

**Minutes of Meeting
BOARD FOR CONTRACTORS
INFORMAL FACT-FINDING CONFERENCES
September 9, 2008 (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.

Dorothy L. Wood, Board member, presided. No other Board members were present.

Dean Weston Ricks 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 Disciplinary Case/Application

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

Participants

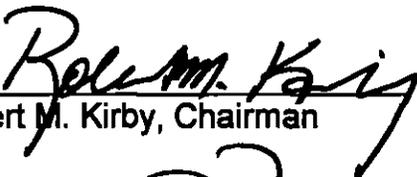
- | | |
|---|--|
| 1. Timothy R. Shuler
t/a T & S Home Improvements
File Number 2008-01585 (Disc.)
(NO DECISION MADE) | None |
| 2. Randy D. Webb
t/a Webb's Windows
File Number 2008-01813 (Disc.) | Randy Webb – R
Ruth Lightfoot – C
Evelyn Lightfoot – W |
| 3. Home Solutions of Virginia, Inc.
File Number 2007-00518 (Disc.)
(NO DECISION MADE) | None |
| 4. Jonathan C. Nixon
t/a JTL Construction
File Number 2008-01158 (Disc.)
(NO DECISION MADE) | None |
| 5. L & J Shaffer LLC
t/a New Age Homes
File Number 2008-01126 (Disc.)
(NO DECISION MADE) | Herbert Hamilton – C
Patricia Hamilton – C |

6. Scott Brian Hern, Sr.
t/a Hometech Service Company
File Number 2008-02141 (Disc.)
(NO DECISION MADE)

None

The meeting adjourned at 1:40 p.m.

BOARD FOR CONTRACTORS


Robert M. Kirby, Chairman


Jay DeBoer, Secretary

COPY TESTE:

Custodian of Records

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

Re: Randy D Webb, t/a Webb's Windows
Mineral, VA 23117

File Number 2008-01813
License Number 2705093522

CONSENT ORDER

Respondent Randy D Webb, t/a Webb's Windows ("Randy D Webb") recognizes and acknowledges being subject to and bound by the Regulations of the Board for Contractors ("Board"), as well as by all other applicable Virginia laws.

Board's Regulations provides:

18 VAC 50-22-200. Remedial education, revocation or suspension; fines.

The board may require remedial education, revoke or suspend a license or fine a licensee when a licensee has been found to have violated or cooperated with others in violating any provision of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia, or any regulation of the board.

Historical Notes:

Derived from VR220-01-2:1 §5.1, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended:

On June 13, 2008, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Daniel Rosenthal ("Rosenthal"), counsel for Respondent, and to Respondent, Randy D Webb, to his address of record.

The certified mail to Rosenthal was signed for and received. The certified mail to Webb was returned by the United States Postal Service ("USPS"), marked "Unclaimed".

The Notices included the Report of Findings, which contained the facts regarding the regulatory and/or statutory issues in this matter.

In a letter dated July 30, 2008, Rosenthal requested that the Informal Fact-Finding Conference ("IFF") be rescheduled. The request was granted and on August 6, 2008, a letter rescheduling the IFF from August 12, 2008 to September 9, 2008 was mailed, via certified mail, to Rosenthal, to Webb at his address of record. The letter to Rosenthal was signed for and received. The letter to Randy D Webb was returned by USPS, marked "Unclaimed."

On September 9, 2008, an IFF was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Randy D Webb, Respondent; Ruth Lightfoot ("Lightfoot"), Complainant; Dean Weston Ricks and Joseph Haughwout, Staff Members; and Dorothy Wood, Presiding Board Member.

The Report of Findings, which contains the facts regarding the regulatory and/or statutory issues in this matter, is incorporated with the Consent Order.

