

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
November 16, 2004**

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, presided. No Board members were present.

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

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

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

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

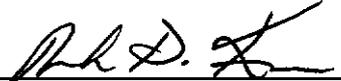
Participants

- | | |
|---|-------------------------------------|
| 1. Elaine Tribble and
Wiley R. Walton
File Number 2004-01070 (RF) | Tribble – C |
| 2. Carol Ann Gwaltney and
Saar Arie
t/a A & R Enterprise Home Repair
File Number 2004-00821 (RF) | Gwaltney – C |
| 3. Ronald and Carolyn Ringler and
Leon A. Hundley III
t/a Home Improvement
File Number 2004-04170 (RF) | R Ringler – C
C. Ringler – C |
| 4. Diane Cherry and
Alexander McClary
File Number 2004-04213 (RF) | Cherry – C
Mike Ballato – C Atty |
| 5. Carlton Gilchrist and
Harry L. Swindell Sr.
t/a H L S Repairs and Additions
File Number 2003-01632 (RF) | Gilchrist – C |

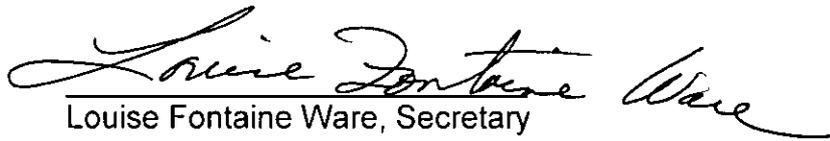
- | | |
|--|--------------------|
| 6. Barbara Kozel and
Sunset Landscape Inc.
File Number 2004-00838 (RF) | None |
| 7. Sharon R. Ames and
Raymond A. Horton Jr.
t/a Cherry Hill Contracting
File Number 2004-01018 (RF) | None |
| 8. Marjorie Mathis and
Always Contracting Co Inc.
t/a ACC Inc Design and Build
File Number 2004-01025 (RF)
No Decision Made | Mathis – C |
| 9. Carol E. Sumner and
Ricky Dean
t/a D & D Construction
File Number 2004-01023 (RF) | Shirley Harris – W |
| 10. Robert C. Russell and
Jantzen Builders Inc.
File Number 2004-01024 (RF) | Russell – C |

The meeting adjourned at 3:30 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: Elaine Tribble (Claimant) and Wiley R. Walton III, t/a Walton Construction (Regulant)

File Number: 2004-01070
License Number: 2705057851

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On October 7, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Elaine Tribble ("Claimant") and Wiley R. Walton III, t/a Walton Construction ("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 November 16, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the *Department of Professional and Occupational Regulation*.

The following individuals participated at the IFF: Elaine Tribble, Claimant; Jeffrey Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Wiley Walton 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 October 2001, the Claimant entered into a written contract with the Regulant to repair an uneven floor in the kitchen and hallway at the Claimant's residence. The Regulant removed the trusses underneath the kitchen floor, but did no other work. The Claimant subsequently hired a professional engineer to inspect the floor. The engineer stated that the floor was improperly supported and in danger of collapsing. The engineer and the Claimant attempted to contact the Regulant; however, they were unable to locate him. The Claimant later hired another contractor to prevent the kitchen floor from collapsing onto the level below.

On March 31, 2003, in the Henrico County General District Court, the Claimant obtained a judgment against the Regulant, in the amount of \$6,025.00, plus interest. During the IFF conference it was noted by the Claimant that she incurred a total of \$162.00 court costs. Specifically, \$66.00 court costs for the judgment and \$96.00 court costs for the debtor interrogatories.

The Claimant is seeking a payment from the Recovery Fund in the amount of \$6,187.00.

Therefore, I recommend the recovery fund claim be approved for payment in the amount of \$6,187.00.

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: July 21, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Elaine Tribble (Claimant) and Wiley R. Walton, III, t/a Walton Construction (Regulant)
File Number: 2004-01070

BACKGROUND

On March 31, 2003, in the Henrico County General District Court, Elaine Tribble obtained a Judgment against Mr. Wiley Walton t/a Walton Construction, in the amount of \$6,025. 00, plus interest and \$66.00 costs.

