

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
December 9, 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. James O Akers Jr.
t/a Akers Roofing
File Number 2004-01646 (Disc) | None |
| 2. John A Brewer
File Number 2004-03193 (Disc) | Cheryl Hostetter – C |
| 3. Sun Thermal Inc
File Number 2004-02635 (Disc) | Natividad Cordero-Cruz – C |
| 4. First Service Plumbing LLC
File Number 2004-03669 (Disc) | None |
| 5. T W Detloff
File Number 2004-04496 (Disc) | None |
| 6. Jason H Dunford
t/a Jason Dunford Contracting
File Number 2004-02826 (Disc)
(No Decision Made) | Dunford – R
Jerry Sweeney – W |

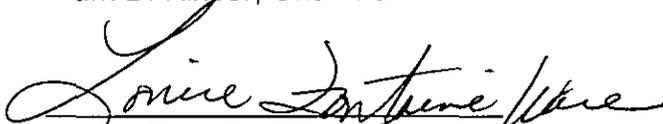
- | | |
|---|--|
| 7. M & I Enterprises Inc
t/a D & D Mechanical Contractors
File Number 2004-03173 (Disc) | Edgar Davis – R
Joyce Myers – C |
| 8. Insurance Restoration of America Inc.
File Number 2004-00429 (Disc) | Maurice A. Parrish – R
Linda Corum – C (by phone) |
| 9. Insurance Restoration of America Inc.
File Number 2004-01947 (Disc) | Maurice A. Parrish – R |
| 10. Insurance Restoration of America Inc.
File Number 2004-00967(Disc) | Maurice A. Parrish – R |
| 11. Insurance Restoration of America Inc.
File Number 2004-00357 (Disc) | Maurice A. Parrish – R |
| 12. Insurance Restoration of America Inc.
File Number 2004-05011(Disc) | Maurice A. Parrish – R |

The meeting adjourned at 2:45 p.m.

BOARD FOR CONTRACTORS



Mark D. Kinser, Chairman



Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

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

Re: James O. Akers, t/a Akers Roofing

File Number: 2004-01646
License Number: 2705057999

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On November 4, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to James O. Akers, t/a Akers Roofing ("Akers") 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 mail was sent certified mail to the address of record; however, it has not been signed for and received or returned by the United States Postal Service. The Notice was also mailed to Akers at 3015 Botone Avenue, Richmond, VA, 23237-2062 and was signed for and received.

On December 9, 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 W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Akers nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

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

Akers repeated failure to properly repair the roof leak and broken attic boards is a violation of Board Regulation 18 VAC 50-22-260.B.5. In spring 2002, Diane Clement received an estimate from Akers to replace an upstairs porch and install PVC railing at the subject property. In late September 2002, the Clements hired Akers to replace the roof and railing at the subject property. Diane Clement purchased the materials. On November 19, 2002, Akers provided Edwin Clement with a written contract to install new siding on the left side of the main house and repair shingles on the roof at the subject property. The next day, Akers told Clement the work was completed.

In April 2003, Clement noticed water leaking through the ceiling of the downstairs bathroom. Clement also discovered water dripping from nails through cracked or soaked boards under the area of the roof replaced by Akers. Clement also discovered the flashing was not replaced. On May 15, 2003, Diane Clement notified Akers regarding the roof leaks. Akers agreed to return to the subject property. On September 17, 2003, Clement sent Akers a certified letter requesting Akers repair the roof by the end of September. In October 2003, Akers told Diane Clement that he would make the repairs on October 31, 2003. On October 31, 2003, Akers failed to return to the subject property. On that date, Clement prepared a letter to Akers regarding a list of problems to repair.

On November 2, 2003, an employee of Akers returned to the subject property to find out what was wrong and seal the leak. Diane Clement gave Akers's employee the letter to deliver to Akers. The next day, Akers told Diane Clement the roof would be repaired and the damaged area would be replaced. On November 8, 2003, Akers's employees performed repairs and reinstalled the flashing. While making the repairs, Akers's employees broke two existing roofing boards in the attic of the subject property. Akers agreed to return to finish the clean up on November 11, 2003. On December 5, 2003, Akers returned to the subject property to fix the roof. On December 11, 2003, Clement discovered the new roof was installed over broken roofing boards. On December 16, 2003, Akers returned to the subject property to fix the broken roofing boards. Akers told Diane Clement he would personally fix the broken attic boards by removing the entire roof from the subject area, replacing the broken boards, and reinstalling the entire roof.

Charles Jones, a Civil Engineer for the County of Henrico, told Clement the broken roofing boards meant the house did not pass existing house codes and the boards would have to be replaced to pass county codes. On May 20, 2004, the Board's agent observed several broken attic boards underneath the roof at the subject property. The broken attic boards were over the bathroom ceiling where the leak occurred.

Therefore, I recommend a monetary penalty of \$1,000.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of this order.

By: _____

Ruth Ann Wall
Presiding Officer

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: Virginia Board for Contractors
DATE: June 23, 2004 (revised September 14, 2004)

FILE NUMBER: 2004-01646
RESPONDENT: James O. Akers Jr., t/a Akers Roofing
LICENSE NUMBER: 2705057999
EXPIRATION: September 30, 2002

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

COMMENTS:

On September 8, 2000, James O. Akers Jr., t/a Akers Roofing, was issued Class C Contractor's license number 2705057999 with the commercial improvement contracting ("CIC") and home improvement contracting ("HIC") specialty services. On September 30, 2002, license number 2705057999 expired.

On May 5, 2003, James O. Akers Jr., t/a Akers Roofing, was issued Class C Contractor's license number 2705076204 with the roofing contracting ("ROC"), commercial improvement contracting ("CIC"), and home improvement contracting ("HIC") specialty services.

Between September 30, 2002 and May 5, 2003, James O. Akers Jr., t/a Akers Roofing, performed work at 2211 Buckingham Avenue, Richmond, Virginia, without a license.

James O. Akers Jr. ("Akers"), t/a Akers Roofing, was not at all times material to this matter a licensed Class C contractor in Virginia (No. 2705057999). (See above.)

