

**Minutes of Meeting  
BOARD FOR CONTRACTORS  
INFORMAL FACT-FINDING CONFERENCES  
September 23, 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.

Ruth Ann Wall, presiding officer member, presided. No Board members were present.

Amy Chappell and Joe Haughwout 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

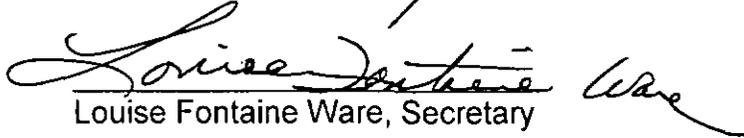
- |  |                                   |
|--|-----------------------------------|
| 1. Fernanda Best and<br>Residential Construction Services LLC<br>File Number 2004-04257 (RF)                             | None                              |
| 2. Geraldine N. Slusher and<br>M & I Enterprises Inc.<br>t/a D & D Mechanical Contractors<br>File Number 2004-00830 (RF) | Michelle Overby – C Atty          |
| 3. James W. Thompson and<br>Clarence Glover<br>t/a Glover Home Improvement<br>File Number 2004-04154 (RF)                | Thompson – C<br>Royce Heiston – W |
| 4. Antionnette Barnard and<br>Joseph E. Miller<br>t/a Miller's Roofing<br>File Number 2004-04251 (RF)                    | Barnard – C (by phone)            |

5. Jerry and Vickie Hoops and  
Thomas H. Moore  
t/a Moores Building Electrical Plumbing & HVAC  
File Number 2004-04192 (RF)  
J. Hoops – C  
Thomas Walk – C Atty  
Moore – R  
Faye Moore – W
  
6. Brenda Brewster and  
James L. Thompson  
t/a T T Contractors  
File Number 2004-04208 (RF)  
Brewster – C
  
7. Joseph L. Graham and  
Cherry Hill Development Corp.  
File Number 2004-03064 (RF)  
Graham – C
  
8. Patricia Frappier and Wesley Horn and  
Exterior Solutions  
File Number 2004-00288 (RF)  
Frappier – C

The meeting adjourned at 2:55 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: Fernanda Best (Claimant) and Residential Construction Services LLC (Regulant)

File Number: 2004-04257  
License Number: 2705064723

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On August 25, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Fernanda Best ("Claimant") and Residential Construction Services 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 the Claimant. 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 September 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Amy Chappell, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Residential Construction Services LLC nor anyone on its behalf appeared at the IFF.

**RECOMMENDATION**

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

On April 4, 2002, the City of Hampton General District Court, the Claimant obtained a judgment against the Regulant, in the amount of \$3,400.00, plus interest and \$30.00 in court costs.

The Claimant is seeking a payment from the Recovery Fund, in the amount of \$3,430.00.

The Warrant in Debt cites that the contractor started the work, left the home exposed to the elements, and never returned to finish the work.

Therefore, I recommend that the recovery fund claim be approved for payment in the amount of \$3,430.00.

By: \_\_\_\_\_  
Ruth Ann Wall  
Presiding Officer

Board for Contractors

Date: \_\_\_\_\_

## CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor  
Legal Assistant

DATE: May 17, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Fernanda Best (Claimant) and Residential Construction Services, LLC t/a Residential Construction Services, LLC (Regulant)  
File Number: 2004-04257

## BACKGROUND

On April 4, 2002 in the City of Hampton General District Court, Fernanda T.S. Best obtained a Judgment against Residential Construction Services LLC, in the amount of \$3,400.00, plus interest and \$30.00 costs.