The claim in the amount of \$6,127.00 was received by the Department of Professional and Occupational Regulation on August 27, 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 recites "left my kitchen floor unstable by removing webbing of truss" 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 2705057851 to Wiley R. Walton, III, t/a Walton Construction, on August 1, 2000. The license expired on August 31, 2002. The claimant entered into a written contract on October 29, 2001 with Walton Construction for the repair of an uneven floor in the kitchen and hallway 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 March 31, 2003. The claim was received on August 27, 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 Walton Construction for the repair of an uneven floor in the kitchen and hallway 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 has the block "unable to service" and "posted on the front door" marked.

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 recites "left my kitchen floor unstable by removing webbing of truss" as the basis for the suit.

In the Affidavit of Facts dated August 12, 2003, the claimant asserts that the regulant removed the trusses underneath the kitchen floor in an attempt to correct the uneven floors. After removing the truss, the floor would make noises when someone walked on it. The floor was about to collapse which could have caused the appliances to fall into the a child's bedroom located below the kitchen. The claimant had to hire an engineer to determine what the problem was with the floors and hire another contractor to correct the problem.

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, "I don't know."

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: Carol Ann Gwaltney (Claimant) and Saar Arie, t/a A & R Enterprise Home Repair (Regulant)

File Number: 2004-00821

License Number: 2705065013

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On October 12, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Carol Ann Gwaltney ("Claimant") and Saar Arie, t/a A & R Enterprise Home Repair ("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 November 16, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Carol Ann Gwaltney, Claimant; Jeffrey Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Saar Arie 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 September 2002, the Claimant entered into a written contract with the A & E General Contractor to enclose a porch at the Claimant's residence. The contract was signed for by Eric Saar. The address listed on the contract is the same as that of the Regulant. The Claimant paid Saar half of the contract value prior to the commencing of work. Saar began work in October 2002. Saar continued work into November 2002. In December 2002, Saar was fired from the job by the Claimant. Saar promised to refund the Claimant the full amount paid (\$1629.00), minus the cost of materials. It was noted during the IFF Conference, however, that all construction materials were paid by the Claimant. In January 2003, the Claimant attempted to contact Saar in order to obtain the refund, but was unsuccessful. Saar did not refund the Claimant's money. The Claimant also learned that Saar failed to obtain an electrical permit for work performed at the subject property.

The Claimant filed a warrant in debt in the amount of \$1629.00, not including \$48.00 in court costs. The pending court date was set for April 14, 2003. Upon learning of the impending court date regarding the warrant in debt, the Claimant was contacted by the Saar's attorney, Mr. Hyman, and informed that in the United States Bankruptcy Court for the Eastern District of Virginia, Arie Saar and Ronit Saar filed a Chapter 13 Petition. Consequently, the Claimant was forced to dismiss the pending warrant in debt. The Claimant then submitted a recovery fund claim to the Virginia Board for Contractors.

The Claimant is seeking a payment from the Recovery Fund in the amount of \$1,677.00.

Therefore, I recommend the recovery fund claim be denied/approved for payment in the amount of \$1,677.00.

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: September 13, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Carol Ann Gwaltney (Claimant) and Saar Arie t/a A & E General Contractors Inc., (Regulant)
File Number: 2004-00821

BACKGROUND

On April 3, 2003, in the United States Bankruptcy Court, Eastern District of Virginia, Henrico Division, Arie Saar and Ronit Saar, filed a Chapter 13 Petition.

The claim in the amount of \$1,629.00 was received by the Department of Professional and Occupational Regulation on June 11, 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 regulant filed for bankruptcy protection, therefore judgment was not obtained.

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

The claimant did not contract with the regulant. The contract name is A&E and not A& R Enterprise Home Repairs. The address listed on

the A&E contract is the same address listed with the Board for Contractors licensing record for Arie Saar, t/a A&R Enterprises. The contract was signed by Eric Saar, President.

The Board issued Class C License Number 2705065013 to Saar Arie, t/a A & R Enterprise Home Repair on August 30, 2001. The license was permanently revoked on April 16, 2004. The Board for Contractors Licensing record has A. Saar as the Qualified Individual and Responsible Management, no Designated Employee has been listed.