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

BACKGROUND:

On October 9, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Edwin Clement ("Clement") regarding Akers. (Exh. C-1)

In spring 2002, Diane Clement received an estimate from Akers, in the amount of \$1,000.00 plus supplies, to replace an upstairs porch and install PVC railing at 2211 Buckingham Avenue, Richmond, Virginia. (Exh. C-1)

In late September 2002, Edwin and Diane Clement ("the Clements") hired Akers to replace the roof and railing at the subject property. Diane Clement purchased the materials. (Exh. C-1)

On October 3, 2002, Clement paid Akers \$1,000.00 by check. (Exh. C-1 and C-2-1) On October 6, 2002, Clement paid Akers \$350.00 by check. (Exh. C-2-1)

On November 19, 2002, Akers provided Clement with a written contract, in the amount of \$1,050.00, to install new siding on the left side of the main house and repair shingles on the roof at the subject property. (Exh. C-2)

On November 20, 2002, Akers told Clement the work was completed. (Exh. I-3) On November 20, 2002, Clement paid Akers \$750.00 by check. (Exh. C-2-1)

1. Board Regulation (Effective September 1, 2001)

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

B. The following are prohibited acts:

5. Negligence and/or incompetence in the practice of contracting.

FACTS:

In April 2003, Clement noticed water leaking through the ceiling of the downstairs bathroom. Clement discovered water dripping from nails through cracked or soaked boards under the area of the roof replaced by Akers. (Exh. C-1) Clement also discovered the flashing was not replaced. (Exh. I-3)

On May 15, 2003, Diane Clement notified Akers regarding the roof leak. Akers agreed to return to the subject property. (Exh. C-1 and I-3)

On September 17, 2003, Clement sent Akers a certified letter requesting Akers repair the roof by the end of September 2003. (Exh. C-3)

In late October 2003, Akers told Diane Clement that Akers would "fix whatever was wrong" on October 31, 2003. On October 31, 2003, Akers failed to return to the subject property. (Exh. C-1) On October 31, 2003, Clement prepared a letter to Akers regarding a list of problems to repair. (Exh. C-3)

On November 2, 2003, an employee of Akers returned to the subject property to find out what was wrong and seal the leak. Diane Clement gave Akers' employee the October 31, 2003, to deliver to Akers. (Exh. C-1)

On November 3, 2003, Akers told Diane Clement the roof would be repaired and the damaged area would be replaced. (Exh. C-1)

On November 8, 2003, Akers' employees performed repairs and reinstalled the flashing. While repairing the flashing and roof, Akers' employees broke two existing roofing boards in the attic of the subject property. (Exh. C-1 and I-3) Akers agreed to return to finish the clean up on November 11, 2003. (Exh. C-1)

On December 5, 2003, Akers returned to the subject property to fix the roof. Akers recut the front shingles, removed the trash, and secured shingles. (Exh. C-1)

On December 11, 2003, Clement discovered the new roof was installed over broken roofing boards. (Exh. C-1)

On December 16, 2003, Akers returned to the subject property to fix the broken roofing boards. Akers told Diane Clement he would personally fix the broken attic boards by removing the entire roof from the subject area, replacing the broken boards, and reinstalling the entire roof. (Exh. I-3)

Charles Jones, Civil Engineer II for the County of Henrico, told Clement the broken roofing boards meant the house did not pass existing house codes and the boards would have to be replaced to pass county codes. (Exh. C-1)

On May 20, 2004, Investigator Wayne J. Ozmore Jr., the Board's agent, observed several broken attic boards underneath the roof at the subject property. The broken attic boards were over the bathroom ceiling where the leak occurred. (Exh. I-3)

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

Re: John A. Brewer

File Number: 2004-03193
License Number: 2705024629

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On November 4, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to John A. Brewer ("Brewer") 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 returned by the United States Postal Service marked "Unclaimed".

On December 9, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Cheryl Hostetter; Complainant; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Brewer nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

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

Brewer's failure to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed is a violation of Board Regulation 18 VAC 18 VAC 50-22-260.B.8. During the IFF, Hostetter stated she did not see or sign a contract with Brewer. Therefore, I recommend a monetary penalty of \$1,000.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management for the firm within six months of the effective date of this order.

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

Nathan Sowden inspected Brewer's installation of the veneer and initially rejected it because an ice shield was not installed on the roof and 6 mil plastic wrap and flashing were not installed around the wooden windows. Inspector Sowden further noted the following requisite corrections to code violations: fir out vaulted ceilings to accommodate R-22 or R-30 insulation; double floor joist at 2x8 16" O.C or add girder to comply with approved plans; and resubmit beam criteria for large proposed openings. Brewer's building code violations, and the failure to adequately abate them, is a violation of Board Regulation 18 VAC 18 VAC 50-22-260.B.6.

During the IFF, Hostetter stated she informed Brewer about the building code violations, but Brewer replied he would make the repairs if Hostetter paid him for the repairs. Therefore, I recommend a monetary penalty of \$1,000.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management within six months of the effective date of this order.

By: _____
Ruth Ann Wall
Presiding Officer

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: June 30, 2004 (revised September 9, 2004)

FILE NUMBER: 2004-003193
RESPONDENT: John A. Brewer
LICENSE NUMBER: 2705024629
EXPIRATION: June 30, 2006

SUBMITTED BY: Becky C. Angelilli
APPROVED BY: E. Wayne Mozingo

COMMENTS:
None.

John A. Brewer ("Brewer") was at all times material to this matter a licensed Class A Contractor in Virginia (No. 2705024629).

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 February 4, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Barry and Cheryl Hostetter ("the Hostetters") regarding Brewer. (Exh. C-1)

In October 2003, the Hostetters entered into a verbal agreement with Brewer, in the amount of \$22,000.00, to build an addition at 881 Fairfield Drive, King William, Virginia. (Exh. C-1)

On October 17, 2003, the Hostetters paid Brewer \$7,200.00 for materials. (Exh. C-2)

On October 27, 2003, Brewer obtained building permit number 0000432-2003 to extend the living room and kitchen at the subject property. (Exh. C-1 and I-1)

On November 14, 2003, the Hostetters paid Brewer \$5,000.00 by check. (Exh. C-2)

1. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

8. Failure of all those who engage in residential contracting, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to make use of a legible written contract clearly specifying the terms and conditions of the work to be performed. For the purposes of this chapter, residential contracting means construction, removal, repair, or improvements to single-family or multiple-family residential buildings, including accessory-use structures as defined in § 54.1-1100 of the Code of Virginia. Prior to commencement of work or acceptance of payments, the contract shall be signed by both the consumer and the licensee or his agent.

FACTS:

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

2. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

6. Misconduct in the practice of contracting.

FACTS:

On January 30, 2004, Nathan Sowden ("Sowden"), Building Inspector for King William County, inspected the subject property. Sowden rejected the veneer inspection because an ice shield was not installed on roof, in violation of R905.2.7.1 of the International Residential Code ("IRC"), and 6 mil plastic wrap and flashing were not installed around the wooden windows, in violation of R703.8 of the IRC. (Exh. C-1, I-1, and I-2)

On February 3, 2004, Sowden inspected the subject property and provided a consultation for the Hostetters' new contractor. Sowden passed the veneer inspection, but noted "OK to apply siding. Ice shield inspection will need to be done prior to final." Sowden also noted:

- Fir out vaulted ceiling to accommodate R-22 (code) or R-30, in violation of R806.3 of the IRC;
- Double floor joist at 2x8 16" O.C. or add girder to comply with approved plans, in violation of R502.3 of the IRC; and
- Resubmit beam criteria for large proposed openings, in violation of Section 111.5.3 of the Uniform Statewide Building Code. (Exh. I-1 and I-2)

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

Re: Sun Thermal Inc.

