

**Minutes of Meeting  
BOARD FOR CONTRACTORS  
INFORMAL FACT-FINDING CONFERENCES  
November 17, 2004 (1:30 p.m.)**

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

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

Joseph Haughwout and Jeffrey Buckley appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Chandler & Halasz 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

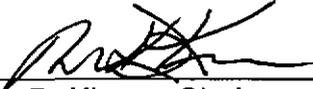
C = Complainant/Claimant  
A = Applicant  
R = Respondent/Regulant  
W = Witness  
Atty = Attorney

Participants

- |  |                                      |
|--|--------------------------------------|
| 1. John H. Pham<br>t/a American Classic Contraction<br>File Number 2003-02612 (Disc) | Pham – R<br>[BeBe Tran – Translator] |
| 2. National Restoration Specialists Inc.<br>File Number 2004-02642 (Disc)            | None                                 |
| 3. Wedge Construction Inc.<br>File Number 2004-04061 (Disc)                          | Ben Benita – R                       |

The meeting adjourned at 3:00 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: John H. Pham, t/a American Classic Construction

File Number: 2003-02612  
License Number: 2705021144

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

On August 11, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to John H. Pham ("Pham"), t/a American Classic Construction to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed and received.

On September 27, 2004, a letter to reschedule the Informal Fact-Finding Conference ("IFF") was mailed, via certified mail, to Pham to the address of record. The certified mail was signed and received.

On November 17, 2004, an IFF was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Pham, Respondent; BeBe Tran, Translator for Respondent; Joe Haughwout, Staff Member; and Robert Burch, Presiding Board Member.

**RECOMMENDATION**

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

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

Pham's failure to include minimum provisions in the contract is a violation of Board Regulation 18 VAC 50-22-260.B.8. The contract used in the transaction failed to contain three of the required provisions. Therefore, I recommend that a monetary penalty of \$150.00 and remedial education be imposed.

The Board's Basic Contractor Licensing Course (remedial education) must be successfully completed by a member of the firm's responsible management within six (6) months of the effective date of this order.

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

Pham's failure to abate violations of the Uniform Statewide Building Code is a violation of Board Regulation 18 VAC 50-22-260.B.25. On August 26, 2001, the Hayes entered into a written contract with Pham to construct an addition at the subject property. On June 10, 2003, Edward Bailey, Inspector for Fairfax County Residential Inspections Division, conducted an inspection of the subject property. On July 29, 2003, Bailey issued three Notices of Violation to Pham for building code violations. Pham failed to abate the violations.

During the IFF, Pham stated that he provided a one-year guarantee on labor and materials for the work performed. Pham further stated that when he was notified of the building code violations, the one-year warranty had since expired. Pham decided that since the warranty period had passed, he was no longer responsible for making the repairs.

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

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

Pham's action of having a judgment obtained against him for improper and dishonest conduct in the practice of contracting is a violation of Board Regulation 18 VAC 50-22-260.B.7. On March 3, 2004, in the General District Court for the County of Fairfax, the Hayes were awarded a \$12,000.00 judgment against Pham. The judgment was based on "improper conduct by the Defendant in failing to correct errors in the construction of an addition and creating building code violations." Therefore, I recommend that a monetary penalty of \$1,500.00 and remedial education be imposed.

The Board's Basic Contractor Licensing Course (remedial education) must be successfully completed by a member of the firm's responsible management within six (6) months of the effective date of this order.

By: \_\_\_\_\_  
Robert Burch  
Presiding Board Member

Board for Contractors

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

**MONETARY PENALTY TERMS**

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

VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors  
DATE: May 27, 2004 (revised July 15, 2004)

FILE NUMBER: 2003-02612  
RESPONDENT: John H. Pham, t/a American Classic Construction  
LICENSE NUMBER: 2705021144  
EXPIRATION: June 30, 2005

SUBMITTED BY: Morgan T. Moore  
APPROVED BY: Linda J. Boswell

COMMENTS:

On June 5, 2003, in the United States Bankruptcy Court, Eastern District of Virginia, John Pham filed for bankruptcy. On August 15, 2003, Pham was granted a discharge of debts. On April 8, 2004, Pham filed a Notice to Additional Creditors (Re Amendment) in order to amend his bankruptcy and discharge the debt to Christopher and Virginia Hayes.