The claimant entered into a written contract with A & E General Contractor on September 2, 2002 to enclose an 8'x11' porch for the claimant. (note: The address is not listed on 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.

The claim was received on June 11, 2003. Judgment was not obtained as the regulant filed for bankruptcy protection

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 the regulant on September 2, 2002 to enclose a 8x11 screened porch for the claimant.

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.

Judgment was not obtained. The regulant filed for bankruptcy protection.

In the Affidavit of Facts dated October 5, 2003 the claimant asserts that the regulant never completed the work contracted for. The regulant did not file for the permits, did not pass building inspections or construct the project per the specifications. The claimant had to hire another contractor to complete the project and additional cost.

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 Bankruptcy Court.

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: Ronald Alan and Carolyn Ruth Ringler (Claimants) and Leon A. Hundley III, t/a Home Improvement (Regulant)

File Number: 2004-04170
License Number: 2705066195

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On October 7, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Ronald and Carolyn Ruth Ringler ("Claimants") and Leon A. Hundley III, t/a Home Improvement ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail to the Claimant was signed and received. The certified mail to the Regulant was returned by the United States Postal Service, and marked as "Box Closed, Unable to Forward."

On November 16, 2004, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Carolyn and Ronald Ringler, Claimants (by telephone); Jeffrey Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Leon Hundley III 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 May 2002, the Ringlers entered into a written contract with Quality First Home Improvement to finish the basement of the Claimants' residence. The contract was signed for by the Leon A Hundely III. In June 2002, the Regulant commenced work. In August 2002, the Regulant informed the Claimants that he could not finish the job because he could not find anyone to help. The Regulant entered into a second contract with the Claimants to perform tiling and painting work, in order to pay off the money owed to the Claimants for failure to complete work under the first contract. The Regulant failed to complete the work as agreed.

October 2002, in the Fauquier County General District Court, the Claimants obtained a judgment against the Regulant, in the amount of \$4,487.04, plus interest and a total of \$108.00 in court costs (\$36.00 warrant in debt court costs and \$72.00 debtor interrogatories court costs). It was noted during the IFF Conference that prior to

obtaining a judgment, the Claimants entered into formal mediation with the Regulant. The meditation entailed monthly payments of \$100.00. The Regulant, however, failed to make the scheduled payments.

The Claimants are seeking a payment from the Recovery Fund in the amount of \$4,4487.04.

Therefore, I recommend the recovery fund claim be approved for payment in the amount of \$4487.04.

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: April 27, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Ronald Alan & Carolyn Ruth Ringler (Claimants) and Leon A. Hudley, III, t/a Home Improvement (Regulant)
File Number: 2004-04170

BACKGROUND

On October 30, 2002, in Fauquier County General District Court, Ronald Alan and Carolyn Ruth Ringler obtained a Judgment against Leon A. Hundley, III, in the amount of \$4,379.04, plus interest and \$36.00 costs.

The claim in the amount of \$4,415.04 was received by the Department of Professional and Occupational Regulation on April 9, 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 "Contract" has been marked.

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

The claimants did contract with the regulant.

The Board issued Class C License Number 2705066195 to Leon A. Hudley, III, t/a Home Improvement, on November 19, 2001. The license was permanently revoked on August 29, 2003. The claimants entered into a written contract with Quality First Home Improvement on May 2, 2002 and August 27, 2002. The claimants entered into the first contract on May 2, 2002 for the finishing of the basement at the claimants' residence. The contract entered into on August 17, 2002 by both the claimants and regulant was to supercede the previous contract entered into by all parties. The regulant was to provide labor and materials for painting and tiling of various areas of the claimants' residence.

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

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

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

The Board did not receive pleadings 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 30, 2002. The claim was received on April 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 claimants entered into the first contract on May 2, 2002 for the finishing of the basement at the claimants' residence. The contract entered into on August 17, 2002 by both the claimants and regulant was to supercede the previous contract entered into by both the claimants and the regulant. In the second contract regulant was to provide labor and materials for painting and tile various areas of the claimants' residence.

Section 54.1-1120(A)(5) prohibits recovery when the claimant is an employee of such judgment debtor, vendor of such judgment debtor, another licensee, the spouse or child

of such judgment debtor nor the employee of such spouse or child, or any financial or lending institution nor anyone whose business involves the construction or development of real property.