File Number: 2004-02635
License Number: 2705042733

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On November 4, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Sun Thermal Inc. ("Sun Thermal") 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 returned by the United States Postal Service marked "UNCLAIMED".

On December 9, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Natividad Cordero-Cruz; Complainant; Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Vincent Giordano nor anyone on behalf of Sun Thermal 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)

Sun Thermal's failure to use a written contract that includes: the contractor's class of license, license expiration date, and a statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties is a violation of Board Regulation 18 VAC 18 VAC 50-22-260.B.9. Therefore, I recommend a monetary penalty of \$500.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management for the firm, within six months of the effective date of this order.

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

Sun Thermal's failure to install new gutters or reinstall the old gutters is a violation of Board Regulation 18 VAC 18 VAC 50-22-260.B.6. On September 26, 2003 Cordero-Cruz entered into a written contract with Sun Thermal to remove and replace windows, reside, and perform metal work at the subject property. Sun Thermal took the old gutters down while installing the siding and metal work. Cordero-Cruz decided to purchase vinyl gutters, and have them installed. In November 2003, Sun Thermal told Cordero-Cruz the new gutters would be ordered, and Sun Thermal would return to install the gutters. On November 20, 2003, Sun Thermal completed the work with exception of the gutters. Cordero-Cruz made several attempts to contact Sun Thermal regarding the gutters; however, Sun Thermal did not respond.

During the IFF, Cordero-Cruz stated that he installed the new gutters himself.

Therefore, I recommend a monetary penalty of \$500.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management for the firm, within six months of the effective date of this order.

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

Sun Thermal Inc.'s failure to report a change in the officers of the corporation to the Board, in writing, within ninety (90) days of the change is a violation of Board Regulation 18 VAC 18 VAC 50-22-220.A. In January 1998, the Board issued Class A Contractor's license number 2705042733 to Sun Thermal as a corporation. On September 6, 2001, the Board of Directors for Sun Thermal accepted the resignation of Vincent Giordano, and elected Bruce Allala as CEO for Sun Thermal. On June 25, 2004, the licensing records for the Board revealed that Giordano was still the Designated Employee, Qualified Individual, and Responsible Management for Sun Thermal. Therefore, I recommend a monetary penalty of \$500.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management for the firm, within six months of the effective date of this order.

By: _____
Ruth Ann Wall
Presiding Officer

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: June 25, 2004 (revised September 8, 2004)

FILE NUMBER: 2004-02635
RESPONDENT: Sun Thermal Inc.
LICENSE NUMBER: 2705042733
EXPIRATION: January 31, 2006

SUBMITTED BY: Janet P. Creamer
APPROVED BY: Wayne Mozingo

COMMENTS:
None.

Sun Thermal Inc. ("Sun Thermal") was at all times material to this matter a licensed Class A Contractor in Virginia (No. 2705042733).

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 8, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Natividad Cordero-Cruz ("Cordero-Cruz") regarding Sun Thermal. (Exh. C-1)

On September 26, 2003, Cordero-Cruz entered into a written contract with Sun Thermal, in the amount of \$8,125.00, to remove and replace windows, reside, and perform metal work at 3904 Yorktown Drive, Hopewell, Virginia 23860. (Exh. C-2)

On January 26, 1998, Sun Thermal was issued Class A Contractor's license number 2705042733 as a corporation. (Exh. I-3)

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:
 - h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services; and
 - i. Statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

FACTS:

The contract used by Sun Thermal in the transaction failed to contain subsections: (h) class of license and expiration date and (i). (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:

6. Misconduct in the practice of contracting.

FACTS:

Sun Thermal took the old aluminum gutters down while installing the siding and metal work. Cordero-Cruz decided to purchase vinyl gutters and have them installed instead of Sun Thermal re-installing the older aluminum gutters. (Exh. I-5)

In November 2003, Sun Thermal told Cordero-Cruz the new gutters would be ordered and Sun Thermal would return to install the gutters. (Exh. I-5)

On November 20, 2003, Sun Thermal completed the work with the exception of the gutters. (Exh. C-1)

Cordero-Cruz made several attempts to contact Sun Thermal regarding the gutters; however, Sun Thermal did not respond. (Exh. C-1)

As of June 24, 2004, Sun Thermal failed to install new gutters or reinstall the old gutters. (Exh. C-1)

3. 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 September 6, 2001, the board of directors of Sun Thermal accepted Vincent Giordano's ("Giordano") letter of resignation and the stockholders elected Bruce Allala ("Allala") as the new CEO of Sun Thermal. (Exh. R-1)

On September 6, 2001, Giordano and Allala entered into a buy/sell agreement to sell Giordano's stock in Sun Thermal to Allala. (Exh. R-1)

As of June 25, 2004, the licensing records revealed Giordano, individual certificate number 2706075398, was still the Designated Employee, Qualified Individual, and Responsible Management of license number 2705042733. (Exh. I-3 and I-4)

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

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

Re: First Service Plumbing LLC

File Number: 2004-03669
License Number: 2705076396

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On November 4, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to First Service Plumbing LLC 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 returned by the United States Postal Service marked "RETURN TO SENDER: FIRST SERVICE PLUMBING MOVED LEFT NO ADDRESS UNABLE TO FORWARD RETURN TO SENDER".

On December 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: Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither First Service Plumbing LLC nor anyone on its behalf appeared at the IFF.

RECOMMENDATION

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

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

First Service Plumbing LLC's failure to use a contract with the minimum required provisions of the Board is a violation of Board Regulation 18 VAC 50-22-260.B.9. Specifically, the contract used by First Service Plumbing LLC's did not contain subsections: (a), (c), (d), (e), (f), and (h). Therefore, I recommend a monetary penalty of \$2,500.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management for the firm within six months of the effective date of this order.

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

First Service Plumbing LLC failure to respond to an investigator seeking information in the investigation of a complaint filed with the Board is a violation of Board Regulation 18 VAC 50-22-260.B.13. Therefore, I recommend a monetary penalty of \$1,000.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management for the firm within six months of the effective date of this order.

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

First Service Plumbing LLC failure to report, in writing, to the board a change of address within thirty (30) days of the change is a violation of Board Regulation 18 VAC 50-22-230.B. Therefore, I recommend a monetary penalty of \$500.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management for the firm within six months of the effective date of this order.

By: _____

Ruth Ann Wall
Presiding Officer

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: June 3, 2004 (revised September 15, 2004)

FILE NUMBER: 2004-03669
RESPONDENT: First Service Plumbing, LLC
LICENSE NUMBER: 2705076396
EXPIRATION: June 30, 2005

SUBMITTED BY: Sherell Queen
APPROVED BY: Linda J. Boswell

COMMENTS:

At the time the complaint was filed, First Service Plumbing, LLC also held a Class C license (No. 2705067410) which expired on March 31, 2004. (Exh. I-5)

First Service Plumbing, LLC ("First Service") was at all times material to this matter a licensed Class A Contractor in Virginia (No. 2705076496).