The claim in the amount of \$3,430.00 was received by the Department of Professional and Occupational Regulation on April 2, 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 "\$1,600.00 paid 10/24/01 contractor started work on heating system and left home exposed to elements of winter. Never returned to finish \$4,800.00 on previous contract" as the basis for 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 Board issued Class A License Number 2705064723 to Residential Construction Services LLC, t/a Residential Construction Services LLC, on August 13, 2001. The license expired on August 31, 2003. The claimant entered into a written contract with Residential Construction Services LLC October 24, 2001 to install an air conditioning system at the claimant's 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 any 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 April 4, 2002. The claim was received on April 2, 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 Residential Construction Services LLC October 24, 2001 for the installation of an air conditioning system at the claimant's 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. The Summons To Answer Interrogatories was posted on the door. The Serving Officer was unable to make personal service.

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 "\$1,600.00 paid 10/24/01 contractor started work on heating system and left home exposed to elements of winter. Never returned to finish \$4,800.00 on previous contract" as the basis for the suit. The block designated "Contract" has been marked.

In the Affidavit of Facts dated April 1, 2003, the claimant asserts the regulant quoted a price of \$6,200.00 for the installation of a dual zone hearing system. The claimant had \$4,800.00 to invest in the installation of the system. The regulant said the upstairs unit and duct work for both levels could be completed for \$4,800.00. The remaining \$1,400.00 would be for equipment cost. The claimant paid \$4,800.00 to the regulant. Work

of the system had to stop due to other construction problems. The regulant agreed to finish the air conditioning once the back of the house

Best & Residential  
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was reconstructed. After 18 months the claimant contacted the regulant to finish the work contracted for so the framing inspection could be done. The regulant advised the claimant due to the length of time that past the quote would increase from \$1,400.00 to \$2,900.00. The claimant agreed to pay the additional money. After receiving the money, the regulant did not return to complete the work for several weeks. Once the regulant returned to the project the regulant caused damage to the claimant's electrical and security system. The claimant made several attempts to contact the regulant regarding the problems. After mediation was attempted, the regulant did return and installed a unit in the claimant's attic but did not connect the unit for use. The claimant received a judgment against the regulant in the amount of \$3,400.00. The regulant has never returned to the project to correct the deficiencies or return the claimant's money.

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: Geraldine N. Slusher (Claimant) and M & I Enterprises Inc., t/a D & D Mechanical Contractors (Regulant)

File Number: 2004-00830  
License Number: 2705047598

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On August 25, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Geraldine N. Slusher ("Claimant"), through her attorney, and M & I Enterprises 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 was returned by the United States Postal Service and marked as "Unclaimed."

On September 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Michelle Overby, Attorney for Claimant; Amy Chappell, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither M & I Enterprises Inc. nor anyone on its behalf appeared at the IFF.

**RECOMMENDATION**

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

On October 11, 2002 the Claimant entered into a contract with the Regulant to purchase and install a boiler at the Claimant's residence.

The Claimant paid the Regulant a deposit in the amount of \$2,475.00.

The Regulant removed the old boiler at the Claimant's residence, but replaced it with an inferior model. The Claimant requested that the Regulant remove the inferior model and requested her deposit be returned.

The Regulant did not return the deposit.

On July 1, 2003, in Rockingham County General District Court, the Claimant obtained a judgment against the Regulant, in the amount of \$7, 425.00, \$48.00 in

costs, and \$1,500.00 in attorney's fees. The judgment cited the basis for the award as "Fraud, Breach of Contract, Virginia Consumer Protection Act."

On July 28, 2003, in the United States Bankruptcy Court for the Western District of Virginia, the Regulant filed a Chapter 11 petition.

The Claimant is seeking a payment from the Recovery Fund, in the amount of \$8,973.00.

During the IFF, Overby stated that the Regulant is currently in Chapter 11 bankruptcy, and is moving into Chapter 7 bankruptcy.

Although the information received from the Claimant does not contain additional money, it is evident that the Claimant had to purchase the correct boiler and have it installed, as well as never having received the returned monies from the Regulant.

Therefore, I recommend that the recovery fund claim be approved for payment in the amount of \$8,973.00.