The Board and Randy D Webb, as evidenced by the signatures affixed below, enter into this Consent Order. Randy D Webb knowingly and voluntarily waives any further proceedings in this matter under Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

By signing this Consent Order, Randy D Webb acknowledges an understanding of the charges and hereby admits to the violation(s) of the Counts as outlined in the Report of Findings. Randy D Webb consents to the following term(s):

	Count 1	18 VAC 50-22-260.B.9	\$350.00
	Count 2	18 VAC 50-22-260.B.6	\$350.00
	Count 4	18 VAC 50-22-260.B.16	\$2,000.00

	SUB-TOTAL (MONETARY PENALTIES)		\$2,700.00
	BOARD COSTS		\$500.00
	TOTAL		\$3,200.00

As to Count 3, this aspect of the file shall be closed with a finding of no violation of Board Regulation 18 VAC 50-22-260.B.14.

In addition, the Board shall waive imposition of the \$2,700.00 monetary penalty and \$500.00 Board costs provided Randy D Webb reimburses \$4,500.00 to Ruth Lightfoot and provides the Board with proof of the payment within one hundred twenty days (120) of the effective date of this order. If Randy D Webb fails to comply with these conditions, then the full monetary penalty and Board costs will be automatically imposed.

Any monetary penalties, costs, and/or sanctions are to be paid/performed within ninety days of the effective date of this consent order unless otherwise specifically noted above. Randy D Webb acknowledges any monetary penalty and costs as a debt to the Commonwealth and agrees that in the event of a default, or the return of a check for insufficient funds, Randy D Webb will be responsible for all reasonable administrative costs, collection fees, or attorney's fees incurred in the collection of whatever funds are due.

Randy D Webb acknowledges that failure to pay any monetary penalty or cost and/or to comply with all terms of this Order within the specified time period, shall result in the automatic suspension of Randy D Webb's license until such time as there is compliance with all terms of this Order. Randy D Webb understands the right to have this automatic suspension considered in an IFF pursuant to the Administrative Process Act §§2.2-4019 and 2.2-4021 of the 1950 Code of Virginia, as amended, but knowingly and voluntarily waives any rights to the proceeding and hereby waives any further proceedings under the Administrative Process Act §§2.2-4020 and 2.2-4021 of the 1950 Code of Virginia, as amended.

The effective date of this Order shall be the date of execution by the Board.

SEEN AND AGREED TO:

The undersigned represents and affirms that he/she has the authority to legally bind Randy D Webb, t/a Webb's Windows, to this Consent Order. The individual, by his/her signature below, acknowledges he/she read the Consent Order, understands it, and agrees that Randy D Webb, t/a Webb's Windows, shall be bound by its terms and conditions.

Signature

Date

Printed Name and Title

SO ORDERED:

Entered this _____ day of _____, 2008.

Board for Contractors

BY: _____
Jay W. DeBoer, Secretary

EEO

**VIRGINIA DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL REGULATION
COMPLIANCE & INVESTIGATION DIVISION
9960 MAYLAND DRIVE, SUITE 400
RICHMOND, VA 23233-1463**

REPORT OF FINDINGS

BOARD: Board for Contractors
DATE: April 11, 2008 (revised 4/22/08 MWL)

FILE NUMBER: 2008-01813
RESPONDENT: Randy D. Webb, t/a Webb's Windows
LICENSE NUMBER: 2705093522
EXPIRATION: March 31, 2009

SUBMITTED BY: Michael Heaney
APPROVED BY: Valerie J. Matney

COMMENTS:

None.

Randy D. Webb ("Webb"), t/a Webb's Windows, was at all times material to this matter a licensed Class C contractor in Virginia (No. 2705093522).

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 October 30, 2007, the Compliance & Investigations Division of the Department of Professional and Occupational Regulation received a written complaint from Ruth S. Lightfoot ("Lightfoot") regarding Webb. (Exh. C-1)

On September 4, 2007, Webb entered into written contract, in the amount of \$6,500.00, with Lightfoot for the enclosure of a porch within the existing structure with walls, windows, a door, and siding at 170 Dry Bridge Court, Sandston, Virginia. (Exh. C-2)

On September 4, 2007, Lightfoot paid Webb \$4,500.00 by check as a down payment for materials. (Exh. C-1 and C-3)

On October 3, 2007, Lightfoot paid Webb \$1,000.00 by check as a payment for labor. (Exh. C-1 and C-3)

1. **Board Regulation**

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, 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.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001; Volume 22, Issue 8, eff. February 1, 2006

Print Date: February 1, 2006

FACTS:

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

The contract used by Webb in the transaction failed to contain license information as required by subsection h. (Exh. C-2)

2. **Board Regulation**

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

B. The following are prohibited acts:

6. Misconduct in the practice of contracting.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

The contract failed to specify Webb would obtain the building permit. (Exh. C-2)

Beginning September 26, 2007, through October 5, 2007, Webb performed construction to enclose a porch within the existing structure at the subject property. (Exh. C-1, R-1, and I-1)

As of March 19, 2008, Webb failed to obtain a required building permit, in violation of Section 108.1 of the Uniform Statewide Building Code. (Exh. I-2 and I-5)

On March 19, 2008, Webb told Investigator Michael Heaney ("Investigator Heaney"), the Board's agent, it was Lightfoot's responsibility to obtain any permits, but Webb admitted that the contract failed to specify who was responsible to obtain any required permits. (Exh. I-3)

3. **Board Regulation**

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).

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

In addition to the facts outlined in Count 2:

On September 4, 2007, Webb verbally promised Lightfoot that the contracted work would commence on or before September 20, 2007. (Exh. I-1)

On September 24, 2007, after Webb failed to commence the contracted work, Lightfoot terminated the contract with Webb and requested a refund of the \$4,500.00 down payment. (Exh. C-4 and I-1)

On September 26, 2007, Webb refused to refund the \$4,500.00 and Lightfoot allowed Webb to commence the contracted work. (Exh. I-1)

Beginning September 26, 2007, through October 5, 2007, Webb performed, in part, framing and wall board installation. (Exh. I-1)

On October 5, 2007, Lightfoot informed Webb that a building permit was required for the contracted work according to the Henrico County Permit Center. Webb then told Lightfoot she would have to obtain the building permit, and Webb left the subject property. (Exh. C-1, R-1, and I-1)

The last day Webb performed work at the subject property was October 5, 2007. (Exh. I-1)

As of February 15, 2008, Webb failed to deliver the windows, door, siding, and trim materials and to complete the following contracted work specifications:

- Wall framing.
- Wall board installation.
- Installation of twelve (12) windows.
- Door installation.
- Siding installation.
- Trim work.

(Exh. C-1, C-5, R-1, I-1, and I-3)

Lightfoot is unable to hire another contractor to perform the contracted work Webb failed to complete, unless she receives a refund from Webb. (Exh. I-1)

4. Board Regulation

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.

Historical Notes:

Derived from VR220-01-2:1 §5.7, eff. March 31, 1995; amended, Virginia Register Volume 17, Issue 21, eff. September 1, 2001.

Print Date: February 1, 2006

FACTS:

In addition to the facts outlined in Count 3:

On September 4, 2007, Lightfoot paid Webb \$4,500.00 by check as a down payment for materials. (Exh. C-1 and C-3)

On October 3, 2007, Lightfoot paid Webb \$1,000.00 by check as a payment for labor. (Exh. C-1 and C-3)

Beginning October 5, 2007, through February 2008, Lightfoot and Lightfoot's attorney requested Webb to return the funds received for the unfinished work and building materials Webb failed to deliver. (Exh. I-1)

On April 9, 2008, Webb told Investigator Heaney he purchased twelve (12) windows, in the amount of \$1,827.00, for the contracted work, which were not delivered to the job site, and estimated his labor and other material costs at \$2,500.00. Webb further stated that he thinks he does not owe Lightfoot a refund, because he said Lightfoot fired him from the job. (Exh. R-3, I-3, I-6, and I-7)

As of April 9, 2008, Webb failed to refund money received for work not performed or performed only in part. (Exh. I-4 and I-7)

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

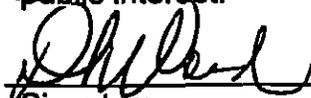
**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Dorothy Wood
2. Title: Presiding Board Member
3. Agency: Board for Contractors
4. Transaction: Informal Fact-Finding Conferences on September 9, 2008
5. Nature of Personal Interest Affected by Transaction: _____

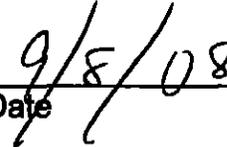
6. I declare that:

(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.



Signature



Date