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

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

Debtor's interrogatories were 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 Warrant in Debt does not recite the basis for the suit. The block designated "Contract" has been marked.

In the Affidavit of Facts dated March 4, 2003, the claimants assert they entered into a contract with the regulant for the finishing of the basement at the claimants' residence. The regulant received \$4,000.00 prior to starting the contact for the purchase of materials. The claimants paid a second payment to the regulant once work started in the amount of \$2,000.00. After receiving the \$6,000.00 the regulant would periodically appear at the project for a few hours, and never completed more the 1/3 of the total project. The regulant claimed he was unable to obtain the necessary help needed to complete the project. The regulant acknowledged that he owed the claimants money for work not performed and agreed to do tiling and painting to pay off the debt (second contract).

The claimants and regulant entered into the second contract for tiling and painting at the claimants' residence. After agreeing to the second contract, the regulant then informed the claimants he did not have the fund to purchase the materials and was not a painter. The regulant has not returned to complete the projects or returned the claimants' 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: Diane M. Cherry (Claimant) and Alexander McClary (Regulant)

File Number: 2004-04213
License Number: 2705052864

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On October 7, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Diane M. Cherry ("Claimant"), through her attorney, and Alexander McClary ("Regulant"), through his estate. The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail to the Claimant was signed and received. The certified mail to the Regulant was returned by the United States Postal Service, and marked as "Unclaimed."

On October 18, 2004, the Notice was also mailed, via certified mail, to the Regulant through his estate, at 300 W. Main Street, Richmond, Virginia 23220. The certified mail to the Regulant was signed and received.

On November 16, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Diane Cherry, Claimant; Mike Ballato, Attorney for Claimant; Jeffrey Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Mr. McClary is deceased and no one on behalf of Alexander McClary appeared at the IFF.

RECOMMENDATION

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

In April 2001, the Claimant entered into a written contract with the Regulant to construct an addition to the Claimant's residence. The Regulant stopped the work in September 2001. The Claimant later discovered that the Regulant failed to obtain required inspections prior to completing the work. During the IFF Conference, the Claimant acknowledged that the house remains in disrepair. It was further noted during the IFF Conference that as of November 16, 2004, the Claimant is unable to acquire a certificate of occupancy due to numerous significant construction defects.

In November 2001, the Regulant passed away. On August 30, 2002, the Claimant obtained a judgment against the Regulant's estate, in the amount of \$13,200.00, plus

interest and \$92.50 in court costs. The judgment order cited "improper & dishonest conduct in home construction & renovation" as the basis for the award.

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

Therefore, I recommend the recovery fund claim be approved for payment in the amount of \$10,000.

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: May 10, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Diane M. Cherry (Claimant) and Alexander McClary t/a Alexander McClary (Regulant)
File Number: 2004-04213

BACKGROUND

On August 30, 2002, in Henrico County General District Court, Diane M. Cherry obtained a Judgment against John H. Click, Jr., Administrator, Estate of Alexander McClary, Jr., in the amount of \$13,200.00, plus interest and \$92.50 costs.

The claim in the amount of \$10,000.00 was received by the Department of Professional and Occupational Regulation on May 19, 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 "improper & dishonest conduct in home construction & renovation" 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 claimant did contract with the regulant.

The Board issued Class B License Number 2705052864 to Alexander McClary t/a Alexander McClary, on October 8, 1999. The license expired on October 31, 2001. The claimant entered into a written contract with A. McClary Construction on April 6, 2001 for the construction of an 8'x13' addition on 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 August 30, 2002. The claim was received on May 19, 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 A. McClary Construction for the construction of a 8'x13' addition on 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 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 Warrant in Debt recites "improper & dishonest conduct in home construction & renovation" as the basis for the suit.

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: Carlton D. Gilchrist (Claimant) and Harry L. Swindell, Sr., t/a H L S Repairs and Additions (Regulant)

File Number: 2003-01632
License Number: 2705050308

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On October 8, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Carlton D. Gilchrist ("Claimant") and Harry L. Swindell, Sr., t/a H L S Repairs and Additions ("Regulant"), to the address of record. The Notice was also mailed, via certified mail, to the Regulant at 1700 Yellow Knife Trail, Virginia Beach, Virginia 23464. The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail to the Claimant was signed and received. The certified mail to the Regulant, to the address of record, was returned by the United States Postal Service, and marked as "Unclaimed." The certified mail to the Regulant at the alternate address was signed and received.

