

**Minutes of Meeting  
BOARD FOR CONTRACTORS  
INFORMAL FACT-FINDING CONFERENCES  
March 8, 2005 (9:00 a.m.)**

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

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

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

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

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

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

Participants

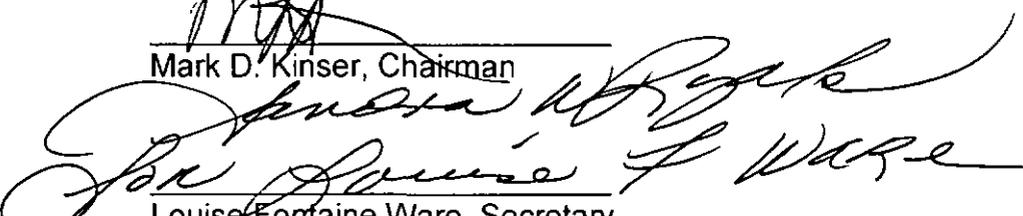
- |   |  |
|---|--|
| 1. Marvin R. Edwards<br>t/a Builder Trust<br>File Number 2004-04575 (Disc)<br>(No Decision) | Edwards – R  |
| 2. Leroy J. Sykes<br>t/a American International Painting<br>File Number 2004-05193 (Disc)   | None   |
| 3. C&D Investors, Inc.<br>t/a Top Notch Construction<br>File Number 2005-03019 (Lic)        | Debrah Dingleline – A<br>Christopher Messina – A<br>Charles Dingleline – A |
| 4. VM Renovators LLC<br>File Number 2004-02654 (Disc)                                       | Patricia Dahlfues – C<br>Michael Dahlfues – W                              |
| 5. Coopco Inc.<br>File Number 2004-02659 (Disc)   | Lisa Handke – C  |
| 6. Dominion Renovations Inc.<br>File Number 2004-04297 (Disc)                               | Danny Fowler – C<br>Dennis Wade – W  |

- |   |   |
|---|---|
| 7. Ramon Jeith Hazard<br>t/a Master Sealcoating and Paving<br>File Number 2004-04451 (Disc)               | Patricia Beam – C   |
| 8. Ramon Jeith Hazard<br>t/a Master Sealcoating and Paving<br>File Number 2005-00653 (Disc)               | None  |
| 9. Home Consulting Plus Inc.<br>t/a Housing Made Simple<br>File Number 2004-04763 (Disc)<br>(No Decision) | Patrick Carr – R<br>Timothy Hughes – R Atty<br>Ken O'Brien – C<br>Kirk Deutrich – W |
| 10. Historic Roofing and Sheet Metal Inc.<br>File Number 2004-04969 (Disc)                                | Harold Steinberg – C  |

The meeting adjourned at 3:00 p.m.

BOARD FOR CONTRACTORS

  
\_\_\_\_\_  
Mark D. Kinser, Chairman

  
\_\_\_\_\_  
Louise Fontaine Ware, Secretary

COPY TESTE:

\_\_\_\_\_  
Custodian of Records

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

Re: Leroy J. Sykes, t/a American International Painting

File Number: 2004-05193  
License Number: 2705064672

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

On December 29, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Leroy J. Sykes ("Sykes"), t/a American International Painting 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 "Unclaimed."

On March 8, 2005, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Joseph Haughwout, 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 Report of Findings:

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

The contract used in the transaction reflected the name American International Home Improvement. The license was issued under the trade name American International Painting.

Sykes's failure to operate in the name in which the license was issued is a violation of 18 VAC 50-22-230.A. Therefore, I recommend a monetary penalty of \$500.00 and license revocation be imposed.

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

The contract used in the transaction failed to contain five of the provisions required by the Board's regulation. Sykes's failure to include subsections c., d., e., f., and h. in the contract is a violation of 18 VAC 50-22-260.B.9. Therefore, I recommend a monetary penalty of \$250.00 and license revocation be imposed.

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

In July 2003, Tom and Sue Roselius ("the Roseliuses") contracted with Sykes to perform work at the subject property. The contract's value was \$8,250.00. Sykes only holds a Class C contractor's license. Sykes contracted above the allowed limit for his license.

Sykes's action of practicing in a class of license for which he is not licensed is a violation of 18 VAC 50-22-260.B.27. Therefore, I recommend a monetary penalty of \$250.00 and license revocation be imposed.

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

The contract specified work would begin on July 25, 2003, and be completed no later than September 22, 2003. Between December 25, 2003 and June 25, 2004, no work was performed at the subject property. Sykes has failed to complete the work.

Sykes's abandonment of work under the contract is a violation of 18 VAC 50-22-260.B.14. Therefore, I recommend a monetary penalty of \$500.00 and license revocation be imposed.

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

In July 2004, the Board's agent requested Sykes provide a written response and supporting documents to the complaint filed with the Board. In October 2004, the Board's agent made a second request. Sykes never responded to the Board's agent.

Sykes's failure to respond to the investigator is a violation of 18 VAC 50-22-260.B.13. Therefore, I recommend a monetary penalty of \$1,000.00 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  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors  
DATE: November 23, 2004 (revised December 16, 2004)

FILE NUMBER: 2004-05193  
RESPONDENT: Leroy J. Sykes, t/a American International Painting  
LICENSE NUMBER: 2705064672  
EXPIRATION: May 31, 2006

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

COMMENTS:

None.

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Leroy J. Sykes ("Sykes"), t/a American International Painting, was at all times material to this matter a licensed Class C contractor in Virginia (No. 2705064672).

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 June 29, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Thomas Roselius ("Roselius") regarding Joseph Sykes and American International Home Improvement. (Exh. C-1)

On July 25, 2003, American International Home Improvement entered into a written contract, in the amount of \$8,250.00, with Tom and Sue Roselius ("the Roseliuses") to finish the basement, sheet rock the garage, and install a side entry garage door at 6542 Ashby Grove Loop, Haymarket, Virginia. The contract indicated "License # 2705064672" and was signed by Le Roy Sykes. (Exh. C-2)

On May 31, 2002, Sykes was issued Class C contractor's license number 2705064672 as a sole proprietorship. (Exh. I-4)

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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:

Sykes failed to operate in the name in which the license was 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:

- 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; and

FACTS:

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

27. Practicing in a classification, specialty service, or class of license for which the contractor is not licensed.

FACTS:

Section 54.1-1100 of the Code of Virginia states "Class C contractors' perform or manage construction, removal, repair, or improvements when (i) the total value referred to in a single contract or project is over \$1,000 but less than \$7,500 . . ."

Sykes practiced in a class of license for which he is not licensed.

4. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

14. Abandonment (defined as the unjustified cessation of work under the contract for a period of 30 days or more).

FACTS:

The contract specified, "The work specified in this agreement shall begin on 7/25/2003 and shall end sooner or no later than September 22<sup>nd</sup> 2003." (Exh. C-2)

Between December 25, 2003 and June 25, 2004, Sykes' brother delivered a few sheets of sheet rock, but no work was performed at the subject property. As of June 25, 2004, Sykes failed to complete the basement and garage. (Exh. C-1)

5. 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 July 16, 2004, Investigator Sherell Queen, the Board's agent, made a written request to Sykes at the address of record of 11157 Stage Stone Way, Manassas, Virginia 20109, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the written response be received by August 6, 2004. (Exh. I-1)

On October 19, 2004, the Board's agent made a written request to Sykes, via certified mail, at the address of record of 11157 Stage Stone Way, Manassas, Virginia 20109, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the written response be received by November 4, 2004. (Exh. I-2 and I-3)

As of November 23, 2004, Sykes failed to respond to an investigator seeking information in the investigation of a complaint filed with the board.

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

Re: C & D Investors Inc., t/a Top Notch Construction  
Application

File Number: 2005-03019

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

On February 1, 2005, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to C & D Investors Inc., t/a Top Notch Construction ("Top Notch"). The Notice included the Informal Fact-Finding Conference Referral Memorandum, which contained the facts regarding the application. The certified mail was signed for and received.

On March 8, 2005, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Debrah Dingleline ("Dingleline"), Charles Dingleline, and Christopher Messina ("Messina"), on behalf Top Notch, Applicant; Joseph Haughwout, Staff Member; and Ruth Ann Wall, Presiding Officer.

Top Notch's application for its Class A contractor's license lists Messina as the Designated Employee and Qualified Individual for the firm. On the application, Top Notch disclosed Messina was previously convicted of misdemeanors. Top Notch also disclosed that Messina was the Designated Employee for Upper Echelon LLC ("Upper Echelon"). The Board for Contractors took disciplinary action against Upper Echelon (License Number 2705073162) while Christopher Messina was the Designated Employee and Qualified Individual for this firm.

**PRIOR CRIMINAL CONVICTIONS**

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:

1. The nature and seriousness of the crime;

On August 28, 2003, in Rockingham County Juvenile and Domestic Relations Court, Messina was convicted of assault and battery against a family member, a misdemeanor.

On September 26, 2003, in Rockingham County General District Court, Messina was convicted of obstructing justice, a misdemeanor.

During the IFF, Messina stated the convictions were the result of a custody and separation battle. Messina also stated he had no other incidents prior to and following these convictions.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. Based on the nature of the crimes, it does not appear either Messina or Top Notch would pose a threat to the health, safety, and welfare of the public.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

Based upon the above information, it does not appear that granting Top Notch a license will encourage any criminal activity by either Top Notch or Messina. The convictions were related to domestic incidents, which no longer exist.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

Based on the nature of the crimes, it does not appear the convictions have a relationship with either Top Notch's or Messina's ability, capacity, or fitness required to perform the duties of the occupation.

5. The extent and nature of the person's past criminal activity;

Messina was convicted of two misdemeanors in 2003.

6. The age of the person at the time of the commission of the crime;

Messina was 27 years of age at the time of the crime(s).

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The last offense occurred on or about July 30, 2003.

8. The conduct and work activity of the person prior to and following the criminal activity; and

During the IFF, Messina stated he was a contractor prior to working with Upper Echelon. Messina also stated he is currently working for Shenandoah Valley Investors, which takes care of rental properties. Messina has also been doing odds and ends type of contracting under \$1,000.00.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

During the IFF, Messina stated he completed a thirteen (13) week anger management course, as ordered by the court.

### **PRIOR REGULATORY VIOLATIONS**

In accordance with §54.1-1106 of the Code of Virginia, the applicant's prior disciplinary violations were considered using the analytical framework contained within § 54.1-204.B of the Code of Virginia.

1. The nature and seriousness of the violation;

On August 26, 2004, the Board issued a Final Opinion and Order in File number 2004-00727, regarding Upper Echelon. The Board determined Upper Echelon violated the following Board's Regulations (Effective January 1, 2003): 18 VAC 50-22-260.B.9; 18 VAC 50-22-260.B.5; and 18 VAC 50-22-260.B.31. The violations involved failure to include minimum provisions in a contract, negligence or incompetence in the practice of contracting, and failure to obtain written change orders, respectively.

On December 14, 2004, the Board ratified a Consent Order in File number 2004-03602, regarding Upper Echelon. Upper Echelon agreed it violated Board's Regulation (Effective January 1, 2003) 18 VAC 50-22-260.B.22. The violation involved a misdemeanor criminal conviction after its initial licensure by Messina, who was a Designated Employee and Qualified Individual for Upper Echelon.

2. The relationship of the violation to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public.

File number 2004-00727 was based on a complaint filed by John and Betty Dickhute ("the Dickhutes"). During the IFF, Messina stated he was only the project manager for the Dickhutes' project. Although the violations in File number 2004-

00727 have a relationship with engaging in contracting, Messina was only the Designated Employee and Qualified Individual for Upper Echelon. Therefore, it does not appear Upper Echelon's prior disciplinary violation for File number 2004-00727 would result in either Top Notch or Messina posing a threat to the health, safety, and welfare of the public.

File number 2004-03602 was based on Messina's convictions during a domestic dispute, which are not related to contracting. Based on the nature of the violation in File number 2004-03602, it does not appear either Top Notch or Messina will pose a threat to the health, safety, and welfare of the public.

3. The extent to which the occupation or profession might offer an opportunity to engage in further activity of the same type as that in which the person had been involved;

Based upon the above information, Messina did not have any involvement in the violations against Upper Echelon for File number 2004-00727. Furthermore, Messina's convictions, which were the basis for the violations against Upper Echelon for File number 2004-03602, were not related to the occupation or profession of contracting.

During the IFF, Dingleline stated she would be running Top Notch and draft contracts for Top Notch. Dingleline, Messina's mother, stated she would be responsible for Messina's actions and supervise him, as well as Top Notch's activities. Messina also stated he would be the project manager for Top Notch and bid on projects. Therefore, it does not appear that granting Top Notch a license will encourage any further activity of the same type.

4. The relationship of the violation to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

Based on the nature of the violations and Messina's role with Upper Echelon, it does not appear the convictions have a relationship with his ability, capacity, or fitness required to perform the duties of the occupation.

5. The extent and nature of the person's past regulatory violation(s);

Upper Echelon was disciplined for regulatory violations of the Board's Regulation (Effective January 1, 2003) in 2004.

Based on the record and testimony during the IFF, Messina was only directly involved in the violation of 18 VAC 50-22-260.B.22.

6. The age of the person at the time of the commission of the regulatory violation(s);

Christopher Messina, formerly of Upper Echelon and currently of Top Notch, was 28 years of age at the time of the violation(s).

7. The amount of time that has elapsed since the person's last involvement in a regulatory violation;

The last violation against Upper Echelon occurred on or about December 14, 2004.

