for the claimants

Section 54.1-1120(A)(5) prohibits recovery when the claimant is an employee of such judgment debtor, vendor of such judgment debtor, another licensee, the spouse or child of such judgment debtor nor the employee of such spouse or child, or any financial or lending institution nor anyone whose business involves the construction or development of real property.

On Question Number 6 of the Claim Form, the claimants were asked: Are you a vendor of the regulant (contractor)? Are you an employee, spouse or child of the regulant (contractor) or an employee of such spouse or child? Do you hold, or have you ever held, a Virginia Class A or Class B State Contractor's license or registration? Do you operate as a financial or lending institution? Does your business involve the construction or development of real property? Claimants answered "No."

Section 54.1-1120(A)(6) states no directive from the fund shall be entered until the claimant has filed with the Directors Office a verified claim containing the following statements: (a) that the claimant has conducted debtor's interrogatories to determine whether the judgment debtor has any assets which may be sold or applied in satisfaction of the judgment; (b) a description of the assets disclosed by such interrogatories; (c) that all legally available actions have been taken for the sale, or application of the disclosed assets and the amount realized therefrom; and (d) the balance due the claimant after the sale or application of such assets.

Debtor's interrogatories were conducted. No assets were revealed.

Section 54.1-1120(A)(7) states a claimant shall not be denied recovery from the Fund due to the fact the order for the judgment filed with the verified claim does not contain a specific finding of "improper and dishonest conduct." Any language in the order that supports the conclusion that the court found that the conduct of the regulant involved improper or dishonest conduct may be used by the Board to determine eligibility for recovery from the Fund.

The Order recites '... that, pursuant to ..., the Arbitration Award dated July 29, 2002, be and hereby is confirmed and that judgment thereon, ..., be and hereby is entered against Defendant, ..."

The Arbitrator's Award stated "... the work of Sun Designs, L.L.C. consistently failed to meet either the requirements of the contract or the applicable plans and specifications, as well as the implied warranty of good and workmanlike manner ...". Further, that there was "... widespread unacceptable workmanship in all phases of the work on this job ..." as the basis of the award.

In the Affidavit of Facts dated August 22, 2003 the claimants assert that the regulant was not performing the construction in a workmanlike manner. The claimants expressed their concerns on several occasions to the regulant regarding the substandard construction used on the project. The regulant removed all tools from the project and did return. The regulant has not paid the claimants the money granted through arbitration.

SECTION 54.1-1120(B) requires if the regulant has filed bankruptcy, the claimant shall file a claim with the proper bankruptcy court. If no distribution is made, the claimant may then file a claim with the Board.

On Question Number 5 of the Claim Form, the claimants were asked if, to their knowledge, the regulant had filed for bankruptcy? Claimants answered "No".

SECTION 54.1-1123(C) excludes from the amount of any unpaid judgment any sums representing interest, or punitive or exemplary damages.

The Claim Form does not include interest or damages.

IN THE

COMMONWEALTH OF VIRGINIA

BOARD FOR CONTRACTORS

Re: Laura Neff-Henderson (Claimant) and Robert Vincent Hartnett, Jr., t/a General Home Improvement Co. (Regulant)

File Number: 2004-04174
License Number: 2705024936

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 19, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Laura Neff-Henderson ("Claimant") and Robert Vincent Hartnett, Jr. ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail was signed and received by the Claimant. The certified mail to the Regulant was returned by the United States Postal Service and marked as "Unclaimed."

On October 5, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Laura Neff-Henderson, Claimant; Jeffrey Buckley, Staff Member; and Kenneth Hart, Presiding Board Member. Neither Robert Vincent Hartnett, Jr. nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the recovery fund claim:

On November 13, 2001, the Claimant entered into a written contract with the Regulant to replace windows and a front door at the Claimant's residence.

The Regulant replaced the windows, but did not install the front door.

On December 11, 2002, in the General District Court for the City of Hopewell, the Claimant obtained a judgment against the Regulant, in the amount of $705.90 plus interest and $36.00 in court costs.

The Claimant is seeking a payment from the Recovery Fund, in the amount of $813.90.

During the IFF, the Claimant stated that all she could prove, according to the contract, was that the Regulant was responsible for furnishing the door. The Claimant further stated that she ended up paying for the door, and that it was installed by someone else. The Claimant also stated that she wanted the Regulant to reimburse her for the cost of the door.

The Claimant stated that she had total court costs in the amount of $116.00.

In the affidavit submitted by the Claimant, the Regulant allegedly had a conversation with the Claimant in which he stated that "even if [the Claimant] got a judgment that it didn't mean [the Claimant would] get any money." The Regulant further stated that "[t]here are ways to hide a business."

The contract used in the transaction specified that the Regulant was to provide the door to the Claimant. The Regulant did not furnish the door, and the Claimant purchased the door and had it installed.

I find the conduct of the Regulant to meet the definition of improper or dishonest per §54.1-1120(A)(7).