On November 16, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Carlton Gilchrist, Claimant; Jeffrey Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Swindell 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 March 2002, the Claimant entered into a written contract with the Regulant to install windows and perform interior improvements at the Claimant's residence. The Regulant did not provide the proper size windows. The Claimant requested the Regulant return the windows, and refund the money. The Regulant agreed to return the money, but never did. The Regulant requested an additional payment to begin the interior work. The Regulant did not begin work until after the Claimant started court proceedings against the Regulant. During construction, the Regulant caused extensive damage to the Claimant's kitchen wall, floor, and hall. The Claimant paid the Regulant a total of \$6,000.00. The Regulant did not repair the damages, completed the project, or returned any of the Claimant's money. During the IFF

Conference, the Claimant noted that he subsequently paid a second contractor \$2,000.00 to repair the damage caused by Swindell.

On July 18, 2002, in the Chesapeake General District Court, the Claimant obtained a judgment against the Regulant, in the amount of \$8,000.00. The Claimant also incurred additional court costs totaling \$198.00: Writ of Fieri Facias court costs on July 16, 2002 (\$70.00); Warrant in Debt court costs on July 18, 2004 (\$46.00); and Debtor Interrogatories court costs on September 30, 2003 (\$82.00);

The Claimant is seeking a payment from the Recovery Fund in the amount of \$8,198.00.

Therefore, I recommend the recovery fund claim be approved for payment in the amount of \$8,198.00.

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: June 10, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of
Carlton D. Gilchrist (Claimant) and Harry L. Swindell, Sr., t/a H. L. S. Repairs
and Additions
(Regulant)
File Number: 2003-01632

BACKGROUND

On July 18, 2002, in the Chesapeake General District Court, Carlton D. Gilchrist obtained a Judgment against Swindell, Harry L., Sr., in the amount of \$8,000.00, plus interest and \$46.00 costs.

The claim in the amount of \$8,000.00 was received by the Department of Professional and Occupational Regulation on December 13, 2002.

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.

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 2705050308 to Harry L. Swindell, Sr., t/a H. L. S. Repairs and Additions, on June 10, 1999. The license was permanently revoked on November 13, 2003. The claimant entered into a written contract with H.L.S. Repairs and Additions on March 29, 2002 for the installation of windows and other interior improvement 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 July 18, 2002. The claim was received on December 13, 2002.

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 H.L.S. Repairs & Additions on March 29, 2002 for the installation of windows and other interior improvements 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 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 Warrant in Debt does not recite the basis for the suit.

In the Affidavit of Facts dated December 11, 2002, the claimant asserts the claimant contracted with the regulant for the installation of windows, replacement of window sills, the removal and installation of flooring in the hall and kitchen. The regulant did not provide the proper size windows for the claimant's residence. The claimant requested that the regulant return the windows, refund the money and the claimant would contract with another company for the windows. The regulant agreed to return the money and never did. The regulant requested an additional \$3,500.00 to begin the interior work, which he would start that day. The regulant did not return to the project until the claimant started court proceedings against the regulant. The regulant return to the claimant's residence to begin work on the interior. While attempting to remove the kitchen floor, the regulant became weak and fell into the kitchen wall causing additional damage. The regulant damaged the kitchen cabinets trying to remove the cabinet by himself. The claimant paid the regulant a total of \$6,000.00 and purchased \$2,000.00 worth of materials for the project. The regulant never returned to repair the damages, complete the project or returned 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: Barbara Kozel (Claimant) and Sunset Landscape Inc. (Regulant)

File Number: 2004-00838
License Number: 2705053594

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On October 15, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Barbara Kozel ("Claimant"), through her attorney, and Sunset Landscape Inc. ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail to the Claimant was signed and received. The certified mail to the Regulant was returned by the United States Postal Service, and marked as "Unclaimed."