8. The conduct and work activity of the person prior to and following the regulatory violation; and

Based on the record, Messina was the Designated Employee and Qualified Individual for Upper Echelon. During the IFF, Messina stated he was the project manager for Upper Echelon. Messina left Upper Echelon and he believes he was pulled off the license in August 2004.

During the IFF, Messina stated he was a contractor prior to working with Upper Echelon. Messina also stated he is currently working for Shenandoah Valley Investors, which takes care of rental properties. Messina has also been doing odds and ends type of contracting under \$1,000.00.

Based on the above information, Messina will be the project manager for Top Notch, which intends to perform new construction of spec homes.

9. Evidence of the person's rehabilitation or rehabilitative following the violation.

In File number 2004-00727, the imposed a total monetary penalty of \$2,150.00 and required successful completion of remedial education for the violations.

In File number 2004-03602, Upper Echelon consented to a monetary penalty of \$200.00.

Since Messina was not a member of Responsible Management, he was not aware of the requirement for remedial education. Although Messina stated he did not attend the remedial education, I do not believe Messina was the individual responsible for complying with this sanction imposed against Upper Echelon.

## RECOMMENDATION

Based upon the evidence and the IFF, including the information obtained from the Central Criminal Records Exchange, and in consideration of the criteria outlined in § 54.1-204.B, the following is recommended regarding the application as outlined in the IFF Conference Referral Memorandum:

Therefore, I recommend Top Notch's application be approved.

By:

\_\_\_\_\_  
Ruth Ann Wall  
Presiding Officer

Board for Contractors

Date:

\_\_\_\_\_



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

To: Adjudication Section, Compliance & Investigations Division

Date: 1/26/2005

From: Kevin Hoelt

Board: Contractors

Applicant: C & D Investors, Inc., t/a Top Notch Construction (DE & OI Christopher Messina)/2705-084262

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

Type Applied For: CEM, FIC, LSC, BRK, MBC, PTC, ROC (as marked on application)

Reviewed By: Kevin Hoelt (Board Member / Staff Member)

IFF Requested by Whom: Applicant

When: 1/19/2005 (date) How: Fax (letter, telephone, etc.)

COMMENTS:  
THE DISCIPLINARY ACTIONS TAKEN AGAINST UPPER ECHELON, LLC BY THE BOARD FOR CONTRACTORS OCCURRED AFTER THE APPLICATION FOR C & D INVESTORS, INC., T/A TOP NOTCH CONSTRUCTION WAS RECEIVED BY THE BOARD FOR CONTRACTORS ON MARCH 30, 2004.

**BASIS UPON WHICH APPLICANT MAY NOT MEET BOARD REGULATORY REQUIREMENTS:**

**CRIMINAL CONVICTION(S)**

**Pursuant to VA Code or Board Regulation §: 54.1-204; 54.1-1106(A); 18 VAC 50-22-60(G)**

***FACTS: (Include name of Court, convicted of, Code §, misdemeanor or felony and date of order.)***

Rockingham County JDR Court; Assault & Battery – Family Member; § 18.2-57.2; Misdemeanor;  
8/28/2003

Rockingham County General District Court; Obstructing Justice; § 18.2-460; Misdemeanor;  
9/26/2003

**BASIS UPON WHICH APPLICANT MAY NOT MEET BOARD REGULATORY REQUIREMENTS:**

**ENTRY REQUIREMENT DEFICIT(S)**

**Pursuant to VA Code §: 54.1-1106(A)**

***FACTS:***

The Board for Contractors took disciplinary action against Upper Echelon, LLC (License Number 2705-073162) while Christopher Messina was the DE and QI for this firm. Copies of the Board's Orders for File Numbers 2004-00727 (Order date August 26, 2004) and 2004-03602 (Order date December 14, 2004) are attached.

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

Re: V M Renovators LLC

File Number: 2004-02654  
License Number: 2705064651

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

On December 29, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to V M Renovators LLC ("VMR") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On March 8, 2005, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Patricia Dahlfues ("Dahlfues"), Complainant; Michael Dahlfues, Witness; Joseph Haughwout, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Victor Menendez, Responsible Management for VMR, Respondent, 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:

In December 2002, VMR submitted a proposal to Dahlfues to construct an addition at the subject property. During the IFF, Dahlfues stated the proposal was signed by both parties.

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

The contract used in the transaction failed to contain six of the provisions required by the Board's regulation. VMR's failure to include subsections a., c., d., e., f., and h. in the contract is a violation of 18 VAC 50-22-260.B.9. Therefore, I recommend a monetary penalty of \$300.00 and license revocation be imposed.

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

In July 2003, VMR commenced work. As of December 2003, VMR failed to complete the work.

During the IFF, Dahlfues stated she called VMR. VMR did respond to the calls, but never returned to the subject property. Dahlfues confirmed the last time VMR performed work was December 2003, after building code violations were discovered at the subject property. Dahlfues stated VMR never showed any intent to come back and perform additional work.

VMR's failure to complete work is a violation of 18 VAC 50-22-260.B.15. Therefore, I recommend a monetary penalty of \$1,500.00 and license revocation be imposed.

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

Dahlfues paid VMR a total of \$50,120.00 towards the modified contract amount of \$53,600.00. In April 2004, VMR entered into an agreement with Dahlfues to reimburse her \$7,588.30. VMR failed to submit any payments to Dahlfues since June 2004. VMR still owes Dahlfues \$4,500.00.

Menendez also informed the Board's agent that he did not pay his men for work performed at the subject property.

During the IFF, Dahlfues stated she set up a payment plan with VMR for reimbursement of funds paid to VMR for work not performed. Dahlfues further stated VMR paid \$3,000.00 in June 2004, but has not made any additional payments.

VMR's retention and misapplication of funds received for work not performed, or performed only in part, is a violation of 18 VAC 50-22-260.B.16. Therefore, I recommend a monetary penalty of \$2,000.00 and license revocation be imposed.

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

In February 2004, the Board's agent was informed of outstanding building code violations for the work performed by VMR.

During the IFF, Dahlfues stated she hired another contractor to redo the work performed by VMR and to correct the building code violations not abated by VMR.

VMR's violation of the building code is a violation of 18 VAC 50-22-260.B.6. Therefore, I recommend a monetary penalty of \$750.00 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  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors  
DATE: September 23, 2004 (revised November 19, 2004)

FILE NUMBER: 2004-02654  
RESPONDENT: VM Renovators, LLC  
LICENSE NUMBER: 2705064651  
EXPIRATION: February 28, 2006

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

COMMENTS:

None.

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VM Renovators, LLC ("VMR") was at all times material to this matter a licensed Class B contractor in Virginia (No. 2705064651).