On February 19, 2004, in the Fairfax County General District Court, Pham pleaded not guilty to three counts of failing to install bolts, in violation of § 36-106 of the Code of Virginia. The trial was finalized; however, the matter has been appealed to the circuit court.

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John H. Pham ("Pham"), t/a American Classic Construction was at all times material to this matter a licensed Class A Contractor in Virginia (No. 2705021144).

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

BACKGROUND:

On March 28, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Christopher and Virginia Hayes ("the Hayes") regarding Pham. (Exh. C-1)

On August 26, 2001, the Hayes entered into a written contract with Pham, in the amount of \$34,785.00, to construct an addition at 3417 Fiddlers Green, Falls Church, Virginia 22044. (Exh. C-2)

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1. Board Regulation (Effective May 1, 1999)

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

B. The following are prohibited acts:

8. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
  - d. A "plain-language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;
  - e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;
  - h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services; and

FACTS:

The contract used by Pham in the Hayes transaction failed to include subsections (d), (e) inspections and zoning; and (h) license expiration date and specialty services. (Exh. C-2)

2. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

25. Failure to abate a violation of the Virginia Uniform Statewide Building Code, as amended.

FACTS:

On June 10, 2003, Edward Bailey ("Bailey"), Residential Combination Inspector for Fairfax County Residential Inspections Division, conducted an inspection of the subject property. (Exh. I-2)

On July 29, 2003, Bailey issued three Notices of Violation to Pham for the following building code violations:

- Ridge beam is missing bolts and is not adequate to support the loads as required by the code, in violation of Section 801.2 of the CABO One & Two Family Dwelling Code;
- No ridge vent installed on roof and attic space ventilation is not in compliance with the code as result, in violation of Section 806.2 of the CABO One & Two Family Dwelling Code; and
- Roof covering on a one story addition is not installed per the manufacturer's installation instructions. Rain/storm water is leaking in the habitable space as a result, in violation of Section 901.2 of the CABO One & Two Family Dwelling Code. (Exh. I-2)

3. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

7. A finding of improper or dishonest conduct in the practice of his profession by a court of competent jurisdiction.

FACTS:

On March 3, 2004, in the General District Court for the County of Fairfax, the Hayes were awarded a \$12,000.00 judgment against Pham. The judgment was based on "improper conduct by the Defendant in failing to correct errors in the construction of an addition and creating building code violations." (Exh. I-1)

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

Re: National Restoration Specialists Inc.

File Number: 2004-02642  
License Number: 2705063628

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

On October 6, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to National Restoration Specialists Inc. ("NRS") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed and received.

On November 9, 2004, the Notice was also mailed, via certified mail, to Kenneth McWilliams, Esq., attorney for NRS, at 1146 Walker Road, Suite C, Great Falls, Virginia 22066. The certified mail was signed and received.

On November 17, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Joe Haughwout, Staff Member; and Robert Burch, Presiding Board Member. Neither Richard Pirozzi nor anyone on behalf of NRS appeared at the IFF.

**RECOMMENDATION**

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

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

NRS's failure to report to the Board, in writing, of a change of corporate officers within ninety (90) days of the change is a violation of Board Regulation 18 VAC 50-22-220.A. On May 10, 2004, the State Corporation Commission records indicated the officers of NRS were: Richard Pirozzi, President; Thomas Conlan, Vice President; and Linda Pirozzi, Secretary. On July 15, 2004, Jennifer Kazzie, Assistant Director of Adjudication, sent NRS a letter requesting a written explanation within fifteen (15) days regarding corrective action to update NRS's officers. On August 17, 2004, the licensing records for the Board revealed the Responsible Management for NRS is: John B. Nunez, CEO;

Richard P. Pirozz, President; Michael F. Collie, Vice President. Therefore, I recommend that a monetary penalty of \$700.00 and remedial education be imposed.

The Board's Basic Contractor Licensing Course (remedial education) must be successfully completed by a member of the firm's responsible management within six (6) months of the effective date of this order.

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

Robert Burch  
Presiding Board Member

Board for Contractors

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

#### **MONETARY PENALTY TERMS**

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

VIRGINIA DEPARTMENT OF PROFESSIONAL  
AND OCCUPATIONAL REGULATION  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Contractors  
DATE: August 17, 2004

FILE NUMBER: 2004-02642  
RESPONDENT: National Restoration Specialists Inc.  
LICENSE NUMBER: 2705063628  
EXPIRATION: July 31, 2005

SUBMITTED BY:  
APPROVED BY:

COMMENTS:

None.