On November 16, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jeffrey Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. In a letter dated November 14, 2004, the Claimant acknowledged that she was unable to attend the IFF Conference due to "work responsibilities." Neither Robert Oravetz, 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 February 2001, the Claimant entered into a written contract with the Regulant to perform landscape renovations and improvements at the Claimant's residence. The Claimant paid the Regulant half of the contract's value as a deposit (\$7,500) in addition to the initial deposit (\$100.00). The contract specified that work would begin in March 2001. Work did not begin until April 2001. In May 2001, the Claimant fired the Regulant after the Regulant used construction site clay, instead of topsoil, as the contract required. The Regulant also caused other extensive damage to the Claimant's property while performing the work.

On August 5, 2002, in the Fairfax County General District Court, the Claimant obtained a judgment against the Regulant, in the amount of \$3,850.00, plus interest and a total of \$108.00 in court costs (\$30.00 warrant in debt and \$78.00 for debtor

interrogatories court costs). The judgment order cited "Breach of Consumer Protection Act" as the basis for the award.

In a letter dated November 12, 2004, the Claimant acknowledged that the Regulant has paid \$1,000.00 toward the judgment. Accordingly, the Claimant is seeking Recovery Fund Claim in the amount of \$2,928.00. This amount does not include the \$30.00 court costs required in obtaining the warrant in debt.

Therefore, I recommend the recovery fund claim be approved for payment in the amount of \$2958.00.

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: August 2, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of
Barbara E. Kozel (Claimant) and Sunset Landscape, Inc. t/a Sunset Landscape
(Regulant)
File Number: 2004-00838

BACKGROUND

On August 5, 2002, in Fairfax County General District Court, Barbara E. Kozel obtained a Judgment against Sunset Landscape Inc., in the amount of \$3,850.00, plus interest and \$30.00 costs.

The claim in the amount of \$3,928.00 was received by the Department of Professional and Occupational Regulation on June 30, 2003.

CLAIM FILE INFORMATION

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

The Warrant in Debt recites "Breach of Consumer Protection Act" as the basis for the suit. The block designated "Other" 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 2705053594 to Sunset Landscape, Inc., t/a Sunset Landscape, Inc., on April 6, 2000. The license expired on April 30, 2002. The claimant entered into a written contract with Sunset Landscape on February 19, 2001 for landscaping renovations and improvements 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 Board for Contractors 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 August 5, 2002. The claim was received on June 30, 2003.

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

The claimant entered into a written contract with Sunset Landscape on February 19, 2001 for landscaping renovations and improvements 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 Director's 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 Warrant in Debt recites "Breach of Consumer Protection Act" as the basis for the suit. The block designated "Other" has been marked.

In the Affidavit of Facts dated January 11, 2004, the claimant asserts she paid a \$100.00 deposit toward landscape drawings she never received. The regulant received an additional payment of \$7,500.00 prior to starting the project. The claimant terminated the contract with the regulant after clay dirt was used instead of topsoil, the existing grass was destroyed, and multiple foundation plants died after not being planted in a timely manner. Also, the grading was done improperly which caused additional damage to the claimant's yard and existing concrete slab.

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: Sharon R. Ames (Claimant) and Raymond A. Horton Jr. (Regulant)

File Number: 2004-01018
License Number: 270568255

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On October 8, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Sharon Ames ("Claimant") and Raymond A. Horton Jr. ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail was signed and received by the Claimant. The certified mail to the Regulant was returned by the United States Postal Service, and marked as "Unclaimed."

On November 16, 2004, an Informal Fact-Finding Conference ("IFF") convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. In a letter dated November 12, 2004, the Claimant acknowledged that she was unable to attend the IFF Conference due to work responsibilities. Neither Raymond Horton, 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 April 25, 2002, the Claimant entered into a contract with the Regulant. The Claimant paid the Regulant \$2,865.00. The Regulant was unable to complete the construction project and abandoned the job. The Regulant ran out of money and, accordingly, stated that he was unable to complete the job contracted for. The Claimants subsequently obtained a judgment against Raymond Horton in the amount of \$2,000 in the Fauquier County General District Court on August 7, 2002. Court costs were as follows: \$36.00 warrant in debt and \$72.00 debtor interrogatories. The total recovery fund claim is \$2,108.00.