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 December 29, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Patricia Dahlfues ("Dahlfues") regarding VMR. (Exh. C-1)

On December 3, 2002, V.M. Renovators Inc. submitted a written proposal, in the amount of \$38,600.00, to Dahlfues to build an addition at 372 Hemlock Lane, Bluemont, Virginia. The proposal was signed by Victor Menendez ("Menendez") but not Dahlfues. (Exh. C-2)

On April 5, 2003, Dahlfues paid VM Renovators \$15,440.00 by check. (Exh. C-3)

On May 9, 2003, V.M. Renovators and Dahlfues entered into a written change order, in the amount of \$15,000.00, for modifications to the original contract. (Exh. C-2)

On May 9, 2003, Dahlfues paid VM Renovators paid \$15,000.00 by check. On July 12, 2003, Dahlfues paid VM Renovators \$8,100.00 by check. (Exh. C-3)

On July 21, 2003, materials were delivered to the subject property and VMR commenced work. (Exh. C-1)

On July 23, 2003, Dahlfues paid VM Renovators \$7,720.00 by check. On October 1, 2003, Dahlfues paid VM Renovators \$3,860.00 by check. (Exh. C-3)

\*\*\*\*\*

1. Board Regulation (Effective September 1, 2001)

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; and

FACTS:

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

2. Board Regulation (Effective September 1, 2001)

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

B. The following are prohibited acts:

15. The intentional and unjustified failure to complete work contracted for and/or to comply with the terms in the contract.

FACTS:

As of December 12, 2003, VMR failed to complete the work contracted for. (Exh. C-1)

3. Board Regulation (Effective September 1, 2001)

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

B. The following are prohibited acts:

16. The retention or misapplication of funds paid, for which work is either not performed or performed only in part.

FACTS:

VMR entered into a Letter of Agreement ("the Agreement") with Dahlfues. According to the Agreement, VMR agreed to make payments until \$7,588.30 is paid in full. (Exh. I-1)

In a written response received July 13, 2004, Menendez stated "I did not pay my men and yes I did owe them." Menendez further stated he took on other work so he could pay his men. (Exh. R-1)

VMR failed to submit any payments to Dahlfues since June 2004. As of September 10, 2004, VMR still owed Dahlfues approximately \$4,500.00 under the agreement. (Exh. I-2)

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:

In a letter dated February 4, 2004, Carey L. Purvis, Code Official for Clarke County, stated the following building code violations existed for Dahlfues, Permit #5169:

1. Header under span over window in Living Room, installed new 2<sup>nd</sup> floor and roof over wall – 1995 CABO, Section 602.6, Table 602.6.
2. Stairs to 2<sup>nd</sup> floor not code, exceeds maximum riser height – 2000 USBC, 1995 CABO 314.2. (Exh. W-1)

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

Re: Coopco Inc.

File Number: 2004-02659  
License Number: 2705066804

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

On December 29, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Coopco Inc. ("Coopco") 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. As of date, the certified mail has not been returned.

On March 8, 2005, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Lisa Handke ("Handke"), Complainant; Joseph Haughwout, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Kevin Cooper, Responsible Management for Coopco, Respondent, 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)

The contract used in the transaction failed to contain four of the provisions required by the Board's regulation. Coopco's failure to include subsections a., e., f., and h. in the contract is a violation of 18 VAC 50-22-260.B.9. Therefore, I recommend a monetary penalty of \$200.00 and license revocation be imposed.

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

In March 2003, Handke contracted with Coopco to perform home improvements at the subject property. Coopco commenced work. Coopco last worked at the subject property in May 2003. Handke made several attempts to contact Coopco regarding the incomplete work. Coopco failed to return to the property to complete the work.

Coopco's abandonment of work under the contract is a violation of 18 VAC 50-22-260.B.14. Therefore, I recommend a monetary penalty of \$1,000.00 and license revocation be imposed.

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

Coopco failed to complete numerous items.

Coopco's failure to complete work is a violation of 18 VAC 50-22-260.B.15. Therefore, I recommend a monetary penalty of \$1,000.00 and license revocation be imposed.

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

In July 2004, in the Norfolk Circuit Court, Kevin Cooper ("Cooper") pleaded guilty to, and was convicted of, failure to perform a promise for construction, a misdemeanor. During this time, Cooper was the Responsible Management, Designated Employee, and Qualified Individual for the firm.

During the IFF, Handke stated the Commonwealth's Attorney offered to reduce the charge against Cooper in exchange for paying restitution to Handke. Cooper agreed to the plea agreement and paid Handke \$11,000.00 in restitution.

Coopco's conviction of a misdemeanor is a violation of 18 VAC 50-22-260.B.22. Therefore, I recommend license revocation be imposed.

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

Coopco failed to inform the Board of Cooper's guilty plea and conviction.

Coopco's failure to inform the Board, in writing, of Cooper's conviction within thirty (30) days of the conviction is a violation of 18 VAC 50-22-260.B.23. Therefore, I recommend a monetary penalty of \$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  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors  
DATE: December 3, 2004 (revised December 16, 2004)

FILE NUMBER: 2004-02659  
RESPONDENT: Coopco Inc.  
LICENSE NUMBER: 2705066804  
EXPIRATION: June 30, 2006

SUBMITTED BY: Valerie J. Matney  
APPROVED BY: David C. Dorner

COMMENTS:

Retention of funds was not pursued as a violation since the respondent returned \$11,000.00 to the complainant as part of the respondent's plea agreement with the Norfolk Circuit Court.

\*\*\*\*\*

Coopco Inc. ("Coopco") was at all times material to this matter a licensed Class B contractor in Virginia (No. 2705066804).

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 December 30, 2003, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Lisa Handke ("Handke") regarding Coopco. (Exh. C-1)

On March 12, 2003, Coopco entered into a written contract, in the amount of \$32,042.00, with Handke to remove and install flooring; install all molding shoe and base; sand and finish stair treads; install 2 shower basins; hang ½ inch durock boarding in showers; prep surrounding walls and bathrooms; install marble, tile, custom inlay, and ceramic kitchen floor at 909 Elkin Street, Norfolk, Virginia 23523. (Exh. C-2 and R-3) (NOTE: Handke

stated the contract specified ceramic tile in the kitchen; however, Handke and Coopco agreed the kitchen floor would be wood. (Exh. I-2))

\*\*\*\*\*

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;
- 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 license number, expiration date, class of license, and classifications or specialty services.

FACTS:

The contract used by Coopco in the transaction failed to contain subsections: a., e., f., and h. (Exh. C-2 and R-3)

In a written response received March 4, 2004, Coopco stated, "I was unaware of all the provisions needed in a contract." (Exh. R-2)

2. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

14. Abandonment (defined as the unjustified cessation of work under the contract for a period of 30 days or more).

FACTS:

On March 13, 2003, Coopco commenced work. (Exh. I-2)

The last day Coopco performed work at the subject property was May 3, 2003. (Exh. C-1)

Between May 4, 2003 and May 16, 2003, Handke made several attempts, via telephone calls, in-person visits, and letter, to contact Coopco regarding the incomplete work. (Exh. C-1)

As of December 3, 2004, Coopco failed to return to the subject property and complete the work contracted for. (Exh. I-2 and I-4)

3. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

15. The intentional and unjustified failure to complete work contracted for and/or to comply with the terms in the contract.