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 8, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Mark Hummel ("Hummel") regarding First Service. (Exh. C-1)

On October 11, 2003, Hummel entered into a written contract with First Service, in the amount of \$12,424.00, to remodel a master bathroom at 3448 Mt. Burnside Way, Lakeridge, Virginia. (Exh. C-2)

On June 5, 2003, First Service was issued Class A Contractor's license number 2705076396 as a limited liability corporation. Donald E. Walker ("Walker"), individual

tracking number 2706118891, is the Responsible Management for license number 2705076396. (Exh. I-4)

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:
 - a. When work is to begin and the estimated completion date;
 - c. A listing of specified materials and work to be performed, which is specifically requested by the consumer;
 - 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;
 - f. Disclosure of the cancellation rights of the parties;
 - h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services.

FACTS:

The contract used by First Service in the transaction failed to contain subsections: (a), (c), (d), (e), (f), and (h). (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:

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

FACTS:

On March 31, 2004, Investigator Sherell Queen, the Board's agent, made a written request to First Service at the address of record of 7240 G Telegraph Square Drive, Lorton, Virginia 22079-0000, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by April 20, 2004. (Exh I-1)

On May 5, 2004, the Board's agent made second written request, via certified mail, to First Service at the address of record 7240 G Telegraph Square Drive, Lorton, Virginia 22079-0000, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by May 14, 2004. (Exh. I-2)

On May 28, 2004, the certified letter was returned to the Board's agent by the United States Postal Service ("USPS"), which was marked "Return to Sender, Unclaimed." (Exh. I-2a)

On May 27, 2004, the Board's agent contacted Walker at (703) 455-5558, the telephone number listed on the complaint form; however, Walker told the Board's agent he was not the Donald E. Walker she was looking for. (Exh. I-6)

As of June 3, 2004, First Service failed to respond to an investigator and/or provided false or misleading information to an investigator seeking information in the investigation of a complaint filed with the Board.

3. Board Regulation (Effective January 1, 2003)

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

- B. Any change of address shall be reported in writing to the board within 30 days of the change. The board shall not be responsible for the licensee's failure to receive notices or correspondence due to the licensee's not having reported a change of address.

FACTS:

On May 28, 2004, the Board's agent went to the address of record of 7240 G Telegraph Square Drive, Lorton, Virginia. The Board's agent observed the business currently operating at the location was a cable company and not First Service. (Exh. I-7)

First Service failed to report, in writing, to the board a change of address within thirty (30) days of the change.

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

Re: *T W Dettloff*

File Number: 2004-04496
License Number: 2705056689

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On November 8, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to T W Dettloff ("Dettloff") 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 has not been signed for or received, nor has it been returned by the United States Postal Service..

On December 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: Jeffrey W. Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Dettloff nor anyone on his behalf appeared at the IFF.

RECOMMENDATION

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

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

Dettloff failure to operate under the name in which the license is issued is a violation of Board Regulation 18 VAC 50-22-230 A. Therefore, I recommend a monetary penalty of \$500.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management for the firm within six months of the effective date of this order.

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

Dettloff's failure to use a contract with the minimum required provisions of the Board is a violation of Board Regulation 18 VAC 50-22-260.B.9. Specifically, the contract used by First Service Plumbing LLC did not six of the required provisions. Therefore, I recommend a monetary penalty of \$2,400.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management for the firm within six months of the effective date of this order.

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

Dettloff's contracting with an unlicensed subcontractor, Robert Walls, t/a Walls Exteriors, a violation of Board Regulation 18 VAC 50-22-260.B.29. Therefore, I recommend a monetary penalty of \$250.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management for the firm within six months of the effective date of this order.

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

Dettloff's failure to obtain the requisite permit is a violation of Board Regulation 18 VAC 50-22-260.B.6. Therefore, I recommend a monetary penalty of \$250.00 and remedial education be imposed.

The Board's Basic Contracting License class (remedial education) must be successfully completed by a member of Responsible Management for the firm within six months of the effective date of this order.

By: _____
Ruth Ann Wall
Presiding Officer

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: June 29, 2004 (revised September 14, 2004)

FILE NUMBER: 2004-04496
RESPONDENT: T W Dettloff
LICENSE NUMBER: 2705056689
EXPIRATION: June 30, 2006

SUBMITTED BY: Robert Hansel
APPROVED BY: David Dorner

COMMENTS:

None.

T W Dettloff ("Dettloff ") was at all times material to this matter a licensed Class B contractor in Virginia (No. 2705056689).

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 May 6, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Jonathan M. Gorog ("Gorog") regarding Wall's Exteriors. (Exh. C-1)

On February 6, 2004, Gorog entered into a written contract with Restoring Hampton Roads ("RHR"), in the amount of \$19,680.00, to replace and install vinyl siding at 1476 Five Hill Trail, Virginia Beach, Virginia 23452. The contract was signed by T. W. Dettloff on behalf of RHR. (Exh. C-2)

In a written response received June 4, 2004, Dettloff stated "My city and state liscnese are in my birth name Troy Dettloff. I use Roofing Hampton Roads and RHR only as a

trading as name." Dettloff further acknowledged the contract and work performed for Gorog. (Exh. R-1)

On March 15, 2004, Dettloff commenced work. (Exh. I-2)

On June 5, 2000, Dettloff was issued Class B Contractor's license number 2705056689 as a sole proprietorship. (Exh. I-1)

1. Board Regulation (Effective January 1, 2003)

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

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

FACTS:

Dettloff failed to operate under the name in which the license is issued.

2. 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:
- a. When work is to begin and the estimated completion date;
 - 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;
 - f. Disclosure of the cancellation rights of the parties;
 - h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services; and
 - i. Statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

FACTS:

The contract used by Dettloff in the transaction failed to contain subsections: (a), (b), (d), (e), (f), (h), and (i). (Exh. C-2)

3. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

29. Contracting with an unlicensed or improperly licensed contractor or subcontractor in the delivery of contracting services.

FACTS:

In a written response received June 4, 2004, Dettloff stated "I could not get Robert Walls to continue doing his work." (Exh. R-1)

On June 29, 2004, Dettloff admitted he thought Robert Walls ("Walls"), t/a Walls Exteriors was a bad subcontractor and he thought Walls was licensed because Walls said he was. Dettloff also admitted he did not check Walls' license. (Exh. I-3)

Dettloff contracted with Walls, an unlicensed contractor, in the delivery of contracting services.

4. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

6. Misconduct in the practice of contracting.

FACTS:

As of June 2, 2004, Dettloff failed to obtain a required permit, in violation of Sections 102.2, 105.1, and 111.1 of the Uniform Statewide Building Code, prior to performing work at the subject property. (Exh. W-1)

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

Re: M & I Enterprises Inc., t/a D & D Mechanical Contractors

File Number: 2004-03173
License Number: 2705047598

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On July 12, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to M & I Enterprises ("M & I Enterprises"), t/a D & D Mechanical Contractors 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 returned by the United States Postal Service, and marked as "Refused." The Notice was also mailed, via certified mail, to M & I Enterprises at 4506 N. Frederick Pike, Winchester, Virginia 22601. *The certified mail was returned by the United States Postal Service, and marked as "Refused."*

On August 10, 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 Mark Kinser, Presiding Board Member. Neither M & I Enterprises nor anyone on its behalf appeared at the IFF.