Therefore, I recommend that the recovery fund claim be approved for payment in the amount of $821.90.

By: _____

Kenneth Hart
Presiding Board Member

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: June 9, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of *Laura Neff-Henderson (Claimant) and Robert V. Hartnett, Jr., t/a General* Home Improvement Co. (Regulant)
File Number: 2004-04174

BACKGROUND

On December 11, 2002, in the General District Court for the City of Hopewell, Laura L. Neff-Henderson obtained a Judgment against Robert Hartnett, in the amount of $705.90, plus interest and $36.00 costs.

The claim in the amount of $798.90 was received by the Department of Professional and Occupational Regulation on April 13, 2003.

An amended claim in the amount of $813.90 was received by the Department of Professional and Occupational Regulation on June 6, 2003.

CLAIM FILE INFORMATION

Section 54.1-1120(A) requires the claimant to obtain a final judgment in a court of competent jurisdiction in the Commonwealth of Virginia against any individual or entity which involves improper or dishonest conduct.

> The Warrant in Debt does not recite the basis of the suit. The block designated "Contract" has been marked.

Section 54.1-1120(A) also requires the transaction occurring during a period when such individual or entity was a regulant and in connection with a transaction involving contracting.

The claimants did contract with the regulant.

The Board issued Class B License Number 2705 024936 to Robert Vincent Hartnett, Jr., t/a General Home Improvement Co., on July 28, 1994. The license was permanently revoked on July 30, 2003. The claimant entered into a written contract with General Home Improvement Co., on November 13, 2001, to furnish and install double hung vinyl replacement windows and a front entrance door at the claimants' residence.

Section 54.1-1120(A)(1) provides whenever action is instituted against a regulant by any person, such person shall serve a copy of the process upon the Board.

The Contractors Board was not served prior to the claim being filed.

Section 54.1-1120(A)(2) states a copy of any pleading or document filed subsequent to the initial service process in the action against a regulant shall be provided to the Board.

The Board did not receive pleadings and/or documents prior to the claim being filed.

Section 54.1-1120(A)(3) requires a verified claim to be filed no later than twelve months after the judgment becomes final.

A Judgment was entered on December 11, 2002. The claim was received on April 16, 2003, with an amended claim received on June 6, 2003.

Section 54.1-1120(A)(4) states the claimant shall be an individual whose contract with the regulant involved contracting for the claimant's residence.

The claimants entered into a written contract with General Home Improvement Co., to furnish and install double hung vinyl replacement windows and a front entrance door.

Section 54.1-1120(A)(5) prohibits recovery when the claimant is an employee of such judgment debtor, vendor of such judgment debtor, another licensee, the spouse or child of such judgment debtor nor the employee of such spouse or child, or any financial or lending institution nor anyone whose business involves the construction or development of real property.

On Question Number 6 of the Claim Form, the claimant was asked: Are you a vendor of the regulant (contractor)? Are you an employee, spouse or

child of the regulant (contractor) or an employee of such spouse or child? Do you hold, or have you ever held, a Virginia Class A or Class B State Contractor's license or registration? Do you operate as a financial or lending institution? Does your business involve the construction or development of real property? The Claimant answered "No."

Section 54.1-1120(A)(6) states no directive from the fund shall be entered until the claimant has filed with the Directors Office a verified claim containing the following statements: (a) that the claimant has conducted debtor's interrogatories to determine whether the judgment debtor has any assets which may be sold or applied in satisfaction of the judgment; (b) a description of the assets disclosed by such interrogatories; (c) that all legally available actions have been taken for the sale, or application of the disclosed assets and the amount realized therefrom; and (d) the balance due the claimant after the sale or application of such assets.

Debtor's interrogatories were not conducted, as the regulant could not be found.

Section 54.1-1120(A)(7) states a claimant shall not be denied recovery from the Fund due to the fact the order for the judgment filed with the verified claim does not contain a specific finding of "improper and dishonest conduct." Any language in the order that supports the conclusion that the court found that the conduct of the regulant involved improper or dishonest conduct may be used by the Board to determine eligibility for recovery from the Fund.

The Warrant in Debt recites does not recite the basis of the judgment.
The block designated "Contract" has been marked.

In the Affidavit of Facts dated April 14, 2003, the claimant states "... did replace our windows; however he has failed to provide the steel front-entry door specified in the contract." "... we paid the remaining balance ($2,400.00) by writing a check (#5245) to ... Before we actually handed over a check, I reminded Mr. Hartnett that he had not fulfilled the contract and that he still owed us a front door." "He agreed and said that he would order it immediately."

In addition, Laura Henderson states, "Since we received a judgment in the Hopewell ..., he has failed to return any of my phone calls." "I have attempted to contact him to exercise my lifetime warranty because two of our windows need to be repaired; however, he will not answer my calls or return my messages."