FACTS:

In addition to the facts outlined in Count 2:

As of December 3, 2004, Coopco failed to complete the following work:

- install approximately 1500 square feet of prefinished oak flooring
- install all molding shoe and base; sand and finish stair treads;
- prep surrounding walls and bathrooms
- completion of installation of approximately 600 square feet marble in downstairs bath
- install approximately 500 square feet of tile in upstairs bath
- install custom inlay in front of fireplace
- install kitchen floor
- repair marble tiles in downstairs bathroom due to haze and large chunks of grout being left on marble tiles
- repair marble tiles to be installed flush on the downstairs bathroom walls
- install trim around door and window in downstairs bathroom
- repair approximately 1400 square feet of subflooring installed previously to correct for gaps and piecing. (Exh. I-2 and I-4)

4. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

22. Where the firm, responsible management as defined in this chapter, designated employee or qualified individual has been convicted or found

guilty, after initial licensure, regardless of adjudication, in any jurisdiction, of any felony or of any misdemeanor, there being no appeal pending therefrom or the time of appeal having lapsed. Any plea of guilty or nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt.

FACTS:

On June 20, 2002, Coopco was issued Class B contractor's license number 2705066804. Kevin M. Cooper, individual tracking number 2706120135, is the Responsible Management, Designated Employee, and Qualified Individual of license number 2705066804. (Exh. I-1)

On July 7, 2004, in the Norfolk Circuit Court, Kevin Michael Cooper ("Cooper") entered into an Aford plea of guilty and was convicted of failure to perform a promise for construction, a misdemeanor, in violation of Section 18.2-200.1 of the Code of Virginia. There is no appeal pending and the time for appeal has lapsed. (Exh. I-3)

5. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

23. Failure to inform the board in writing, within 30 days, that the firm, a member of responsible management as defined in this chapter, its designated employee, or its qualified individual has pleaded guilty or nolo contendere or was convicted and found guilty of any felony or of a Class 1 misdemeanor or any misdemeanor conviction for activities carried out while engaged in the practice of contracting.

FACTS:

In addition to the facts outlined in Count 4:

As of December 3, 2004, Coopco failed to inform the board in writing, within thirty (30) days, that Cooper pleaded guilty and was convicted of a misdemeanor for activities carried out while engaged in the practice of contracting.

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

Re: Dominion Renovations Inc.

File Number: 2004-04297  
License Number: 2705036090

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

On December 29, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Dominion Renovations Inc. ("Dominion") 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."

On March 8, 2005, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Danny Fowler ("Fowler"), Complainant; Dennis Wade ("Wade"), Witness; Joseph Haughwout, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither James McFayden, Responsible Management for Dominion, Respondent, 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:

During the IFF, Fowler stated he dealt with James McFayden ("J. McFayden") at the beginning of the project and later dealt with Chris McFayden ("C. McFayden") after a dispute with the placement of the windows.

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

The contract used in the transaction failed to include four of the provisions required by the Board's regulation.

Dominion's failure to include subsections d., e., f., and i. in the contract is a violation of 18 VAC 50-22-260.B.9. Therefore, I recommend a monetary penalty of \$200.00 and license revocation be imposed.

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

In October 2003, Fowler contracted with Dominion to perform renovations at the subject property. Dominion commenced work. In May 2004, Dominion left the job because Fowler declined to pay a portion of a billing statement.

During the IFF, Fowler stated after the initial down payment was paid, C. McFayden requested additional draws for materials. Dennis Wade, Fowler's accountant, discovered Dominion requested draws not in accordance with the work schedule. Fowler stated when he found out how much Dominion was overdrawn, Dominion left the project.

Dominion's abandonment of work under the contract is a violation of 18 VAC 50-22-260.B.14. Therefore, I recommend a monetary penalty of \$2,000.00 and license revocation be imposed.

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

Fowler paid Dominion a total of \$213,525.55 towards the amended contract amount of \$301,418.78. In August 2004, Fowler requested Dominion refund \$25,659.00 for work that was not completed. Dominion has not refunded the money.

Dominion's retention of funds received for work not performed, or performed only in part, is a violation of 18 VAC 50-22-260.B.16. Therefore, I recommend a monetary penalty of \$2,000.00 and license revocation be imposed.

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

In May 2004, the Board's agent requested Dominion provide supporting documents to the complaint filed with the Board including a copy of the contract. The Board's agent made a second request in July 2004, and hand delivered a third request in September 2004. Dominion never provided the requested documents to the Board's agent.

Based on the record, J. McFayden indicated he was no longer a contractor in Virginia and therefore did not provide any documents or respond to the investigator. However, J. McFayden signed all the contracts and the licensing record indicates J. McFayden is the Responsible Management for Dominion.

Dominion's failure to provide the Board's agent with requested documents is a violation of 18 VAC 50-22-260.B.12. Therefore, I recommend a monetary penalty of \$1,000.00 and license revocation be imposed.

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

J. McFayden informed the Board's agent he received the hand delivered letter in September 2004. J. McFayden told the Board's agent he was no longer an officer of Dominion, as his son C. McFayden now owned the company, and, therefore, would not provide a response to the complaint filed with the Board.

Based on the record, J. McFayden indicated he was no longer a contractor in Virginia and therefore did not provide any documents or respond to the investigator. However, J. McFayden signed all contract and the licensing record indicates J. McFayden is the Responsible Management for Dominion.

Dominion's failure to respond to the investigator is a violation of 18 VAC 50-22-260.B.13. Therefore, I recommend a monetary penalty of \$1,500.00 and license revocation be imposed.

Count 6: Board Regulation (Effective January 1, 2003)

The Board's records reflect J. McFayden is the President and Responsible Management for Dominion. J. McFayden told the Board's agent he is no longer an officer for Dominion. The records for the State Corporation Commission indicated C. McFayden is the President, Secretary, and Treasurer for Dominion.

Dominion's failure to inform the Board, in writing, of a change of its corporate officers within ninety (90) days of the change is a violation of 18 VAC 50-22-220.A. Therefore, I recommend a monetary penalty of \$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  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Contractors  
DATE: August 26, 2004 (revised September 25, 2004 and  
November 24, 2004)

FILE NUMBER: 2004-04297  
RESPONDENT: Dominion Renovations Inc  
LICENSE NUMBER: 2705036090  
EXPIRATION: October 31, 2006

SUBMITTED BY: Dale C. Amos  
APPROVED BY: Wayne Mozingo

COMMENTS:

None.

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Dominion Renovations Inc ("Dominion") was at all times material to this matter a licensed class A contractor in Virginia (No. 2705036090).