By: \_\_\_\_\_  
Ruth Ann Wall  
Presiding Officer

Board for Contractors

Date: \_\_\_\_\_

## CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor  
Legal Assistant

DATE: August 10, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of  
Geraldine N. Slusher (Claimant) and M & I Enterprises, Inc., t/a D & D  
Mechanical Contractors

(Regulant)

File Number: 2004-00830

## BACKGROUND

On July 1, 2003 in the Rockingham County General District Court, Geraldine N. Slusher obtained a Judgment against M&I Enterprises, Inc., in the amount of \$7,425.00, \$48.00 costs, \$1,500.00 attorney's fees plus interest.

On July 28, 2003 in the United States Bankruptcy Court, Harrisonburg, Virginia, Western District of Virginia, M & I Enterprises Inc., t/a D & D Mechanical Contractors, filed a Chapter 11 Petition.

The claim in the amount of \$8,973.00 was received by the Department of Professional and Occupational Regulation on August 13, 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 "Fraud, Breach of Contract, Virginia Consumer Protection Act" as the basis for the suit.

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 2705047598, to M & I Enterprises, Inc., t/a D & D Mechanical Contractors on December 29, 1998. The licenses expire December 31, 2004. The claimant entered into a written contract with D & D Mechanical Contractors on October 12, 2002 for purchase and installation of (1) Burnham PB84WCBBWN1224 boiler, (4) Zone Valve Kits (1) Thermostat, flue piping, water piping, and oil line and filter.

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.

Judgment was entered on July 1, 2003. The claim was received on August 13, 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 contract with D & D Mechanical Contractors on October 12, 2002 for purchase and installation of (1) Burnham

PB84WCBBWN1224 boiler, (4) Zone Valve Kits (1) Thermostat, flue piping, water piping, and oil line and filter. All labor, material, equipment and all thermostats wiring necessary to install the equipment at her 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. The regulant filed for bankruptcy protection.

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 "Fraud, Breach of Contract, Virginia Consumer Protection Act as the basis of the suit.

In the Affidavit of Facts dated September 18, 2003, the claimant asserts

the regulant was to install a PB84WCBBWN1223 boiler and received a payment of \$2,475.00 from the claimant. The regulant installed an 83 Burnham boiler unit which costs significantly less than the unit contracted for. The claimant requested that the Burnham PB83 unit be removed and the claimant's \$2,475.00 be refunded. The regulant removed the unit but refused to return the claimant's money.

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, "Yes."

A Proof of Claim was filed with the United States Bankruptcy Court, Western District of Virginia.

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: James W. Thompson (Claimant) and Clarence Glover, t/a Glover Home Improvement (Regulant)

File Number: 2004-04154  
License Number: 2705047708

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On August 23, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to James W. Thompson ("Claimant") and Clarence Glover ("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 was returned by the United States Postal Service, and marked as "Unclaimed."

On September 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: James W. Thompson, Claimant; Royce Heiston, Witness; Amy Chappell, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Clarence Glover 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:

In June 1999, the Claimant entered into a verbal contract with the Regulant to work on the basement at the Claimant's residence.

On February 10, 2000, the Claimant entered into a written contract with the Regulant to finish the basement.

The Claimant paid the Regulant a total of \$7,650.00.

On October 17, 2002, in the Prince William County General District Court, the Claimant obtained a judgment against the Regulant, in the amount of \$10,000.00, plus interest and \$36.00 in court costs.

The Claimant is seeking a payment from the Recovery Fund, in the amount of \$10,000.00.

During the IFF, the Claimant stated that the Regulant did submit to debtor's interrogatories, and that the Regulant made an agreement to pay the Claimant \$500.00 per month. The Regulant has not made any payments to the Claimant. The Claimant also stated that the Regulant's wages were garnished, in the amount of \$9.58.

The Claimant also stated that the \$10,000.00 value of the judgment was based on cost required to repair the Claimant's property.