SECTION 54.1-1120(B) requires if the regulant has filed bankruptcy, the claimant shall file a claim with the proper bankruptcy court. If no distribution is made, the claimant may then file a claim with the Board.

On Question Number 5 of the Claim Form, the claimant was asked if, to their knowledge, the regulant had filed for bankruptcy? The claimant answered "No".

SECTION 54.1-1123(C) excludes from the amount of any unpaid judgment any sums representing interest, or punitive or exemplary damages.

The Claim Form does not include interest or damages.

IN THE

COMMONWEALTH OF VIRGINIA

BOARD FOR CONTRACTORS

Re: Dennis W. & Alecia F. Dohnal (Claimants) and Goodman Mechanical Corporation (Regulant)

File Number: 2004-03042
License Number: 2705065527

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 19, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Dennis W. & Alecia F. Dohnal ("Claimants") and Goodman Mechanical Corporation ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail was signed and received by the Claimants. The certified mail to the Regulant was returned by the United States Postal Service, and marked as "Not Deliverable as Addressed, Unable to Forward."

On October 5, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Dennis Dohnal, Claimant; Jeffrey Buckley, Staff Member; and Kenneth Hart, Presiding Board Member. Neither Heidi Skeens nor anyone on the Regulant's behalf appeared at the IFF.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the recovery fund claim:

On March 22, 2001, the Claimant entered into a written contract with the Regulant to install a new heating system and water treatment system at the Claimant's residence.

The Regulant performed the work at the subject property, and the Claimants paid the Regulant a total of $8,245.00 to complete the project.

Shortly after the Regulant completed the work, the Claimants noticed that the heating and water treatment systems were not working properly.

The Claimants repeatedly contacted the Regulant to have their concerns addressed. The Regulant made verbal promises to the Claimants that the

problems the Claimants experienced would be addressed. The Regulant never returned to the property to perform repairs.

On October 6, 2003, in the General District Court for the County of Middlesex, the Claimants obtained a judgment against the Regulant, in the amount of $8,004.00 plus interest and $35.00 in court costs.

The Claimants are seeking a payment from the Recovery Fund in the amount of $8,039.00.

The Regulant installed used equipment where the homeowner paid for new equipment. The Regulant did not replace heating ductwork as contracted for, and used some additional secondhand parts. All of the above, I find meets the definition of improper and dishonest conduct.

Therefore, I recommend that the recovery fund claim be approved for payment in the amount of $8,039.00.

By: _____

Kenneth Hart
Presiding Board Member

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: August 12, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Dennis W. and Alecia F. Dohnal (Claimants) and Goodman Mechanical Corporation t/a Goodman Mechanical Corporation (Regulant)
File Number: 2004-03042

BACKGROUND

On October 6, 2003, in the General District Court for the County of Middlesex, Dennis W. and Alecia F. Dohnal obtained a Judgment against Goodman Mechanical, in the amount of $8,004.00, plus interest and $35.00 costs.

The claim in the amount of $8,039.00 was received by the Department of Professional and Occupational Regulation on October 20, 2003.

CLAIM FILE INFORMATION

Section 54.1-1120(A) requires the claimant to obtain a final judgment in a court of competent jurisdiction in the Commonwealth of Virginia against any individual or entity which involves improper or dishonest conduct.

> The Warrant in Debt recites "as the result of improper or dishonest conduct of the defendant" as the basis for the award.

Section 54.1-1120(A) also requires the transaction occurring during a period when such individual or entity was a regulant and in connection with a transaction involving contracting.

> The claimant did contract with the regulant.

The Board issued Class B License Number 2705065527 to Goodman Mechanical Corporation t/a Goodman Mechanical Corporation on November 8, 2001. The license was permanently revoked on April 16, 2004. The claimant entered into a written contract with Goodman Mechanical on March 22, 2001, for the installation of a new heating system and water treatment system.

Section 54.1-1120(A)(1) provides whenever action is instituted against a regulant by any person, such person shall serve a copy of the process upon the Board.

The Contractors Board was served prior to the claim being filed.

Section 54.1-1120(A)(2) states a copy of any pleading or document filed subsequent to the initial service process in the action against a regulant shall be provided to the Board.

The Board did receive pleadings and/or documents prior to the claim being filed.

Section 54.1-1120(A)(3) requires a verified claim to be filed no later than twelve months after the judgment becomes final.

A Judgment was entered on October 6, 2003. The claim was received on October 20, 2003.

Section 54.1-1120(A)(4) states the claimant shall be an individual whose contract with the regulant involved contracting for the claimant's residence.

The claimant entered into a written contract with Goodman Mechanical for the installation of a new heating system and water treatment system.

Section 54.1-1120(A)(5) prohibits recovery when the claimant is an employee of such judgment debtor, vendor of such judgment debtor, another licensee, the spouse or child of such judgment debtor nor the employee of such spouse or child, or any financial or lending institution nor anyone whose business involves the construction or development of real property.