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

BACKGROUND:

On April 22, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Danny Fowler ("Fowler") regarding Dominion. (Exh. C-1)

On October 14, 2003, Dominion entered into a written contract, in the amount of \$242,166.00, with Fowler to perform renovations at 5330 Turkey Ridge Road, Roanoke, Virginia 24014. (Exh. C-2)

In October 2003, Dominion commenced work. (Exh. I-3)

As of April 28, 2004, Dominion and Fowler entered into over forty (40) written changes orders for total additional costs of \$59,252.78. (Exh. C-5)

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1. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

9. Failure of those engaged in residential contracting as defined in this chapter to comply with the terms of a written contract which contains the following minimum requirements:
  - 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;
  - 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 Dominion in the transaction failed to contain subsections: (d), (e), (f), 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:

14. Abandonment (defined as the unjustified cessation of work under the contract for a period of 30 days or more).

FACTS:

On May 3, 2004, Dominion left the job because Fowler declined to pay a portion of a billing statement. (Exh. I-3)

3. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

16. The retention or misapplication of funds paid, for which work is either not performed or performed only in part.

FACTS:

In addition to the facts outlined in Count 2:

As of July 13, 2004, Fowler paid Dominion a total of \$213,525.55 towards the contract. (Exh. I-3)

After reviewing the billing statements, Fowler and Donnie Wade, Fowler's accountant, determined Dominion charged Fowler \$25,659.00 for work not completed. (Exh. I-3 and I-4)

On August 16, 2004, Fowler sent Dominion a certified letter demanding Dominion refund \$25,659.00 received for work not performed. On April 17, 2004, the certified letter was signed for and received. (Exh. C-10)

4. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

12. Refusing or failing, upon request, to produce to the board, or any of its agents, any document, book, record, or copy of it in the licensee's possession concerning a transaction covered by this chapter or for which the licensee is required to maintain records.

FACTS:

On May 7, 2004, Investigator Dale C. Amos, the Board's agent, made a written request to Dominion at P.O. Box 21689, Roanoke, Virginia 24018, requesting supporting documents to the complaint filed with the board. The Board's agent specifically requested Dominion provide a copy of your contract, which includes both front and back of each page of this document. The Board's agent requested a response by May 21, 2004. (Exh. I-2)

On July 24, 2004, the Board's agent made a written request to Dominion at P.O. Box 21689, Roanoke, Virginia 24018, requesting supporting documents to the complaint filed with the board. The Board's agent requested a response by August 11, 2004. (Exh. I-2)

On September 24, 2004, the Board's agent hand delivered a written request to Dominion, requesting supporting documents to the complaint filed with the board. The Board's agent specifically requested Dominion provide a copy of your contract, which includes both front and back of each page of this document. The Board's agent requested a response by September 27, 2004. (Exh. I-2)

5. 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 May 7, 2004, Investigator Dale C. Amos, the Board's agent, made a written request to Dominion at P.O. Box 21689, Roanoke, Virginia 24018, requesting a written response and supporting documents to the complaint filed with the board. The Board's agent requested the written response be provided by May 21, 2004. (Exh. I-2)

On July 24, 2004, the Board's agent made a written request to Dominion at P.O. Box 21689, Roanoke, Virginia 24018, requesting a written response and supporting documents to the complaint filed with the board. The Board's agent requested a written response be provided by August 11, 2004. (Exh. I-2)

On September 24, 2004, the Board's agent hand delivered a written request to Dominion, requesting a written response and supporting documents to the complaint filed with the board. The Board's agent requested a written response be received by September 27, 2004. (Exh. I-2)

On September 25, 2004, James McFadyen ("J. McFadyen"), Responsible Management for Dominion, stated he received the September 24, 2004, letter, but he was not a licensed contractor in the Commonwealth of Virginia. J. McFadyen stated Dominion was owned by his son Chris McFadyen ("C. McFadyen"). J. McFadyen further stated since he was not an officer of Dominion and did not have a contractor's license, he was not going to answer the allegation letter. (Exh. I-6)

6. 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 October 29, 1996, Dominion was issued Class A contractor's license number 2705036090 as a corporation. J. McFadyen, individual tracking number 2706080939, is the Responsible Management for license number 2705036090 as the President of Dominion. (Exh. I-1)

On September 25, 2004, J. McFadyen stated he is not an officer of Dominion. (Exh. I-6)

On November 24, 2004, the State Corporation Commission records indicated C. McFadyen as the President, Secretary, and Treasurer of Dominion. (Exh. I-7)

Dominion failed to report to the board a change in the officers of the corporation.

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

Re: Ramon Jeith Hazard, t/a Master Sealcoating and Paving

File Number: 2004-04451  
License Number: 2705076837

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

On December 29, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Ramon Jeith Hazard, t/a Master Sealcoating and Paving ("MSAP") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On March 8, 2005, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Patricia Beam ("Beam"), Complainant; Joseph Haughwout, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Ramon Hazard, nor anyone on behalf of MSAP 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)

In May 2003, Beam's son contracted with MSAP to pave a driveway at the subject property. MSAP performed the work, and was paid in full. In July 2003, Beam noticed the driveway began to crack. Beam made several attempts to contact MSAP about the cracking, but MSAP did not respond. In October 2003, MSAP entered into an agreement with Beam to make changes and repairs to the driveway. MSAP failed to correct the driveway and honor the agreement.

During the IFF, Beam stated she made several attempts to contact MSAP. Beam further stated MSAP agreed to complete and correct the work and she agreed to pay an additional \$400.00; however, MSAP did not return to the subject property after October 20, 2003. Beam received an estimate, in the amount of \$8,121.00, from another contractor to tear up and replace the driveway.

MSAP's failure to honor a warranty and promises to perform is a violation of 18 VAC 50-22-260.B.6. Therefore, I recommend a monetary penalty of \$500.00 and license revocation be imposed.

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

In June 2004, the Board's agent requested MSAP to provide a written response and supporting documents to the complaint filed with the Board. The Board's agent made additional attempts to contact MSAP by mail, by telephone, and in person. MSAP never responded to the Board's agent.

MSAP's failure to respond to the investigator is a violation of 18 VAC 50-22-260.B.13. Therefore, I recommend a monetary penalty of \$1,000.00 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  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors  
DATE: December 2, 2004 (revised December 8, 2004)

FILE NUMBER: 2004-04451  
RESPONDENT: Ramon Jeith Hazard, t/a Master Sealcoating And Paving  
LICENSE NUMBER: 2705076837  
EXPIRATION: May 31, 2005

SUBMITTED BY: Renee H. Popielarz  
APPROVED BY: E. Wayne Mozingo

COMMENTS:

Patricia Beam wishes to be contacted directly regarding this case and not through her attorney.

The contract is dated May 28, 2003. The contractor was issued a license on May 30, 2003. The work was actually performed on May 30, 2003.