During the IFF, Royce Heiston stated that he and the Claimant were currently under contract, in the amount of \$3,800.00 to repair the work that was improperly performed or unfinished by the Regulant.

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

By: \_\_\_\_\_  
Ruth Ann Wall  
Presiding Officer

Board for Contractors

Date: \_\_\_\_\_

## CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria Traylor  
Legal Assistant

DATE: May 26, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of James W. Thompson (Claimant) and Clarence Glover t/a Glover Home Improvement (Regulant)  
File Number: 2004-04154

## BACKGROUND

On October 17, 2002, in Prince William County General District Court, James W. Thompson obtained a Judgment against Clarence Glover, in the amount of \$10,000.00, plus interest and \$36.00 costs.

The claim in the amount of \$10,000.00 was received by the Department of Professional and Occupational Regulation on March 18, 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 for the suit. The block designated "Open Account" 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 claimant did contract with the regulant.

The Board issued Class C License Number 2705047708 to Clarence Glover t/a Glover Home Improvement, on January 5, 1999. The license expired on January 31, 2001. The claimant entered into a written contract with Glover Home Improvement on February 10, 2000 to finish the basement at claimant's 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 any 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 October 17, 2002. The claim was received on March 18, 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 Glover Home Improvement to February 10, 2000 to finish the basement at claimant's 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. The Summon to Answer Interrogatories was posted on the front door.

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 does not recite the basis for the suit. The block "Open Account" has been marked.

In the Affidavit of Facts dated April 9, 2003, the claimant asserts that the regulant received funds in the amount of \$7,650.00 from the claimant and only completed partially the plumbing, electrical and drywall. The regulant never returned the money or completed the project

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, "Yes." The claimant did not provide any documentation of bankruptcy.

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

Thompson & Glover  
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The Claim Form does not include interest or damages.

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

Re: Antionette H. Barnard (Claimant) and Joseph E. Miller, t/a Miller's Roofing  
(Regulant)

File Number: 2004-04251  
License Number: 2705060078

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On August 23, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Antionette H. Barnard ("Claimant"), through her attorney, and Joseph E. Miller ("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 September 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Antionette H. Barnard, Claimant (by telephone); Amy Chappell, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Joseph E. Miller 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 January 21, 2003, in the City of Virginia Beach General District Court, the Claimant obtained a judgment against the Regulant, in the amount of \$2,875.00, plus interest and \$36.00 in court costs. The judgment cited "Breach of Contract and Warranty in Roof Repair" as the basis for judgment.

The Claimant is seeking a payment from the Recovery Fund, in the amount of \$3,876.00. The amount includes the amount of judgment, \$126.00 in court costs, and \$875.00 for the cost to repair the roof.

During the IFF, the Claimant stated that the original contract was between the realtor, on behalf of the previous owner of the property, and the Regulant to perform repairs on the roof. The Claimant also stated that the realtor paid the Regulant. There was no contract between the Claimant and the Regulant.

The Claimant stated that the Regulant gave her a five-year warranty on the roof.

Because the judgment states breach of contract as the basis for the Claimant's judgment, the judge thereby assigned the rights of the contract to the Claimant, even though the Claimant did not directly contract with the Regulant. Therefore, I recommend that the recovery fund claim be approved for payment in the amount of \$3,786.00 to include the amount of the judgment, the court costs as stated in the judgment, and the repair costs.

By: \_\_\_\_\_  
Ruth Ann Wall  
Presiding Officer

Board for Contractors

Date: \_\_\_\_\_

## CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor  
Legal Assistant

DATE: May 25, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Antoinette H. Barnard (Claimant) and Joseph Edward Miller t/a Miller's Roofing (Regulant)  
File Number: 2004-04251

## BACKGROUND

On January 21, 2003, in the City of Virginia Beach General District Court, Antoinette Barnard obtained a Judgment against Joe Miller t/a Miller's Roofing, in the amount of \$2,875.00, plus interest and \$36.00 costs.