On Question Number 6 of the Claim Form, the claimant was asked: Are you a vendor of the regulant (contractor)? Are you an employee, spouse or child of the regulant (contractor) or an employee of such spouse or child? Do you hold, or have you ever held, a Virginia Class A or Class B State Contractor's license or registration? Do you operate as a financial or lending institution? Does your business involve the construction or development of real property? Claimants answered "No."

Section 54.1-1120(A)(6) states no directive from the fund shall be entered until the claimant has filed with the Directors Office a verified claim containing the following statements: (a) that the claimant has conducted debtor's interrogatories to determine whether the judgment debtor has any assets which may be sold or applied in satisfaction of the judgment; (b) a description of the assets disclosed by such interrogatories; (c) that all legally available actions have been taken for the sale, or application of the disclosed assets and the amount realized therefrom; and (d) the balance due the claimant after the sale or application of such assets.

> Debtor's interrogatories were not conducted. On January 31, 2003, Goodman Mechanical's corporate status was automatically terminated by the State Corporation Commission.

Section 54.1-1120(A)(7) states a claimant shall not be denied recovery from the Fund due to the fact the order for the judgment filed with the verified claim does not contain a specific finding of "improper and dishonest conduct." Any language in the order that supports the conclusion that the court found that the conduct of the regulant involved improper or dishonest conduct may be used by the Board to determine eligibility for recovery from the Fund.

> The Warrant in Debt recites "as the result of improper or dishonest conduct of the defendant" as the basis for the award.

SECTION 54.1-1120(B) requires if the regulant has filed bankruptcy, the claimant shall file a claim with the proper bankruptcy court. If no distribution is made, the claimant may then file a claim with the Board.

> On Question Number 5 of the Claim Form, the claimant was asked if, to their knowledge, the regulant had filed for bankruptcy? Claimants answered "No."

SECTION 54.1-1123(C) excludes from the amount of any unpaid judgment any sums representing interest, or punitive or exemplary damages.

> The Claim Form does not include interest or damages.

IN THE

COMMONWEALTH OF VIRGINIA

BOARD FOR CONTRACTORS

Re: Mark and Mary Schaeffer (Claimant) and Millennium Pools & Spas Inc. (Regulant)

File Number: 2004-01065
License Number: 2705052822

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 20, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Mark and Mary Schaeffer ("Claimants") and Millennium Pools & Spas Inc. ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail was signed and received by the Claimant. The certified mail to the Regulant as returned by the United States Postal Service, and marked as "Not Deliverable as Addressed, Unable to Forward."

On October 5, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Mary Schaeffer, Claimant (by telephone); Jeffrey Buckley, Staff Member; and Kenneth Hart, Presiding Board Member. Neither Raymond Terczak nor anyone on the Regulant's behalf appeared at the IFF.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the recovery fund claim:

On March 17, 2001, the Claimants entered into a written contract with the Regulant to construct an in-ground swimming pool at the Claimant's residence.

The Regulant commenced work at the subject property by excavating land for the pool. The Claimants paid the Regulant the first installment on the contract.

The Regulant never returned to the property to complete the work.

On June 28, 2002, in the Circuit Court for the County of Fairfax, the Claimants obtained a judgment against the Regulant, in the amount of $130,035.00, plus interest and $16,460.00 in attorney's fees and courts costs.

The Claimants are seeking a payment from the Recovery Fund, in the amount of $10,000.00.

During the IFF, the Claimant stated that the Regulant dug up a large hole on her property, but never returned to complete the work; and that she paid the Regulant $43,345.00. The Claimant further stated that the judgment amount reflected a penalty against the Regulant. The Claimant also stated that the Regulant may have forged her husband's name on the Fairfax County permit application. The Claimant also stated that she was informed by Fairfax County that the Regulant was not properly licensed to operate in the county.

The Regulant was paid to perform work that was not completed, and attempted to fraudulently obtain a permit from Fairfax County. The Regulant's conduct in this matter was improper and dishonest, per §54.1-1120(A)(7) of the Code of Virginia.

Therefore, I recommend that the recovery fund claim be approved for payment in the amount of $10,000.00.

By: _____

Kenneth Hart
Presiding Board Member

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: May 28, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Mark & Mary Schaeffer (Claimants) and Millennium Pools & Spa, Inc t/a Millennium Pools & Spa, Inc., (Regulant)
File Number: 2004-01065

BACKGROUND

On June 28, 2002 in the Circuit Court for the County of Fairfax, Mark D. & Mary Schaeffer, et al., obtained a Judgment against Millennium Pools & Spas, Inc., in the amount of $130,035.00, plus interest, attorney fees of $16, 460.00 and costs.

The claim in the amount of $10,000.00 was received by the Department of Professional and Occupational Regulation on June 12, 2003.

CLAIM FILE INFORMATION

Section 54.1-1120(A) requires the claimant to obtain a final judgment in a court of competent jurisdiction in the Commonwealth of Virginia against any individual or entity which involves improper or dishonest conduct.