On November 4, 2004, a letter to reconvene the IFF was mailed, via certified mail, to M & I Enterprises to the address of record. The letter was also mailed, via certified mail, to M & I Enterprises at 4506 N. Frederick Pike, Winchester, Virginia 22601. Both certified mailings were signed and received.

On December 9, 2004, the IFF reconvened 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. Neither Edgar Davis, nor anyone on behalf of M & I Enterprises, 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)

M & I Enterprises's failure to replace the heat pump, as promised, is a violation of Board Regulation 18 VAC 50-22-260.B.6. On July 11, 2003, Myers entered into a written contract with M & I Enterprises to install a heat pump and reconfigure duct work at the subject property. On July 17, 2003, M & I Enterprises installed the heat pump and performed the ductwork. In October 2003, Myers noticed the heat pump was not working. On October 16, 2003, M & I Enterprises returned to the subject property and made repairs to the heat pump. Four days later, M & I returned to the property to correct the outstanding problem, but could not successfully repair the heat pump. In late October 2003, M & I Enterprises agreed to replace the heat pump. M & I Enterprises returned to install the replacement heat pump; however, the heat pump provided was the incorrect unit, and was not installed. Despite Myers making several calls to M & I Enterprises after October 2003, M & I Enterprises failed to install the heat pump as promised. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

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

M & I Enterprises'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 three of the required provisions. Therefore, I recommend a monetary penalty of \$300.00 be imposed.

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

M & I Enterprises's failure to respond to the investigator is a violation of Board Regulation 18 VAC 50-22-260.B.13. On March 2, 2004, the Board's agent made a written request to M & I Enterprises, requesting a written response and supporting documents to the complaint filed with the Board. M & I Enterprises failed to respond to the Board's agent's request. Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

By: _____
Ruth Ann Wall
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: June 23, 2004

FILE NUMBER: 2004-03173
RESPONDENT: M & I Enterprises Inc., t/a D & D Mechanical Contractors
LICENSE NUMBER: 2705047598
EXPIRATION: December 31, 2004

SUBMITTED BY: Morgan Moore
APPROVED BY: James Guffey

COMMENTS:

None.

M & I Enterprises, Inc., t/a D & D Mechanical Contractors ("D & D Mechanical") was at all times material to this matter a licensed Class B Contractor in Virginia (No. 2705047598).

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 February 5, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Joyce Myers ("Myers") regarding D & D Mechanical Contractors. (Exh. C-1)

On July 11, 2003, Myers entered into a written contract with M & I Enterprises Inc., t/a D & D Mechanical, in the amount of \$6,300.00, to install a heat pump and reconfigure ductwork at 214 Briarwood Drive, Winchester, Virginia 22603. (Exh. C-2)

On July 17, 2003, D & D Mechanical installed the heat pump and performed the ductwork. (Exh. C-3)

1. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

6. Misconduct in the practice of contracting.

FACTS:

In October 2003, Myers noticed that the heat pump was not working. (Exh. C-1)

On October 16, 2003, D & D Mechanical returned to the property and performed repairs on the heat pump. (Exh. C-3)

On October 20, 2003, D & D Mechanical returned to the property to correct the outstanding problem, but could not successfully repair the heat pump. (Exh. C-3)

In late October 2003, D & D Mechanical promised to replace the heat pump. D & D Mechanical returned to the property to install a replacement heat pump. The pump provided by D & D Mechanical was the incorrect unit, and was not installed. (Exh. C-1)

Despite Myers making several calls to D & D Mechanical, after the end of October 2003, D & D Mechanical failed to replace the heat pump as promised. (Exh. C-1)

2. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

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:
- a. When work is to begin and the estimated completion date;
 - f. Disclosure of the cancellation rights of the parties;
 - h. Contractor's name, address, license number, expiration date, class of license, and classifications or specialty services; and

FACTS:

The contract used by D & D Mechanical failed to contain subsections: (a), (f), and (h) specialty services.

3. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

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

FACTS:

On March 2, 2004, Investigator Morgan T. Moore, the Board's agent, made a written request to D & D Mechanical, at the address of record of 4508 N. Frederick Pike, Winchester, Virginia, 22603, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the documents be received by March 19, 2004. (Exh. I-2)

As of June 23, 2004, D & D Mechanical refused or failed to respond to the Board's agent's request.

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

Re: Insurance Restoration of America, Inc.

File Number: 2004-00429
License Number: 2705070873

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On June 28, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Insurance Restoration of America, Inc. ("IRA") to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service and was marked as "Forwarding Order Expired." The Notice was also mailed, via certified mail, to IRA at 1710 Prelude Court, Vienna, Virginia 22182-3341. The certified mail was returned by the United States Postal Service, and was marked as "Unclaimed."

On July 27, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jennifer Kazzie, Staff Member; and Dorothy Wood, Presiding Board Member. Neither IRA nor anyone on its behalf appeared at the IFF.

On October 27, 2004, a letter, dated October 25, 2004, to reconvene the IFF was served in person by the Board's agent to IRA, through its attorney Richard McDowell.

On December 9, 2004, the IFF was reconvened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Maurice Parrish, Responsible Management for IRA, Respondent; Linda Corum (by phone), Complainant; Jeffrey Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer.

RECOMMENDATION

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

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

IRA's abandonment of work under the contract is a violation of Board Regulation 18 VAC 50-22-260.B.14. Corum entered into a contract with IRA to perform restoration services at the subject property. Corum contacted IRA several times regarding completion of the work. IRA scheduled several appointments, but never showed for the appointments. As of July 16, 2003, IRA completed the roof replacement, but failed to complete the repairs at the subject property. On that date, Corum sent IRA a letter requesting IRA complete the work within seven (7) days.

During the IFF, Parrish stated he had hired another contractor to complete the work. During the IFF, Corum stated Parrish had not contacted until December 8, 2004, and as of this date, the work has not been corrected. Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

Count 2: Board Regulation (Effective September 1, 2001)

IRA's retention of funds is a violation of Board Regulation 18 VAC 50-22-260.B.16. On August 19, 2002, Nationwide Insurance, Corum's insurance company, paid IRA \$5,257.65. As of July 16, 2003, IRA failed to refund money received for work not performed.

During the IFF, Parrish stated he still had the money received from Corum's insurance company because it would be used for another contractor to complete the work; however, the work has not been completed. Therefore, I recommend a monetary penalty of \$2,000.00 and be imposed.