The claim in the amount of \$3,876.00 was received by the Department of Professional and Occupational Regulation on June 4, 2003. The claim amount includes \$2,875.00 for the judgment, \$126.00 court costs, \$875.00 Harsley & Harsley (repair costs paid) for the total of \$3,876.00.

## 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 "Breach of Contract & Warranty In Roof Repair" as the basis for the suit.

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 not contract with the regulant. The previous home owner contracted with the regulant for the replacement of a roof prior to the residence being sold to the current owner/claimant.

The Board issued Class C License Number 2705060078 to Joseph Edward Miller t/a Miller's Roofing on January 23, 2001. The license will expire on January 31, 2005. The previous home owner entered into a written contract with Miller's Roofing on July 10, 2002 for the installation of a new roof at the previous owner's residence. The total contract amount was \$1,750.00 which was to be paid at the time the house was sold (per the contract).

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 any 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 January 21, 2003. The claim was received on June 4, 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 previous owner entered into a written contract with Miller's Roofing for the installation of a new roof at the previous owner's 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 failed to appear.

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 "breach of contract and warranty in roof repair" the basis for the suit.

In the Affidavit of Facts dated June 2, 2003, the claimant asserts the regulant was contracted by the previous to fix the roof. The claimant asserts the repairs were unacceptable causing severe damages to the utility room. The court awarded the claimant \$3,600.00. The regulant has not paid the money to the claimant.

Note: The original contract with the previous owner was in the amount of \$1,750.00. The current owner/claimant has paid a total of \$875.00 to

Harsley & Harsley Enterprise for repairs. The total estimate from Harsley & Harsley Enterprise for the repairs was in the amount of \$675.00.

The claimant obtained a judgment in the amount of \$2,785.00, plus interest and \$36.00 cost.

The claim form lists the judgment amount of \$2,875.00, court cost in the amount of \$126.00 and the repair cost paid of \$875.00, for a total claim amount is \$3,876.00. Receipts for court cost included in the file equal \$48.00.

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: Jerry and Vickie Hoops (Claimants) and Thomas H. Moore, t/a Moores Building Electrical Plumbing & HVAC (Regulant)

File Number: 2004-04192  
License Number: 2705030046

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On August 23, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Jerry and Vickie Hoops ("Claimants"), through their attorney, and to Thomas H. Moore ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail was signed for and received by the Claimants and the Regulant.

On September 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jerry Hoops, Claimant; Thomas P. Walk, Esquire, Counsel for Jerry Hoops; Thomas H. Moore, Regulant; Faye Moore, Witness; Joseph Haughwout, Staff Member; and Ruth Ann Wall, Presiding Officer.

**RECOMMENDATION**

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

On December 28, 1993, the Claimant entered into a contract with the Regulant to perform construction on the Claimant's residence. During the IFF, Mr. Hoops testified that work started in January of 1994 and that in May of 1994, Mr. Moore walked off the job, and did not return to perform any work. The Board's licensing records indicate that Mr. Moore did not obtain a contractor's license until August 4, 1995.

On November 12, 2002, a judgment was awarded against Mr. Moore in the amount of \$17,500.00. The judgment was the result of a settlement reached by the parties during the civil proceedings. During the IFF, the parties stated that Mr. Moore has paid to Mr. Hoops \$7,500.00 towards the judgment amount. When asked how the remaining \$10,000.00 was to be repaid, Mr. Hoop's attorney

indicated that a claim to the Recovery Fund was contemplated at the time settlement was reached.

Therefore, I recommend that the recovery fund claim be denied, pursuant to Virginia Code §§ 54.1-1118 and 54.1-1120(A).