The Order does not recite the basis for the award.

Section 54.1-1120(A) also requires the transaction occurring during a period when such individual or entity was a regulant and in connection with a transaction involving contracting.

The claimants did contract with the regulant.

The Board issued Class B License Number 2705052822 to Millennium Pools & Spas Inc. on October 18, 1999. The Regulant's license was permanently revoked March 7, 2002. The claimants entered into a written contract with Millennium Pools & Spas, Inc. March 17, 2001 for the construction of an in ground pool at claimants' residence.

Section 54.1-1120(A)(1) provides whenever action is instituted against a regulant by any person, such person shall serve a copy of the process upon the Board.

The Contractors Board was not served prior to the claim being filed.

Section 54.1-1120(A)(2) states a copy of any pleading or document filed subsequent to the initial service process in the action against a regulant shall be provided to the Board.

The Board did not receive pleadings or documents prior to the claim being filed.

Section 54.1-1120(A)(3) requires a verified claim to be filed no later than twelve months after the judgment becomes final.

A Judgment was entered on June 28, 2002. The claim was received on June 12, 2003.

Section 54.1-1120(A)(4) states the claimant shall be an individual whose contract with the regulant involved contracting for the claimant's residence.

The claimant entered into a written contract with the Millennium Pools & Spas Inc. March 17, 2001 for the construction of an in ground pool at claimants' residence.

Section 54.1-1120(A)(5) prohibits recovery when the claimant is an employee of such judgment debtor, vendor of such judgment debtor, another licensee, the spouse or child of such judgment debtor nor the employee of such spouse or child, or any financial or lending institution nor anyone whose business involves the construction or development of real property.

On Question Number 6 of the Claim Form, the claimant was asked: Are you a vendor of the regulant (contractor)? Are you an employee, spouse or child of the regulant (contractor) or an employee of such spouse or

> child? Do you hold, or have you ever held, a Virginia Class A or Class B State Contractor's license or registration? Do you operate as a financial or lending institution? Does your business involve the construction or development of real property? Claimant answered "No."

Section 54.1-1120(A)(6) states no directive from the fund shall be entered until the claimant has filed with the Directors Office a verified claim containing the following statements: (a) that the claimant has conducted debtor's interrogatories to determine whether the judgment debtor has any assets which may be sold or applied in satisfaction of the judgment; (b) a description of the assets disclosed by such interrogatories; (c) that all legally available actions have been taken for the sale, or application of the disclosed assets and the amount realized therefrom; and (d) the balance due the claimant after the sale or application of such assets.

> Debtor's interrogatories were not conducted, as the regulant could not be found.

Section 54.1-1120(A)(7) states a claimant shall not be denied recovery from the Fund due to the fact the order for the judgment filed with the verified claim does not contain a specific finding of "improper and dishonest conduct." Any language in the order that supports the conclusion that the court found that the conduct of the regulant involved improper or dishonest conduct may be used by the Board to determine eligibility for recovery from the Fund.

> The Order does not recite the basis for the award.
> In the Affidavit of Facts dated May 20, 2003, the claimants assert that the regulant received funds for the construction of an in ground pool prior to starting the construction. The regulant did not return to construct the pool, leaving the claimants with an additional expense of hiring another company to put the dirt back into hole and re-seed the yard for grass.

Section 54.1-1120(B) requires if the regulant has filed bankruptcy, the claimant shall file a claim with the proper bankruptcy court. If no distribution is made, the claimant may then file a claim with the Board.

> On Question Number 5 of the Claim Form, the claimant was asked if, to their knowledge, the regulant had filed for bankruptcy? In response to this question, the claimant responded, "No."

Section 54.1-1123(C) excludes from the amount of any unpaid judgment any sums representing interest, or punitive or exemplary damages.

The Claim Form does not include interest or damages.

IN THE

COMMONWEALTH OF VIRGINIA

BOARD FOR CONTRACTORS

Re: Denver Construction Corporation

File Number: 2003-02598
License Number: 2701039481

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 20, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Denver Construction Corporation ("Denver Construction") 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 not returned to the Department.

On October 5, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Dr. Frank and Seza Greco; Complainants; Jeffrey Buckley, Staff Member; and Kenneth Hart, Presiding Board Member. Neither Bruce Adkins nor anyone on Denver Construction's 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 May 1, 1999)

(THREE COUNTS)

Denver Construction's failure to include minimum provisions in the contracts is a violation of Board Regulation 18 VAC 50-22-260.B.8. The contracts used in the transaction failed to include six of the required provisions. Therefore, I recommend that a monetary penalty of $1,000.00 for each count, for a total of $3,000.00, be imposed.

Count 2: Board Regulation (Effective May 1, 1999)

Denver Construction's failure to obtain fully executed change orders is a violation of Board Regulation 18 VAC 50-22-260.B.6. On September 26, 2001, April 18, 2002, July 12, 2002, and October 23, 2002, Denver Construction sent change orders to Greco for

additional work to be performed at the subject property. The change orders were not signed by Greco.