Therefore, I recommend the recovery fund claim be approved for payment in the amount of \$2,108.00.

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

CLAIM REVIEW

TO: Board for Contractors

FROM: Victoria S. Traylor
Legal Assistant

DATE: June 22, 2004

RE: In the matter of the Virginia Contractor Transaction Recovery Act Claim of Sharon R. Ames (Claimant) and Raymond A. Horton, Jr. t/a Cherry Hill Contracting (Regulant)
File Number: 2004-01018

BACKGROUND

On August 7, 2002, in the Fauquier County General District Court, Sharon R. Ames obtained a Judgment against Raymond Horton, in the amount of \$2,000.00, plus interest and \$36.00 costs.

The claim in the amount of \$2,072.00 was received by the Department of Professional and Occupational Regulation on July 31, 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 "Had contract-job not completed" as the basis for the suit.

The block designated "Other" 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 2705068255 to Raymond A. Horton, Jr., t/a Cherry Hill Contracting, on April 8, 2002. The license was permanently revoked on November 13, 2003. The claimant entered into a written contract with Cherry Hill Contracting Company on April 25, 2002 for construction of a screened porch and a four foot addition onto the existing deck. The contract also included the addition of new floor decking, steps, hand rails, priming and painting of the deck and porch 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 August 7, 2002. The claim was received on July 31, 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 Cherry Hill Contracting Company on April 25, 2002 for construction of a screened porch and a 4 foot addition onto the existing deck. The contract also included the addition of new floor decking, steps, hand rails, priming and painting the of deck and porch 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 conducted. Block checked "Not found."

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

The Warrant in Debt recites "Had contract-job not completed" as the basis for the suit. The block designated "Other" has been marked.

In the Affidavit of Facts dated July 30, 2003, the claimant asserts that the regulant did not complete the project he was contracted for. The claimant stated that the regulant admitted to the Judge that he owed money to the claimant in the amount of \$2,000.00. The regulant was ordered by the court to pay \$100.00 per month to the claimant starting September 1, 2002 and never did. The claimant stated she summonsed the regulant on March 12, 2003 for debtor interrogatories. The claimant was informed by the Judge that the regulant could not be located.

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 her 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 amount does not include interest or damages.

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

Re: Carol E. Sumner (Claimant) and Ricky D. Dean, t/a D and D Construction (Regulant)

File Number: 2004-01023
License Number: 270558913

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On October 8, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Carol E. Sumner ("Claimant") and Ricky D. Dean, t/a D and D Construction ("Regulant"). The Notice included the Claim Review, which contained the facts regarding the recovery fund claim. The certified mail was signed and received by both the Claimant and the Regulant..

On October 8, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Shirley Harris, Witness; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Ricky D. Dean, t/a D and D Construction 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:

The Claimant entered into a verbal agreement with the Regulant on September 26, 2000. The verbal agreement was for the construction of a large deck with a roof. The Claimant paid the Regulant \$6,128.91 for material and labor for the deck itself. The Claimant paid the Regulant and additional \$2,448.91 for the deck's roof.

On May 5, 2003, in the General District Court for the County of Henrico, Carol E. Sumner obtained a Judgment against Ricky Dean, t/a D&D Construction, in the amount of \$5,318.91. The judgment cites "failure to complete deck & roof as agreed" as the basis of the suit. The Claimant also incurred court costs totaling \$186.00 (\$36.00 warrant in debt on May 5, 2003, and \$150.00 debtor interrogatories were served on May 29, 2003).

On February 14, 2003, in the United States Bankruptcy Court, Eastern District of Virginia, Ricky Dean filed Chapter 13 bankruptcy.

Therefore, I recommend the recovery fund claim be approved for payment in the amount of \$5504.91.

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 Carol E. Sumner (Claimant) and Ricky D. Dean, t/a D & D Construction (Regulant)
File Number: 2004-01023

BACKGROUND

On May 5, 2003, in the General District Court for the County of Henrico, Carol E. Sumner obtained a Judgment against Ricky Dean, t/a D&D Construction, in the amount of \$5,318.91, plus \$36.00 costs.

On February 14, 2003, in the United States Bankruptcy Court, Eastern District of Virginia, Ricky Dean filed Chapter 13 bankruptcy.