By: \_\_\_\_\_

Ruth Ann Wall  
Presiding Officer

Board for Contractors

Date: \_\_\_\_\_

## CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor  
Legal Assistant

DATE: June 8, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Jerry Allen and Vickie E. Hoops (Claimants) and Thomas H. Moore t/a Moores Building Electrical Plumbing & HVAC (Regulant)  
File Number: 2004-04192

## BACKGROUND

On November 12, 2002, in the Circuit Court for the County of Tazwell, Jerry Allen Hoops and Vicki F. Hoops obtained a Judgment against Thomas Herschel Moore, in the amount of \$17,500.00.

The claim in the amount of \$10,000.00 was received by the Department of Professional and Occupational Regulation on May 20, 2003. Per the claimants' attorney's request the claim was resubmitted on June 9, 2003 for consideration of payment.

## 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 Final Order does not recite 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 not contract with the regulant. The regulant was not licensed at the time the contract was as stated in the claimants' attorney's letter dated June 2, 2003.

The Board issued Class A License Number 2705030046 to Thomas H. Moore, t/a Moores Building Electrical Plumbing & HVAC, on August 4, 1995. The license is scheduled to expire on August 31, 2005.

Vickie Hoops entered into a written contract with Thomas H. Moore on December 28, 1993, for the construction of a house.

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 November 12, 2002 against Thomas Herschel Moore. The claim was resubmitted on June 9, 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 Thomas H. Moore for the construction of a house on December 28, 1993.

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? The 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 Final Order does not recite the basis for the award.

In the Affidavit of Facts dated May 15, 2003 the claimants assert that Thomas Moore was not a licensed contractor at the time the house was constructed. The house was poorly constructed and has cracks in the basement wall, floor and sheetrock in the main portion of the house. The mortar between the cinder blocks and basement can be scraped or flaked with a finger using moderate pressure. Thomas Moore did not remedy the problems.

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 claimants answered "Yes".

The debt was determined as non-dischargeable in the Bankruptcy Court on November 2, 2002, therefore judgment was obtained against Thomas Herschel Moore on November 12, 2002.

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: Brenda Brewster (Claimant) and James L. Thompson, T.T. Contractors (Regulant)

File Number: 2004-04208  
License Number: 2705041218

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On August 25, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Brenda Brewster ("Claimant"), through her attorney, and to James L. Thompson ("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 September 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Brenda Brewster, Claimant; Joseph Haughwout, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither James L. Thompson 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:

In January 30, 1999, the Claimant entered into a contract with the Regulant to perform construction on the Claimant's residence.

On August 5, 2002, in the Tazewell County General District Court, the Claimant obtained a judgment against the Regulant, in the amount of \$4,700.00, plus interest and \$53.00 in court costs.

The Claimant is seeking a payment from the Recovery Fund, in the amount of \$5,500.00. This amount represents the amount she has paid to have the work completed.

During the IFF, the Claimant also stated she paid \$500.00 in attorney's fees, and \$53.00 in court costs.

Therefore, I recommend that the recovery fund claim be approved for payment in the amount of \$6,053.00.

By: \_\_\_\_\_  
Ruth Ann Wall  
Presiding Officer

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 Brenda Brewster (Claimant) and James L. Thompson, t/a T&T Contractors (Regulant)  
File Number: 2004-04208

## BACKGROUND

On August 5, 2002, in the General District Court for the County of Tazewell, Brenda Brewster obtained a Judgment against T & T Contractors & Remodeling of Princeton, Inc., in the amount of \$4,700.00, plus interest and \$53.00 costs.

The claim in the amount of \$4,753.00 was received by the Department of Professional and Occupational Regulation on April 16, 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 claimant did contract with the regulant.

The Board issued Class C License Number 2705041218 to James L. Thompson, t/a T T Contractors, on December 8, 1997. The license was permanently revoked on October 10, 2002. The claimants entered into a written contract with T&T Contractors & Remodeling of Princeton, Inc., on January 30, 1999, to furnish all material and labor for the installation of a foundation for a double wide mobile home, a concrete deck and the installation of a top over the deck.