\*\*\*\*\*

Ramon Jeith Hazard, t/a Master Sealcoating And Paving ("MSAP"), was at all times material to this matter a licensed Class C contractor in Virginia (No. 2705076837).

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 3, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Francis Chester, on behalf of his client Patricia Beam ("Beam"), regarding MSAP. (Exh. C-1)

On May 28, 2003, MSAP entered into a written contract, in the amount of \$5,250.00, with Anthony Beam to pave a driveway at 1213 Laurel Hill Road, Verona, Virginia 24482.

(Exh. C-2) (NOTE: Anthony Beam, Patricia Beam's son, is named on the contract since he initially spoke with MSAP.)

On May 28, 2003, Beam paid James Horne \$2,000.00 by check. (Exh. C-4) James Horner is Ramon Jeith Hazard's brother. (Exh. I-1)

On May 30, 2003, MSAP performed the work. (Exh. I-1)

Beam paid the balance in cash. (Exh. I-1) The contract indicated "paid in full." (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:

6. Misconduct in the practice of contracting.

FACTS:

In July 2003, Beam noticed the driveway began to crack. Beam made several attempts to contact MSAP about the cracking, but MSAP did not respond. (Exh. I-1)

On October 20, 2003, MSAP entered into a written agreement, in the amount of \$400.00, with Beam to widen a curve, recap two spots, and level out with asphalt and seal by October 20, 2003. (Exh. C-3)

As of November 19, 2004, MSAP failed to correct the driveway and honor the October 20, 2003, written agreement. (Exh. I-1)

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 June 29, 2004, Investigator Becky Angelilli, the Board's agent, made a written request to MSAP at the address of record of 1633 Madison Street, Waynesboro, Virginia 22980,

requesting a written response and supporting documents to the complaint filed with the board. The Board's agent requested a response be received by July 14, 2004. (Exh. I-21)

On August 30, 2004, Investigator Renee Popielarz, the Board's agent, made a written request to MSAP at the address of record of 1633 Madison Street, Waynesboro, Virginia 22980, requesting a written response and supporting documents to the complaint filed with the board. The Board's agent requested a response be received by September 8, 2004. (Exh. I-21)

On August 30, 2004, the Board's agent called 411 information, but no telephone number was listed for MSAP or Hazard. (Exh. I-21)

On September 3, 2004, the Waynesboro Postmaster certified mail was delivered to Hazard at 1633 Madison Street, Waynesboro, Virginia 22980. (Exh. I-21)

On November 19, 2004, the Board's agent went to 1633 Madison Street, Waynesboro, Virginia and spoke with Burt Horn ("Horn"), Ramon Hazard's father. Horn told the Board's agent that Ramon Hazard had just left the residence. The Board's agent gave Horn a business card with a voice mail and cell phone number. Horn told the Board's agent he would tell Ramon Hazard the Board's agent needed to speak with him regarding the complaint filed with the Board. (Exh. I-21)

On November 30, 2004, the Board's agent attempted to contact MSAP at (540) 932-3677, but the phone number was disconnected. On November 30, 2004, the Board's agent attempted to contact MSAP at (540) 649-6136, (540) 649-6137, and (540) 649-6138, but the phone number was not a working cell phone number. (Exh. I-21)

As of December 2, 2004, MSAP failed to respond to an investigator seeking information regarding a complaint filed with the board.

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

Re: Ramon Jeith Hazard, t/a Master Sealcoating and Paving

File Number: 2005-00653  
License Number: 2705076837

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

On December 29, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Ramon Jeith Hazard, t/a Master Sealcoating and Paving ("MSAP") to the address of record. The Notice included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On March 8, 2005, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Joseph Haughwout, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Ramon Hazard nor anyone on behalf of MSAP 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)

Devin Hollingsworth ("Hollingsworth") verbally contracted with MSAP to perform paving work at the subject property. MSAP commenced work in June 2004. MSAP's failure to use a written contract is a violation of 18 VAC 50-22-260.B.8. Therefore, I recommend a monetary penalty of \$400.00 and license revocation be imposed.

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

MSAP worked until June 14, 2004, at which point they left Hollingsworth a receipt stating work was not completed, and that it would return the next day to complete work. Hollingsworth attempted to contact MSAP regarding the incomplete work. MSAP never returned to complete the work.

MSAP's failure to complete work is a violation of 18 VAC 50-22-260.B.15. Therefore, I recommend a monetary penalty of \$1,000.00 and license revocation be imposed.

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

Hollingsworth paid MSAP the full amount of the contract, which was \$575.00. MSAP never completed the work.

MSAP's retention of funds received for work not performed, or performed only in part, is a violation of 18 VAC 50-22-260.B.16. Therefore, I recommend a monetary penalty of \$1,000.00 and license revocation be imposed.

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

In June 2004, the Board's agent requested MSAP to provide a written response and supporting documents to the complaint filed with the Board. The Board's agent made additional attempts to contact MSAP by mail, by telephone, and in person. MSAP never responded to the Board's agent.

MSAP's failure to respond to the investigator is a violation of 18 VAC 50-22-260.B.13. Therefore, I recommend a monetary penalty of \$1,000.00 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  
COMPLIANCE & INVESTIGATION DIVISION  
3600 WEST BROAD STREET  
RICHMOND, VA 23230-4917

REPORT OF FINDINGS

BOARD: Board for Contractors  
DATE: December 3, 2004 (revised December 8, 2004)

FILE NUMBER: 2005-00653  
RESPONDENT: Ramon Jeith Hazard, t/a Master Sealcoating and Paving  
LICENSE NUMBER: 2705076837  
EXPIRATION: May 31, 2005

SUBMITTED BY: Renee H. Popielarz  
APPROVED BY: E. Wayne Mozingo

COMMENTS:

None.

\*\*\*\*\*

Ramon Jeith Hazard, t/a Master Sealcoating and Paving ("MSAP"), was at all times material to this matter a licensed Class C contractor in Virginia (No. 2705076837).

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 August 5, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Devin Hollingsworth ("Hollingsworth") regarding MSAP. (Exh. C-1)

MSAP entered into a verbal agreement, in the amount of \$575.00, with Hollingsworth to pave two areas on either side of the original driveway at 212 Buckboard Road, Waynesboro, Virginia 22980. (Exh. I-1)

On June 1, 2004, MSAP commenced work. (Exh. I-1)

On June 14, 2004, MSAP provided Hollingsworth with a receipt, which indicated "Driveway patched & sealed \$575 on 6/14/04. Jon not complete. Will return to finish 6/15/04." (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:

MSAP did not provide Hollingsworth with a contract for the work performed at the subject property. (Exh. I-1)

MSAP 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:

15. The intentional and unjustified failure to complete work contracted for and/or to comply with the terms in the contract.