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National Restoration Specialists Inc. ("NRS") was at all times material to this matter a licensed Class A Contractor in Virginia (No. 2705063628).

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

BACKGROUND:

On January 5, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Alice Curtis ("Curtis") regarding NRS. (Exh. C-1)

On October 31, 2003, Curtis entered into a written contract with NRS, in the amount of "Per Scope", for restorative work at 413 Crown Crescent, Chesapeake, Virginia. (Exh. C-2)

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1. Board Regulation (Effective January 1, 2003)

18 VAC 50-22-220. Change of responsible management, designated employee, or qualified individual.

- A. Any change in the officers of a corporation, managers of a limited liability company, or officers or directors of an association shall be reported to the board in writing within 90 days of the change.

FACTS:

On May 10, 2004, the State Corporation Commission records indicated the officers of NRS were:

- Richard Pirozzi, President
- Thomas Conlan, Vice President
- Linda Pirozzi, Secretary. (Exh. I-2)

On July 15, 2004, Jennifer Kazzie, Assistant Director of Adjudication, sent NRS a letter requesting a written explanation within fifteen (15) days regarding the corrective action to update NRS's officers. (Exh. I-3)

On August 17, 2004, the licensing records of the Board for Contractors revealed the Responsible Management for license number 2705063628 were:

- John B. Nunez, individual certificate number 2706115036, CEO
- Richard P. Pirozzz, individual certificate number 2706115035, President
- Michael F. Colie, individual certificate number 2706063628, Vice President. (Exh. I-1)

NRS failed to report to the board in writing within 90 days of a change of the officers of the corporation.

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

Re: Wedge Construction Inc.

File Number: 2004-04061  
License Number: 2705020285

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

On October 6, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Wedge Construction Inc. ("Wedge") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed and received.

On November 17, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Ben Benita, Responsible Management for Wedge, Respondent; Joe Haughwout and Jeffrey Buckley, Staff Members; and Robert Burch, Presiding Board Member.

**RECOMMENDATION**

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

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

Wedge's failure to include minimum provisions in the contract is a violation of Board Regulation 18 VAC 50-22-260.B.9. The contract used in the transaction failed to contain two of the required provisions.

During the IFF, Benita expressed concerns with respect to a previous violation regarding contract issues. The previous sanctions did not include the two provisions referenced in the Report of Findings. Benita was provided with a sample contract, and I do not feel that remedial education is necessary.

Therefore, I recommend that a monetary penalty of \$100.00 be imposed.

By: \_\_\_\_\_  
Robert Burch  
Presiding Board Member

Board for Contractors

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

**MONETARY PENALTY TERMS**

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

REPORT OF FINDINGS

BOARD: *Virginia Board for Contractors*  
DATE: August 6, 2004 (revised September 28, 2004)

FILE NUMBER: 2004-04061  
RESPONDENT: Wedge Construction Inc.  
LICENSE NUMBER: 2705020285  
EXPIRATION: April 30, 2005

SUBMITTED BY: Investigator Wayne J. Ozmore, Jr.  
APPROVED BY: Lead Investigator Janet Creamer

COMMENTS:

None.

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Wedge Construction Inc. ("Wedge") was at all times material to this matter a licensed Class A contractor in Virginia (No. 2705020285).

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

BACKGROUND:

On April 2, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Michele Aguanno Morgan ("Morgan") regarding Wedge. (Exh. C-1)

On September 13, 2003, Morgan entered into a written contract with Wedge, in the amount of \$15,750.00, to construct a 14' x 8' addition, build a front portico, and complete the wall adjacent to the main floor half bath at 10242 Peel Ring Place, Bristow, Virginia 20136. (Exh. C-2)

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1. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:

- e. A statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning;
- h. Contractor's license expiration date, class of license, and classifications or specialty services; and

FACTS:

The contract used by Wedge in the transaction failed to contain subsections: (e) and (h).  
(Exh. C-2)

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

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

1. Name: Robert Burch
2. Title: Presiding Board Member
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on November 17, 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.

Robert O. Burch  
Signature

4/17/04  
Date