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 August 5, 2002. The claim was received on April 16, 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 T&T Contractors & Remodeling of Princeton, Inc., to furnish all material and labor for the installation of a foundation for a double wide mobile home, a concrete deck and the installation of a top over the deck

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. In response to this question, the claimant responded "Regulant a nonresident and not subject to process."

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 has the block designated as "Contract" marked.

In the Affidavit Regarding Contract dated April 4, 2002, the claimant states "I engaged T & T Contractors and Remodeling of Princeton, Inc. to perform certain repairs and improvements at my home." "The services, in part, were not performed in a complete or workman like manner. In particular, the repairs and improvements to my roof and patio are defective. As a result of these defects it will cost me the minimum sum of \$4,700.00 to remedy the situations. Repeated attempts have been made to have the defendant come back to the property to complete the contract but it has failed to do so."

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: Joseph L. Graham (Claimant) and Cherry Hill Development Corp. (Regulant)

File Number: 2004-03064  
License Number: 2705015074

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On August 24, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Joseph L. Graham ("Claimant"); and to Cherry Hill Development Corp. ("Regulant") to the address of record, and at 1023 Laskin Road, Suite 112, Virginia Beach, Virginia 23851. 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 to the additional address was returned by the United States Postal Service and marked as "Attempted, Unknown."

On September 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Joseph L. Graham, Claimant; Joseph Haughwout, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Cherry Hill Development Corp. nor anyone on its behalf appeared at the IFF.

**RECOMMENDATION**

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

On August 1, 1995, the Claimant entered into a contract with the Regulant to work on the exterior of the Claimant's residence. The contract was signed by Thomas E. Coghill, Jr., on behalf of Cherry Hill Development Corp.

On September 30, 2003, in the Circuit Court for Albemarle County, the Claimant obtained a judgment against Thomas E. Coghill, Jr., Responsible Management for the Regulant, in the amount of \$30,000.00, plus late fees, interest, and \$463.00 in court costs. The basis for Mr. Graham's Motion for Judgment cited the Regulant's activities of "misconduct and dishonesty."

The Claimant is seeking a payment from the Recovery Fund, in the amount of \$10,000.00.

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

By: \_\_\_\_\_

Ruth Ann Wall  
Presiding Officer

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 Joseph L. Graham (Claimant) and Cherry Hill Development Corp. t/a Cherry Hill Development Corp. (Regulant)  
File Number: 2004-03064

## BACKGROUND

On July 21, 2003, in the Albemarle County Circuit Court, Joseph L. Graham obtained a Judgment against Thomas E. Coghill, Jr., in the amount of \$30,000.00, plus 10% interest and costs.

The claim in the amount of \$10,000.00 was received by the Department of Professional and Occupational Regulation on October 18, 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 Final Order does 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 claimant did not contract with the regulant-Cherry Hill Development Corporation. The claimant contracted with Cherry Hill Investment Corp. for an spec./investment house.

The Board issued Class A License Number 2705015074 to Cherry Hill Development Corp., t/a Cherry Hill Development Corp., on October 24, 1992. The license expired on October 31, 1998. The claimant entered into a written contract with Thomas E. Coghill, Jr., President of Cherry Hill Investment Corporation, on August 1, 1995 for the construction of a spec./investment home.

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 any 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 September 30, 2003. The claim was received on October 18, 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 Thomas E. Coghill, Jr., President, Cherry Hill Investment Corp., on August 1, 1995 for the construction of a spec./investment home.

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 on Thomas E. Coghill, Jr. Service could not be made on Thomas E. Coghill, Jr.

A copy of a partial transcript (two pages) has been provided with a handwritten note "Coghill Sr., interrogatory" at the top on the first page. No information was provided as to the results of the interrogatories.

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 Final Order does recite the basis for the award.