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

IRA's failure to respond to the investigator is a violation of Board Regulation 18 VAC 50-22-260.B.13. On August 6, 2003, the Board's agent made a written request to IRA, requesting a written response and supporting documents to the complaint filed with the Board. As of April 30, 2004, IRA refused or failed to respond to the Board's agent. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

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

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

INFORMAL FACT-FINDING CONFERENCE MEMORANDUM

BOARD: Board for Contractors
DATE: April 30, 2004 (revised June 18, 2004)
RE: 2004-00429; Insurance Restoration of America Inc.

BACKGROUND:

On July 17, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Linda K. Corum ("Corum") regarding Insurance Restoration of America Inc. ("IRA"). (Exh. C-1)

Corum entered into a written contract with IRA to perform restoration services at 7656 Quail Run Lane, Manassas, Virginia 22109. (Exh. C-2)

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

18 VAC 50-22-260(B)(14).

FACTS:

Corum contacted IRA several times regarding completion of the work. IRA scheduled several appointments, but never showed for the appointments. (Exh. C-1)

As of July 16, 2003, IRA completed the roof replacement but failed to complete the repairs at the subject property. (Exh. C-1)

On July 16, 2003, Corum sent IRA a letter requesting IRA complete the work within seven (7) days. (Exh. C-1)

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

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

FACTS:

On August 19, 2002, Nationwide Insurance, Corum's insurance company, paid IRA \$5,257.65 by check. (Exh. C-1)

As of July 16, 2003, IRA failed to refund money received for work not performed. (Exh. C-1)

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

18 VAC 50-22-260(B)(13).

FACTS:

On August 6, 2003, Investigator Morgan T. Moore, the Board's agent, made a written request to IRA at the address of record of 100 Executive Drive #101 STE 2A, Sterling, Virginia 20166, requesting a written response and supporting documents to the complaint filed with the Board. (Exh. I-1)

As of April 30, 2004, IRA refused or failed to respond to the Board's agent.

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

Re: Insurance Restoration of America, Inc.

File Number: 2004-01947
License Number: 2705070873

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On June 28, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Insurance Restoration of America, Inc. ("IRA") to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service and was marked as "Forwarding Order Expired." The Notice was also mailed, via certified mail, to IRA at 1710 Prelude Court, Vienna, Virginia 22182-3341. The certified mail was returned by the United States Postal Service, and was marked as "Unclaimed."

On July 27, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jennifer Kazzie, Staff Member; and Dorothy Wood, Presiding Board Member. Neither IRA nor anyone on its behalf appeared at the IFF.

On October 27, 2004, a letter, dated October 25, 2004, to reconvene the IFF was served in person by the Board's agent to IRA, through its attorney Richard McDowell.

On December 9, 2004, the IFF was reconvened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Maurice Parrish, Responsible Management for IRA, Respondent; Jeffrey Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer.

RECOMMENDATION

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

During the IFF, Parrish stated he had no comments regarding this matter.

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

IRA'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 six of the required provisions. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

Count 2: Board Regulation (Effective September 1, 2001)

IRA's failure to complete work is a violation of Board Regulation 18 VAC 50-22-260.B.15. On August 4, 2002, IRA went to Smith's residence and advised Smith that her home appeared to have been damaged by a hailstorm. Smith then signed an Agreement with IRA and received a Notice of Cancellation from IRA. On August 21, 2002, a representative from State Farm Insurance inspected the subject property and issued Smith a check, in the amount of \$7,430.11, to cover the repairs. Smith also received a Contract for Services, in the amount of \$7,430.11, from IRA for work to be performed at the subject property. The next day, Smith signed the insurance check over to IRA. IRA told Smith the work would begin in approximately three to four weeks.

After four weeks, Smith contacted IRA regarding when work would begin. IRA told Smith that work would begin during the first two weeks in November. As of November 14, 2002, IRA failed to begin work. Smith contacted IRA regarding the work to be performed, and was told work would be done the Friday after Thanksgiving. As of early December 2002, Smith contacted IRA regarding work to be performed. IRA told Smith that work would be done right after Christmas. As of mid-January 2003, IRA failed to commence work. On January 15, 2003, Smith contacted IRA regarding when the work would be completed. IRA told Smith that work would be done soon. Smith contacted IRA and cancelled the contract.

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

Count 3: Board Regulation (Effective September 1, 2001)

IRA's retention of funds is a violation of Board Regulation 18 VAC 50-22-260.B.16. In January 2003, Smith demanded IRA refund money received for work not performed. On July 22, 2003, in the Prince William County General District Court, Smith filed a Motion for Judgment against IRA for "violations of the Virginia Home Repair Solicitation Act, the Virginia Consumer Protection Act, or, in the alternative, IRA's breach of contract." Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

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

IRA's failure to satisfy the judgment is a violation of Board Regulation 18 VAC 50-22-260.B.28. On March 11, 2004, in the Prince William County General District Court, Smith obtained a default judgment against IRA. As of June 20, 2004, IRA failed to satisfy the judgment. Therefore, I recommend a monetary penalty of \$2,500.00 and license revocation be imposed.

By:

Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

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

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

INFORMAL FACT-FINDING CONFERENCE MEMORANDUM

BOARD: Board for Contractors
DATE: April 20, 2004 (revised June 18, 2004)
RE: 2004-01947; Insurance Restoration of America Inc.

BACKGROUND:

On November 5, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Legal Services of Northern Virginia, Inc., on behalf of Heather Smith ("Smith"), regarding Insurance Restoration of America Inc. ("IRA"). (Exh. C-1)

On August 4, 2002, IRA went to Smith's residence at 7396 Barbados Lane, Manassas, Virginia, and advised Smith that her home appeared to have been damaged by a hailstorm. (Exh. C-2)

On August 4, 2002, Smith signed an Agreement with IRA and received a Notice of Cancellation from IRA. (Exh. C-2, C-3, and C-4)

On August 21, 2002, a representative from State Farm inspected the subject property and issued Smith a check, in the amount of \$7,430.11, to cover the repairs. (Exh. C-2)

On August 22, 2002, Smith signed the \$7,430.11 State Farm claim check over to IRA. (Exh. C-2 and C-5)

On August 21, 2002, Smith received a Contract for Services from IRA, in the amount of \$7,430.11, for work to be performed at the subject property. The Contract for Services was signed by IRA but not by Smith. (Exh. C-6)

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

18 VAC 50-22-260(B)(9)

FACTS:

The contract used by IRA in the transaction failed to contain subsections: (a) when work is to begin and the estimated completion date, (c) a listing of specified materials and work to be performed, which is specifically requested by the consumer, (e) a statement of assurance that the contractor will comply with all local requirements for building permits, inspections, and zoning, (f) disclosure of the cancellation rights of the parties, (g) for contracts resulting from a door-to-door solicitation, a signed acknowledgment by the consumer that he has been provided with and read the Department of Professional and Occupational Regulation statement of protection available to him through the Board for Contractors; and (h) contractor's license number, expiration date, class of license, and classifications or specialty services. (Exh. C-6)

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

18 VAC 50-22-260(B)(15).

FACTS:

On August 22, 2002, IRA told Smith the work would begin in approximately three to four weeks. (Exh. C-2)