During the IFF, Dr. Frank Greco stated that Denver Construction submitted change order proposals, which were signed by Denver Construction. He further stated that he accepted the terms and price of the change orders, even though he did not sign them.

There were three contracts and five change orders, four of which were unsigned by the contractor, used for this construction project. Denver Construction continuously agreed to perform work without obtaining fully executed change orders.

Therefore, I recommend that a monetary penalty of $1,950.00 be imposed.

Count 3: Board Regulation (Effective May 1, 1999)

Denver Construction's failure to complete work is a violation of Board Regulation 18 VAC 50-22-260.B.12. In January 2001, Denver Construction commenced work at the subject property. In April 2002, Denver Construction made a written agreement with Greco to have the work completed by May 30, 2002. Denver Construction last performed work at the subject property in November 2002. The Grecos made several attempts to contact Denver Construction by telephone and letter. In March 2003, Denver Construction sent the Grecos a letter stating that it was not responsible for incompletion of the project. Denver Construction failed to complete the work as specified in contracts that it signed on December 7, 2000 and May 4, 2001; and as specified in additional change orders and written agreements.

During the IFF, Dr. Frank Greco stated that he paid other contractors to complete some of the work. Seza Greco stated that she and her husband have been unable to hire contractors to finish other portions of incomplete work.

Therefore, I recommend that a monetary penalty of $2,500.00 and license revocation be imposed.

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

Denver Construction's retention of funds is a violation of Board Regulation 18 VAC 50-22-260.B.16. On October 23, 2002, Denver Construction executed an agreement that specified that the Grecos overpaid Denver Construction by $2,960.88, and further specified that Denver Construction would repay this amount. Denver Construction failed to repay the Grecos as promised.

During the IFF, Dr. Frank Greco stated that the amount specified in the agreement was a minimum amount that Denver Construction owes him. He further stated that Denver Construction owes him more than the agreement specified because the agreement took into consideration costs that were paid by the contractor, but that it was later learned that some of these costs were, in fact, not paid by the contractor.

Therefore, I recommend that a monetary penalty of $2,500.00 and license revocation be imposed.

Count 5: Board Regulation (Effective January 1, 2003)

Denver Construction's failure to report to the Board, in writing, within ninety (90) days of a change of corporate officers is a violation of Board Regulation 18 VAC 50-22-220.A. The license records for the Board indicate that Bruce Adkins, individual certificate number 2706013275, is the Responsible Management for Denver Construction. However, the State Corporation Commission records indicate that Nathaniel C. Everett and Jacqulin W. Butler are the corporate officers for Denver Construction. Therefore, I recommend that a monetary penalty of $1,000.00 be imposed.

By: _____

Kenneth Hart
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: May 3, 2004 (revised August 12, 2004)
RE: 2003-02598; Denver Construction Corporation

BACKGROUND:

On March 6, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Frank and Seza Greco ("the Grecos") regarding Denver Construction Corporation ("Denver Construction"). (Exh. C-1)

According to the Grecos, Denver Construction commenced work on November 28, 2000. (Exh. C-1-3)

On December 7, 2000, the Grecos entered into a written contract with Denver Construction, in the amount of $13,050.00, to install a new wrought iron fence at 3837 Church Point Road, Virginia Beach, Virginia. (Exh. C-2)

On December 7, 2000, the Grecos entered into a second written contract with Denver Construction, in the amount of $50,825.00, to construct a detached two-story pool house at the subject property. (Exh. C-3)

On December 12, 2000, Denver Construction obtained building permit number 200017395BO for the work to be performed at the subject property. (Exh. W-1)

According to Denver Construction, work commenced on January 3, 2001. (Exh. C-1-2-3)

On May 4 2001, the Grecos entered into a third written contract with Denver Construction, in the amount of $26,090.00, to construct an upstairs room addition and a catwalk at the subject property. (Exh. C-4)

On June 2, 2001, the Grecos and Denver Construction signed a written change order, in the amount of $5,880.00, to perform additional work on the pool house at the subject property. (Exh. C-5)

On September 26, 2001, Denver Construction sent the Grecos a second written change order, in the amount of $4,928.00, to perform additional work at the subject property. The Grecos did not sign the change order. (Exh. C-6)

On January 18, 2002, Denver Construction sent the Grecos a third written change order, in the amount of $15,793.00, to perform additional work on the pool house and room addition at the subject property. The Grecos did not sign the change order. (Exh. C-7)

On April 18, 2002, Frank Greco and Denver Construction entered into a written agreement to complete the subject work by May 30, 2002, with the sauna work to be completed by June 15, 2002. (Exh. C-8)

On July 12, 2002, Denver Construction sent the Grecos a fourth written change order, in the amount of $4,899.32, to perform additional work on the pool house. The Grecos did not sign the change order. (Exh. C-9)