The claim in the amount of \$5,354.91 was received by the Department of Professional and Occupational Regulation on July 31, 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 "failure to complete deck & roof as agreed" as the basis of the award. In addition, the block designated "Contract" is 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 asserts the claimant and regulant had a verbal contract. The Board issued Class C License Number 2705 058913 to Ricky D. Dean, t/a D and D Construction, on September 26, 2000. The license was revoked permanently on September 2, 2003. The claimant entered into a verbal agreement with Ricky Dean on October 15, 2002, for the claimant "to pay for material in advance and labor after the job was completed."

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 May 5, 2003. The claim was received on July 31, 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 verbal agreement with Ricky Dean to obtain material and perform labor for roof and deck work.

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.

In response to the questions of Debtor's interrogatories, claimant states that debtor interrogatories were conducted "but was stopped due to Bankruptcy on July 15, 2003."

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 "failure to complete deck & roof as agreed" as the basis of the award.

In the Affidavit of Facts (not dated), claimant states "Ricky Dean ... did receive \$6,128.91 for material and Labor on October 29, 2002 he departed the job and has not return to complete it to date May 28, 2003. He received \$2,448.91 for roof material and did not purchase one item. He completed most of the deck, but place step's in the wrong location, didn't place enough support under the wheel chair ramp ... which is now sagging in the middle ...".

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? Claimant answered "Yes".

On February 14, 2003, in the United States Bankruptcy Court, Eastern District of Virginia, Ricky Dean filed Chapter 13 bankruptcy.

Carol E. Sumner (claimant) is listed on the Amended Schedule F. Creditors Holding Unsecured Nonpriority Claims.

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: Robert C. Russell (Claimant) and Jantzen Builders Inc. (Regulant)

File Number: 2004-01024
License Number: 270523755

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On October 12, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Robert C. Russell ("Claimant") and Jantzen Builders Inc., c/o Samuel Jantzen ("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 sent to the Regulant was returned by the United States Postal Service marked "Attempted Not Known."

On November 16, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Robert C. Russell, Claimant; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Jantzen Builders 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 July 29, 2002, in the Williamsburg-James City County General District Court, Robert C. Russell obtained a Judgment against Jantzen Builders, Inc., in the amount of \$11,785.00, plus \$34.00 costs. The warrant in debt specifically states "contract breach, dishonest, & improper conduct of builder" as the basis of the suit. During the IFF Conference, the Claimant further substantiated that numerous items contracted for were not provided or corrected (i.e. failed to replace the driveway, failed to complete the painting of the house, failed to install spouting on the house, etc.).

Therefore, I recommend the recovery fund claim be approved for payment in the amount of \$10,000.

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 Robert C. Russell (Claimant) and Jantzen Builders, Inc. (Regulant)
File Number: 2004-01024

BACKGROUND

On July 29, 2002, in the Williamsburg-James City County General District Court, Robert C. Russell obtained a Judgment against Jantzen Builders, Inc., in the amount of \$11,785.00, plus \$34.00 costs.

The claim in the amount of \$10,000.00 was received by the Department of Professional and Occupational Regulation on July 30, 2003.

CLAIM FILE INFORMATION

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

The Warrant in Debt recites "contract breach, dishonest & improper conduct of builder" as the basis of the suit. In addition, the block designated "Contract" is 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 A License Number 2705 023755 to Jantzen Builders, Inc., on April 5, 1994. The license was permanently revoked on December 6,

2002. The claimant entered into a written contract with Jantzen Builders, Inc. on August 16, 2000, to furnish all labor and materials for 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 July 29, 2002. The claim was received on July 30, 2003.

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

The claimant entered into a written contract with Jantzen Builders, Inc. for the construction of a house.

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 the question, claimant states "served summons, but debtor did not appear" and "Debtor failed to appear or otherwise respond to the summons to answer 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 Warrant in Debt recites "contract breach, dishonest & improper conduct of builder" as the basis of the suit.

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? Claimant answered "No."

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

The Claim Form does not include interest or damages.

**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/Board Member
3. Agency: D.P.O.R.
4. Transaction: Informal Fact-Finding Conferences on 11/16/04
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

11-16-04
Date