After four weeks, Smith contacted IRA regarding when work would commence. IRA told Smith that work would begin during the first two weeks of November. (Exh. C-2)

As of November 14, 2002, IRA failed to commence work. On or about November 14, 2002, Smith contacted IRA regarding the work to be performed. IRA told Smith that work would be done the Friday after Thanksgiving. (Exh. C-2)

As of early December 2002, IRA failed to commence work. In early December 2002, Smith contacted IRA regarding the work to be performed. IRA told Smith that work would be done right after Christmas. (Exh. C-2)

As of mid January 2003, IRA failed to commence work. (Exh. C-2) On January 15, 2003, Smith contacted IRA regarding when the work would be completed. IRA told Smith that work would be done soon. (Exh. C-2)

Smith contacted IRA and cancelled the contract. (Exh. C-2)

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

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

FACTS:

In January 2003, Smith demanded IRA refund money received for work not performed. (Exh. C-2)

On July 22, 2003, in the Prince William County General District Court, Smith filed a Motion for Judgment against IRA for "violations of the Virginia Home Repair Solicitation Act, the Virginia Consumer Protection Act, or, in the alternative, IRA's breach of contract." (Exh. C-1 and I-1)

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

18 VAC 50-22-260(B)(28)

FACTS:

On March 11, 2004, in the Prince William County General District, Smith was awarded a \$7,430.11 default judgment against IRA. (Exh I-1)

As of June 20, 2004, IRA failed to satisfy the judgment. (Exh. I-1)

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

Re: Insurance Restoration of America, Inc.

File Number: 2004-00967
License Number: 2705070873

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On June 28, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Insurance Restoration of America, Inc. ("IRA") to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service and was marked as "Forwarding Order Expired." The Notice was also mailed, via certified mail, to IRA at 1710 Prelude Court, Vienna, Virginia 22182-3341. *The certified mail was returned by the United States Postal Service, and was marked as "Unclaimed."*

On July 27, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Larry and Connie LaBruyere, Complainants; Jennifer Kazzie, Staff Member; and Dorothy Wood, Presiding Board Member. Neither IRA nor anyone on its behalf appeared at the IFF.

On October 27, 2004, a letter, dated October 25, 2004, to reconvene the IFF was served in person by the Board's agent to IRA, through its attorney Richard McDowell.

On December 9, 2004, the IFF was reconvened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Maurice Parrish, Responsible Management for IRA, Respondent; Jeffrey Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer.

RECOMMENDATION

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

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

IRA's failure to obtain a Class B license in order to perform work in excess of the \$7,500.00 limit of a Class C license is a violation of Board Regulation 18 VAC 50-22-260.B.27. In October 2002, the Board issued Class C Contractor's license number 2705070873 to IRA. On March 6, 2003, the LaBruyeres entered into a written contract with IRA, in the amount of \$48,743.71, to build an addition, screened deck, and deck, install French doors, and replace siding at the subject property. On April 24, 2003, the building permit was issued for the subject property. On April 28, 2004, IRA commenced work. In a written response to the Board's agent, IRA stated it partnered with Mark Tanenbaum, t/a UB Construction Co., who held a Class A license.

During the IFF, Parrish stated he partnered with Tanenbaum to pull all permits because Tanenbaum held a Class A contractor's license. However, Parrish signed the contract with the LaBruyeres and received checks towards the contract. Therefore, I recommend a monetary penalty of \$1,000.00 be imposed.

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

IRA's retention of funds is a violation of Board Regulation 18 VAC 50-22-260.B.16. . On March 6, 2003, the LaBruyeres entered into a written contract with IRA, in the amount of \$48,743.71, to build an addition, screened deck, and deck, install French doors, and replace siding at the subject property. On that date, the LaBruyeres paid IRA \$5,000.00 as a deposit. On April 17, 2003, the LaBruyeres paid IRA \$19,500.00. On April 24, 2003, the building permit was issued for the subject property. On April 28, 2004, IRA commenced work. In August 2003, the LaBruyeres requested IRA refund money paid for work not performed. In response to the LaBruyeres, IRA told the LaBruyeres that the enormous roots, significant amounts of rock and old backfill debris, and rain caused delays in the work.

During the July 27, 2004, IFF, the LaBruyeres stated Maurice Parrish was entering into a plea agreement, which included a restitution of \$15,000.00 to the LaBruyeres. During the IFF, Parrish stated he has entered into an agreement with the LaBruyeres to satisfy the restitution. Therefore, I recommend a monetary penalty of \$2,500.00 be imposed.

By:

Ruth Ann Wall
Presiding Officer

Board for Contractors

Date:

MONETARY PENALTY TERMS

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

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

INFORMAL FACT-FINDING CONFERENCE MEMORANDUM

BOARD: Board for Contractors
DATE: April 28, 2004 (revised June 18, 2004)
RE: 2004-00967; Insurance Restoration of America Inc.

BACKGROUND:

On August 25, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Larry and Connie LaBruyere ("the LaBruyeres") regarding Insurance Restoration of America Inc. ("IRA"). (Exh. C-1)

On March 6, 2003, the LaBruyeres entered into a written contract with IRA, in the amount of \$48,743.71, to build an addition, screened deck, and deck, install French doors, and replace siding at 506 Meadow Lane, Vienna, Virginia 22180. (Exh. C-2)

On April 24, 2003, the building permit was issued for the subject property. On April 28, 2003, IRA commenced work. (Exh. R-1)

On August 14, 2003, the LaBruyeres sent IRA a letter as notification that the LaBruyeres were terminating the contract and IRA was not allowed on the property except to remove its belongings. (Exh. C-5)

In a letter dated August 28, 2003, IRA told the LaBruyeres that the enormous roots, significant amounts of rock and old backfill debris, and rain caused delays in the work. (Exh. R-1)

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

18 VAC 50-22-260(B)(27).

FACTS:

On October 24, 2002, the Board for Contractors issued Class C Contractor's license number 2705070873 to IRA. (Exh. I-1)

In a written response dated August 28, 2003, IRA stated it partnered with Mark Tanenbaum, t/a UB Construction Co., who held a Class A license. (Exh. C-1)

IRA failed to obtain a Class B license in order to perform work in excess of the \$7,500.00 limit of a Class C license.

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

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

FACTS:

On March 6, 2003, the LaBruyeres paid IRA \$5,000.00 by check, as a deposit. On April 17, 2003, the LaBruyeres paid IRA \$19,500.00 by check. (Exh C-3)

In a letter dated August 14, 2003, the LaBruyeres requested IRA refund money paid for work not performed. (Exh C-5)

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

Re: Insurance Restoration of America, Inc.

File Number: 2004-00357
License Number: 2705070873

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On June 28, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Insurance Restoration of America, Inc. ("IRA") to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service and was marked as "Forwarding Order Expired." The Notice was also mailed, via certified mail, to IRA at 1710 Prelude Court, Vienna, Virginia 22182-3341. The certified mail was returned by the United States Postal Service, and was marked as "Unclaimed."