On September 3, 2002, Frank Greco and Nathaniel Everett entered into a written agreement, which stated "$7,000 is owed to complete the job. That remainder includes concrete work estimated at $2750. We agree to use Total Concrete and their price for the original work plus addition (unestimated) is $5900. F. Greco will pay the $5900 and reduce the outstanding balance of $7,000 to $4250." (Exh. C-10)

On September 9, 2002, Frank Greco and Nathaniel Everett entered into a written agreement, which stated "FJG to also pay Hercules Fence $3503.88 and balance is so reduced. FJG paid $950 (E. White Down Payment) and $400 for light fixtures & fan on 9/9/02. 1K Balance." (Exh. C-10)

On September 16, 2002, Frank Greco and Nathaniel Everett entered into a written agreement, which stated "FJG paid $7200 to Total Concrete of which $5900 is credit to outstanding balance which is probably paid in full and more given some items to be reconciled. Greco's paid for some items which should have been paid by Denver. Denver had extra expenses and labor not included in original contract." (Exh. C-10-2)

On September 20, 2002, Frank Greco and Nathaniel Everett entered into a written agreement, which stated "FJ Greco paid $1000 balance to close out the $1950 E White Electrical bill. All is over and above. Price includes fixing light in front lawn and installing lights in front polls." (Exh. C-10-2)

On October 8, 2003, Frank Greco and Nathaniel Everett entered into a written agreement, which stated "F. Greco paid Denver Construction $3707.00 for the remaining Hercules fence. This payment overpays the job by $3707-$746.12 outstanding or by $2960.88. This overpayment does not include changes/after additions or subtractions which were paid by the Greco. This figure (2960.88) will be adjusted by Denver and if it is negative, F. Greco will pay. If positive Denver will reimburse the final amount." (Exh. C-10-2)

On October 23, 2002, Frank Greco and Denver Construction executed a Secured Promissory Note and Agreement ("the Agreement"). According to the Agreement, Frank Greco agreed to advance Nathaniel Everett and/or Denver Construction money to complete the project. (Exh. C-11)

On October 23, 2002, Denver Construction sent the Grecos a fifth written change order to perform additional work to complete the work at the subject property. The Grecos did not sign the change order. (Exh. C-12)

On October 23, 2002, Denver Construction sent the Grecos an invoice, in the amount of $4,009.00, for additional work. The invoice was marked "Paid 10/23/02 IN TOTAL." (Exh. C-13)

On November 7, 2002, Frank Greco and Nathaniel Everett signed a written agreement regarding payments and credits. (Exh. C-14)

1. Violation of Code of Virginia or Board Regulation (May 1, 1999)

18 VAC 50-22-260.B.8 (THREE COUNTS)

FACTS:
The contracts used by Denver Construction failed to contain subsections: (a), (d), (e), (f), (h), and (i).

2. Violation of Code of Virginia or Board Regulation (May 1, 1999)

18 VAC 50-22-260.B.6

FACTS:
Denver Construction failed to obtain the Grecos' signatures on written change orders for modifications to the scope of the work to be performed and cost of the original contract.

3. Violation of Code of Virginia or Board Regulation (May 1, 1999)

18 VAC 50-22-260.B.12

FACTS:
The last day Denver Construction performed work at the subject property was November 7, 2002. (Exh. C-1-3)

After November 7, 2002, the Grecos made several attempts to contact Denver Construction by telephone and letter. (Exh. C-1-2-1, C-1-2-2, and C-1-3)

On March 14, 2003, the Grecos sent Denver Construction a letter requesting the work and promissory note be satisfied within two (2) weeks. (Exh. C-1-2)

On March 24, 2003, Denver Construction sent the Grecos a letter stating the project is a day-by-day effort until decisions regarding changes are resolved. Denver Construction also stated it was not responsible for the incompletion of the project. (Exh. C-1-2-3)

As of April 29, 2004, Denver Construction failed to complete the following items specified in the December 7, 2000, contract regarding the fence:

a. Fence
b. No crowns
c. 2 substandard gates
d. no front (garage door) gate. (Exh. C-1-3)

As of April 29, 2004, Denver Construction failed to complete the following items specified in the December 7, 2000, contract regarding the pool house:

- Electrical connection
- Installation of carpet
- Finishing molding/painting
- Stair installation (bottom step)
- Upstairs bathroom
- Downstairs bathroom
- Downstairs kitchen cabinets/appliance installation. (Exh. C-1-3)

As of April 29, 2004, Denver Construction failed to complete the following items specified in the May 4, 2001, contract regarding the addition:

- Catwalk carpeting
- Improper windows
- Incorrect stairs
- Finishing molding/painting
- Electrical connectivity. (Exh. C-1-3)

As of April 29, 2004, Denver Construction failed to complete the following items specified in the June 2, 2001, change order:

- No bathroom fixtures
- Incomplete installation of cabinets/vanity
- No water management process. (Exh. C-1-3)

As of April 29, 2004, Denver Construction failed to complete the following items specified in the September 26, 2001, change order:

- No security system
- No keypad
- No locks
- Incomplete electrical amp lines. (Exh. C-1-3)

As of April 29, 2004, Denver Construction failed to complete the following items specified in the January 18, 2002, change order:

- No ceramic floor installation
- No shower walls
- No tile installation
- Incomplete/incorrect exercise room framing
- Incomplete/no upgrade to fencing. (Exh. C-1-3)

As of April 29, 2004, Denver Construction failed to complete the following items specified in the April 18, 2002, change order:

- No sauna work. (Exh. C-1-3)

As of April 29, 2004, Denver Construction failed to complete the following items specified in the July 12, 2002, change order:

- No additional ceramic floor addition
- No tile installation
- No end caps. (Exh. C-1-3)
-

As of April 29, 2004, Denver Construction failed to complete the following items specified in the October 23, 2002, change order:

- Mechanical/plumbing incomplete. (Exh. C-1-3)

As of April 29, 2004, Denver Construction failed to complete the following items specified in the October 23, 2002, invoice:

- French drains not connected to main line. (Exh. C-1-3)

As of April 29, 2004, Denver Construction failed to complete the following items specified in the November 7, 2002, written agreement:

- No key/locks
- No cabinet installation. (Exh. C-1-3)

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

18 VAC 50-22-260.B.16.

FACTS:

According to the Secured Promissory Note and Agreement, the Grecos "overpaid for the original contracted effort in the amount of $2,960.88" and Denver Construction agreed to repay the overpaid amount by November 1, 2003. (Exh. C-11)

As of April 29, 2004, Denver Construction failed to repay the overpaid funds and honor the Secured Promissory Note and Agreement. (Exh. C-1-3)

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

18 VAC 50-22-220.A

FACTS:

On December 2, 1991, Denver Construction was issued Class A Contractor's license number 2701039481 as a corporation. B. Adkins, individual certificate number 2706013275, is the Responsible Management for license number 2701039481. (Exh. I-1)

On August 12, 2004, the State Corporation Commission records indicated Nathaniel C. Everett as President and Treasurer and Jacqulin W. Butler as Vice President and Secretary of Denver Construction Corp. (Exh. I-6)

Denver Construction failed to report to the Board, in writing, within ninety (90) days of a change in the officers of the corporation.

IN THE

COMMONWEALTH OF VIRGINIA

BOARD FOR CONTRACTORS

Re: Tewodros M. G Giorgis
Application

File Number: 2005-00583

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On August 18, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Tewodros M. G Giorgis ("G Giorgis"). 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 October 5, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: G Giorgis, Applicant; Sirak Belayneh, Witness; Jeffrey Buckley, Staff Member; and Kenneth Hart, Presiding Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the application requirements as outlined in the IFF Conference Referral Memorandum:

On July 13, 2004, G Giorgis applied for a Journeyman Electrician's license.

On August 3, 2004, G Giorgis's application was denied by the Board because the experience documentation submitted with G Giorgis's application indicated experience with industrial automation, industrial equipment, and data distribution networks; and not experience with commercial or residential electrical work outlined in the National Electrical Code.

During the IFF, G Giorgis stated that he performed residential and electrical work while employed in Ethiopia. G Girogis also presented a letter from a previous employer stating that G Giorgis has experience in residential and commercial electrical work. G Giorgis also stated that he is taking courses on the National Electric Code in order to become more familiar with the rules in this country, because he is more familiar with operating under international rules.

After interviewing G Giorgis, I find him extremely qualified to hold a Journeyman Electrician's license.

Therefore, I recommend that G Giorgis's application be approved.

By: _____

Kenneth Hart
Presiding Board Member

Board for Contractors

Date: _____

LICENSING AND REGULATORY PROGRAMS DIVISION
APPLICATION REVIEW
INFORMAL FACT FINDING CONFERENCE REFERRAL MEMORANDUM

To: **Adjudication Section, Compliance & Investigations Division**

Date: 8/17/04

From: Kevin Hoeft **Board:** Contractors

Re: **Applicant Name:** Tewodros M. G Giorgis/2710-042646

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

Type Applied For: Journeyman (ELE)
(as marked on application)

Reviewed By: _____
Board Member

Kevin Hoeft
Staff Member

IFF Requested by Whom: Applicant

When: 8/12/04 (date) **How:** letter (letter, telephone, etc.)

COMMENTS:

The reason for review is that the applicant's documented experience appears to involve industrial automation and industrial equipment and data distribution networks, not the commercial or residential electrical work outlined in the National Electrical Code.

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Kenneth Hart
2. Title: Presiding Board Member
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on October 5, 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.

Kenneth W. Hart — Signature

10-4-04 — Date

10-5-04 /sw for K. W Hart