In the Affidavit of Facts (not dated) the claimant asserts that the claimant entered into a contract for a spec./investment house with Cherry Hill Investment Corporation. The construction on the house was moving slowly. The claimant hoped to speed up construction by investing funds in separate transactions (investments) with Cherry Hill in exchange for what the claimant thought were secured notes. The notes-collateral proved to be non-existent. The investments of \$40,000.00 did not expedite the construction of the spec. home. The claimant asserts he had to sell the home he was living in and move into the spec./investment home. Construction of the spec. home took approximately two years for completion and a CO was issued. Coghill, Sr., paid \$10,000.00 to the

claimant in exchange for releasing Coghill, Sr., from his guaranty. The claimant obtained a judgment for the additional \$30,000.00 plus interest.

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: Patricia Frappier and Wesley M. Horn, Jr. (Claimants) and Exterior Solutions Inc.  
(Regulant)

File Number: 2004-00288

License Number: 2705057428

**SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE**

On August 26, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Patricia Frappier and Wesley M. Horn, Jr. ("Claimants"), through their attorney, and Exterior Solutions 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 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 September 23, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Patricia Frappier, Claimant; Amy Chappell, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Exterior Solutions Inc. nor anyone on its behalf appeared at the IFF.

**RECOMMENDATION**

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

On May 17, 2001, the Claimant entered into a contract with the Regulant to work on the exterior of the Claimant's residence.

The Claimant paid the Regulant a total of \$12,676.00

On January 23, 2003, in the Prince William County General District Court, the Claimant obtained a judgment against the Regulant, in the amount of \$5,284.75, plus interest and \$78.00 in court costs, for a total of \$5,362.75. The judgment award represented the amount paid by the Claimant for work not completed by the Regulant.

The Claimant is seeking a payment from the Recovery Fund, in the amount of \$5,362.75.

During the IFF, Ms. Frappier stated that she had tried to contact the contractor, and, at this time, still had not been able to speak with him.

Therefore, I recommend that the recovery fund claim be approved for payment in the amount of \$5,362.75.

By: \_\_\_\_\_

Ruth Ann Wall  
Presiding Officer

Board for Contractors

Date: \_\_\_\_\_

## CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor  
Legal Assistant

DATE: August 17, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Patricia Frappier & Wesley M. Horn, Jr., (Claimants) and Exterior Solutions Inc., t/a Exterior Solutions Inc. (Regulant)  
File Number: 2004-00288

## BACKGROUND

On January 23, 2003, in the Prince William County General District Court, Patricia Frappier & Wesley M. Horn, Jr., obtained a Judgment against Exterior Solutions Inc., in the amount of \$5,284.75, plus interest and \$78.00 costs.

The claim in the amount of \$5,362.75 was received by the Department of Professional and Occupational Regulation on June 18, 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 "Improper and Dishonest Conduct" as the basis for the ward.

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 2705057428 to Exterior Solutions Inc., t/a Exterior Solutions, Inc., on July 28, 2000. The license was permanently revoked on May 28, 2004. The claimants entered into a written contract with Exterior Solutions, Inc., on May 17, 2001 for power washing, exterior painting and other improvements to claimants' residence. (note: The claimants' signatures are not included on the copy of the contract submitted to the Board.)

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.

An Order was entered on January 23, 2003. The claim was received on June 18, 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 the Exterior Solutions Inc. on May 17, 2001 to engage in the business of performing construction, removal, repair and improvements to claimants' residence. (note: The claimants' signatures are not included on the copy of the contract submitted to the Board.)

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. 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 recites "Improper and Dishonest Conduct" 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? 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.

STATE AND LOCAL GOVERNMENT  
CONFLICT OF INTEREST ACT

TRANSACTIONAL DISCLOSURE STATEMENT  
for Officers and Employees of State Government

1. Name: Ruth Ann Wall
2. Title: Presiding Officer
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on September 23, 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.

Ruth Ann Wall  
Signature

9-23-04  
Date