On July 27, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jennifer Kazzie, Staff Member; and Dorothy Wood, Presiding Board Member. Neither IRA nor anyone on its behalf appeared at the IFF.

On October 27, 2004, a letter, dated October 25, 2004, to reconvene the IFF was served in person by the Board's agent to IRA, through its attorney Richard McDowell.

On December 9, 2004, the IFF was reconvened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Maurice Parrish, Responsible Management for IRA, Respondent; Jeffrey Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer.

RECOMMENDATION

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

During the IFF, Parrish stated the contract was signed by Nathan Ganim, who did not have authority to offer the contract on behalf of IRA, and Parrish had no knowledge of the contract.

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

Therefore, I recommend Count 1 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.9.

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

Therefore, I recommend Count 2 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.15.

By: _____
Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

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

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

INFORMAL FACT-FINDING CONFERENCE MEMORANDUM

BOARD: Board for Contractors
DATE: April 20, 2004 (revised June 18, 2004)
RE: 2004-00357; Insurance Restoration of America Inc.

BACKGROUND:

On July 14, 2003, the Enforcement Division of the Department of Professional and Occupational Regulation received a written complaint from Kenneth E. Murphy ("Murphy") regarding Insurance Restoration of America Inc. ("IRA"). (Exh. C-1)

On April 16, 2003, Murphy entered into a written contract with IRA, in the amount of \$6,800.00, to remodel and restore the driveway at 2200 Dockside Court, Woodbridge, Virginia 22192. The contract was signed by Nathan Ganim ("Ganim"). (Exh. C-2)

Murphy paid IRA \$3,850.00, as an initial payment. (Exh. C-1)

In a written response dated August 7, 2003, IRA stated it "discovered that, without any authority, he [Ganim] had written a contract on IRA's form to Mr. Murphy to resurface his driveway with brick." (Exh. R-1)

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

18 VAC 50-22-260(B)(9)

FACTS:

The contract used by IRA in the transaction failed to contain subsections: (a) the beginning date and the estimated completion date, (e) a statement of assurance regarding local requirements for building permits, inspections and zoning, (f) disclosure of the cancellation rights of the parties, and (h) contractor's license number, the license expiration date, and the classification or specialty services. (Exh. C-2)

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

18 VAC 50-22-260(B)(15).

FACTS:

On April 22, 2003, Ganim commenced work. (Exh. C-1)

In mid May 2003, IRA discovered the brick laid was the wrong type of brick and were put down with the wrong mortar. IRA told Murphy it would have to remove the bricks that were improperly laid. IRA made several promises to complete the work. In May 2003, Murphy made several attempts to contact IRA regarding completion of the work, but IRA did not respond. (Exh. C-1)

In June 2003, Murphy requested IRA stop the project and return Murphy's money plus money for equipment used and broken. As of July 10, 2003, IRA failed to complete the work. (Exh. C-1)

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

Re: Insurance Restoration of America, Inc.

File Number: 2004-05011
License Number: 2705070873

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On June 28, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Insurance Restoration of America, Inc. ("IRA") to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was returned by the United States Postal Service and was marked as "Forwarding Order Expired." The Notice was also mailed, via certified mail, to IRA at 1710 Prelude Court, Vienna, Virginia 22182-3341. The certified mail was returned by the United States Postal Service, and was marked as "Unclaimed."

On July 27, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Jennifer Kazzie, Staff Member; and Dorothy Wood, Presiding Board Member. Neither IRA nor anyone on its behalf appeared at the IFF.

On October 27, 2004, a letter, dated October 25, 2004, to reconvene the IFF was served in person by the Board's agent to IRA, through its attorney Richard McDowell.

On December 9, 2004, the IFF was reconvened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Maurice Parrish, Responsible Management for IRA, Respondent; Jeffrey Buckley, Staff Member; and Ruth Ann Wall, Presiding Officer.

RECOMMENDATION

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

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

During the IFF, Parrish stated the conviction was stayed pending an appeal. Parrish further stated his lawyer advised him that until the appeal was heard he did not need to disclose the conviction on his application. Parrish stated the appeal was heard in October 2002 and subsequently pleaded guilty to a misdemeanor. Therefore, I recommend Count 1 of this file be closed with a finding of no violation of 18 VAC 50-22-260.B.2.

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

During the IFF, Parrish stated he terminated his license. Parrish further stated he only performs contracting work in the District of Columbia as a subcontractor. Therefore, I recommend Count 2 of this file be closed with a finding of no violation of 18 VAC 50-22-210.

By:

Ruth Ann Wall
Presiding Officer

Board for Contractors

Date: _____

MONETARY PENALTY TERMS

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

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

INFORMAL FACT-FINDING CONFERENCE MEMORANDUM

BOARD: Board for Contractors
DATE: June 21, 2004
RE: 2004-05011; Insurance Restoration of America Inc.

BACKGROUND:

During the investigation of File Number 2004-00357, the Enforcement Division of the Department of Professional and Occupational Regulation obtained information regarding a criminal conviction against Mark Parrish of Insurance Restoration of America Inc. ("IRA"). (Exh. I-1)

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

18 VAC 50-22-260(B)(2).

FACTS:

On July 17, 2002, in the Fairfax County General District Court, Mark Anthony Parrish was convicted of a misdemeanor for violating § 54.1-111 of the Code of Virginia. Mark Anthony Parrish appealed the conviction to the Circuit Court of Fairfax County. (Exh. I-2)

On July 24, 2002, the Board for Contractors received a license application from IRA, who was applying for a Class C license as a corporation. Maurice Anthony Parrish ("Parrish") was listed as the Designated Employee and Responsible Management of the corporation. (Exh. I-3)

Question 23.A. of the application asked "Has your business, Designated Employee, Qualified Individual(s), or Responsible Management been convicted in any jurisdiction of any felony? Question 23.B. of the application asked "Has your business, Designated Employee, Qualified Individual(s), or Responsible Management been convicted in any jurisdiction of any misdemeanor within the last three years? IRA answered "NO" to both Question 23.A. and 23.B. Parrish signed the application and certified the answers were true. (Exh. I-3)

On October 10, 2002, in the Circuit Court of Fairfax County, Parrish pleaded guilty to practicing a professional occupation without a valid license. (Exh. I-2)

On October 24, 2002, the Board for Contractors issued Class C Contractor's license number 2705070873 to IRA. (Exh. I-4)

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

18 VAC 50-22-210

FACTS:

On September 2, 2003, IRA was terminated by the State Corporation Commission. (Exh. I-5)

On April 20, 2004, a review of the licensing records of the Board for Contractors revealed IRA's license was active and expired on October 31, 2004. (Exh. I-4)

IRA failed to obtain a new license within thirty (30) days of a change in the business entity.

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

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: RUTH ANN WALL
2. Title: Presiding Officer
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on December 9, 2004
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

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

Ruth Ann Wall
Signature

12-09-04
Date