FACTS:

MSAP laid the asphalt but said the roller equipment was broken and it would come back. (Exh. I-1)

The last day MSAP performed work at the subject property was June 14, 2004. (Exh. C-1)

For two weeks, Hollingsworth attempted to contact MSAP regarding the unfinished paving. (Exh. I-1)

As of November 12, 2004, MSAP failed to complete work regarding the uneven and rough finish as well as drainage issues on the driveway. (Exh. I-1)

3. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

16. The retention or misapplication of funds paid, for which work is either not performed or performed only in part.

FACTS:

In addition to the facts outlined in Count 2:

MSAP retained funds for work not performed or performed only in part.

4. 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 August 30, 2004, Investigator Renee Popielarz, the Board's agent, made a written request to MSAP at the address of record of 1633 Madison Street, Waynesboro, Virginia 22980, requesting a written response and supporting documents to the complaint filed with the board. The Board's agent requested a response be received by September 14, 2004. (Exh. I-14)

On August 30, 2004, the Board's agent called 411 information, but no telephone number was listed for MSAP or Hazard. (Exh. I-14)

On September 3, 2004, the Waynesboro Postmaster certified mail was delivered to Hazard at 1633 Madison Street, Waynesboro, Virginia 22980. (Exh. I-14)

On November 19, 2004, the Board's agent went to 1633 Madison Street, Waynesboro, Virginia and spoke with Burt Horn ("Horn"), Ramon Hazard's father. Horn told the Board's agent that Ramon Hazard had just left the residence. The Board's agent gave Horn a business card with a voice mail and cell phone number. Horn told the Board's agent he would tell Ramon Hazard the Board's agent needed to speak with him regarding the complaint filed with the Board. (Exh. I-14)

On November 30, 2004, the Board's agent attempted to contact MSAP at (540) 932-3677, but the phone number was disconnected. On November 30, 2004, the Board's agent attempted to contact MSAP at (540) 649-6136, (540) 649-6137, and (540) 649-6138, but the phone number was not a working cell phone number. (Exh. I-14)

As of December 3, 2004, MSAP failed to respond to an investigator seeking information regarding a complaint filed with the board.

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

Re: Historic Roofing and Sheet Metal Inc.

File Number: 2004-04969  
License Number: 2701030330

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

On December 29, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Historic Roofing and Sheet Metal Inc. ("Historic") 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 "Unclaimed."

On March 8, 2005, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Harold Steinberg ("Steinberg"), Complainant; Joseph Haughwout, Staff Member; and Ruth Ann Wall, Presiding Officer. Neither Drew Dean, Responsible Management for Historic, Respondent 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)

In April 2003, Steinberg contracted with Historic to install a new roof at the subject property. Between April 2003 and June 2003, Historic performed work at the subject property. In late September 2003, Steinberg contacted Historic regarding two incomplete items. Historic told Steinberg work could not be completed because of urgent work following Hurricane Isabel. Between March 2004 and May 2004, Steinberg made several attempts to contact Historic, but Historic never responded. Historic failed to complete the work.

During the IFF, Steinberg stated Historic performed work in April, May, and June 2003. Steinberg contacted Historic regarding installation of cages and covering the seams. After Steinberg requested Historic perform this work, Historic told him that the work could not be performed because it was repairing roofs damaged during Hurricane Isabel.

Between February 2004 and May 2004, Steinberg made several attempts to contact Historic regarding completion of the work, but Historic did not respond and did not return to perform any additional work. During the IFF, Steinberg stated the roof does not leak. The cages not installed by Historic are to keep the gutters from clogging. The covering of the seams, at this time, is not a problem but may develop problems in the future with the roof.

Historic's failure to complete work is a violation of 18 VAC 50-22-260.B.15. 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 the order.

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

In August 2004, the Board's agent requested Historic provide a written response and supporting documents to the complaint filed with the Board. In October 2004, the Board's agent attempted to contact Historic by phone. Historic failed to respond to the Board's agent's request.

Historic's failure to respond to the investigator is a violation of 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 within six months of the effective date of the 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: October 21, 2004 (revised November 22, 2004)

FILE NUMBER: 2004-04969  
RESPONDENT: Historic Roofing and Sheet Metal Inc.  
LICENSE NUMBER: 2701030330  
EXPIRATION: August 31, 2005

SUBMITTED BY: Investigator Wayne J. Ozmore, Jr.  
APPROVED BY: Bonnie Rhea Adams

COMMENTS:

None.

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Historic Roofing and Sheet metal Inc. ("Historic") was at all times material to this matter a licensed Class A contractor in Virginia (No. 2701030330).

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 June 8, 2004, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Harold Steinberg ("Steinberg") regarding Historic. (Exh. C-1)

On April 12, 2003, Historic entered into a written contract, in the amount of \$24,085.00, with Steinberg to remove the existing roofing and flashing material and install a new U.S. Intec GBSP/4 modified roofing system, complete with all accessories at 1221 Ranleigh Road, McLean, Virginia 22101. (Exh. C-2)

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1. Board Regulation (Effective January 1, 2003)

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

B. The following are prohibited acts:

15. The intentional and unjustified failure to complete work contracted for and/or to comply with the terms in the contract.

FACTS:

Between April 2003 and June 30, 2003, Historic performed work at the subject property. (Exh. C-1)

In late September 2003, Steinberg contacted Historic about two incomplete items; however, Historic advised Steinberg the work could not be performed at this time because of urgent work following Hurricane Isabel. (Exh. C-1)

Between March 3, 2004 and May 5, 2004, Steinberg made several attempts to contact Historic, but Historic failed to respond. (Exh. C-1)

As of May 7, 2004, Historic failed to "place material to hide the seams appearing between the modified roof sheets" and "reinstall small wire 'cages' that had been removed from where the valleys drain into the downspouts." (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:

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 August 19, 2004, Investigative Analyst Diana Santoni-Bell, the Board's agent, made a written request, via certified mail, to Historic at the address of record of 8532-A Terminal Road, Lorton, Virginia 22079, requesting a written response and supporting documents to the complaint filed with the Board. The Board's agent requested the written response be received by August 29, 2004. (Exh. I-1)

On August 20, 2004, the Lorton, Virginia Postmaster certified mail is delivered to Historic at 8532-A Terminal Road, Lorton, Virginia 22079. (Exh. I-3)

On August 23, 2004, the certified letter was signed for and received by "S. Hindle." (Exh. I-5)

On October 20, 2004, at or around 1:30 a.m., Investigator Wayne J. Ozmore, Jr., the Board's agent, attempted to contact Historic at (703) 569-1776, the telephone number listed on the contract. The voice mail for Historic greeted the Board's agent with the following introduction: "This is Historic roofing, please leave a message after the tone and we will get back with you." The Board's agent left a voice mail message for Historic requesting Historic respond to the Board's agent regarding the complaint filed with the Board. (Exh. I-2)

As of October 21, 2004, Historic failed to respond to an investigator seeking information in the investigation of a complaint.

**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 March 8, 2005
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

3-8-05  
Date