

**THE VIRGINIA BOARD FOR
ASBESTOS, LEAD, AND HOME INSPECTORS
MEETING MINUTES**

The Virginia Board for Asbestos, Lead, and Home Inspectors met on February 18, 2004 in Conference Room 4 West at the offices of the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

The following members of the Board were present:

Jack A. Geller, Vice Chairperson
Joseph W. Crockett
P. Bradley Nott, Jr. (left at 11:45 AM)
John Gerow (left at 10:00 AM)
Frederick Heppner
Vickie Harlow (arrived at 9:16 AM)
John Bouldin
Suzanne Lowman

Board Members Richard L. Honeycutt and Pamela M. Mentz were unable to attend the meeting.

The following members of DPOR staff were present during some or all of the meeting:

Louise Fontaine Ware, Director
Sandra Whitley Ryals, Chief Deputy Director
Karen O'Neal, Deputy Director for RPD
James Guffey, Deputy Director for Enforcement
Mary Broz, Communications Director
Awilda Ramirez, Customer Service Specialist
David Dick, Executive Director
Joseph Kossan, Regulatory Boards Administrator
Thomas K. Perry, Regulatory Boards Administrator
Earlyne Perkins, Legal Assistant
Chris Olson, Licensing Specialist

Others who attended the meeting included:

Fred Guest, Respondent
William McCloud, Respondent
Stephen McCloud, Respondent
Glen Huff, Attorney for Respondents
Jesus Rubi, Respondent
Dave Jungers, Respondent
Bill Dozier, Attorney for Respondent

No representative of the Office of the Attorney General was present.

Vice Chairperson Geller, finding a quorum of the Board present, called the meeting to order at 9:05 AM.

Call to Order

Vice Chairperson Geller introduced and welcomed new Board Member Suzanne Lowman.

Introduction of New Board Member

Mr. Crockett moved that the Board approve the agenda as prepared by staff. Mr. Heppner seconded the motion, which was carried unanimously by seven aye votes (Messrs. Crockett, Geller, Gerow, Nott, Heppner, and Bouldin; and Ms. Lowman). The agenda is attached.

Adopt Agenda

Mr. Nott moved that the Board approve the minutes of its November 4, 2003 meeting. Mr. Crockett seconded the motion, which was carried unanimously by seven aye votes (Messrs. Crockett, Geller, Gerow, Nott, Heppner, and Bouldin; and Ms. Lowman).

Approval of Board Minutes

Mr. Gerow moved that the Board approve the minutes of the January 8, 2004 Licensing IFF. Ms. Lowman seconded the motion, which was carried unanimously by seven aye votes (Messrs. Crockett, Geller, Gerow, Nott, Heppner, and Bouldin; and Ms. Lowman).

Mr. Gerow moved that the Board approve the minutes of the January 8, 2004 Disciplinary IFF. Mr. Nott seconded the motion, which was carried unanimously by seven aye votes (Messrs. Crockett, Geller, Gerow, Nott, Heppner, and Bouldin; and Ms. Lowman).

Vice Chairperson Geller opened the floor for public comment. No member of the public present expressed a desire to address the Board.

Public Comment Period

In the matter of **File Number 2004-02156, Board v. Jesus Rubi**, the Board reviewed the record, which consisted of the application file, transcript and exhibits from the IFF, and the presiding officer's summary, conclusion and recommendation. Jesus Rubi (Respondent) addressed the Board through an interpreter (Awilda Ramirez). Upon a motion by Mr. Crockett and seconded by Mr. Nott, the Board adopted the summary, conclusion and recommendation, and approved the application for Asbestos

File Number 2004-02156

Worker license for Jesus Rubi. The motion passed unanimously. Members voting "YES" were Messrs. Crockett, Geller, Gerow, Nott, Heppner, and Bouldin; and Ms. Lowman.

In the matter of **File Numbers 2004-001605 and 2004-01610**, **Board v. Marcor Remediation, Inc.**, the Board reviewed the Consent Orders offered by and agreed to by Marcor Remediation, Inc. (Respondent). William Dozier (Attorney for Respondent) addressed the Board.

File Number
2004-01605 & File
Number 2004-01610

Mr. Crockett moved that the Board defer action on the Consent Orders until the next Board meeting so that the Board could review the entire record. Mr. Nott seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Gerow, Nott, Heppner, and Bouldin; and Ms. Lowman. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Board Member Vickie Harlow arrived at 9:16 AM.

Arrival of Board
Member

In the matter of **File Number 2004-01604**, **Board v. William S. McCloud**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the presiding Board member's summary, conclusion and recommendation. Glen Huff (Attorney for Respondent) addressed the Board.

File Number
2004-01604

Earlyne Perkins shared with the Board that the minutes need to reflect a change in the Summation of Facts as follows: Paragraph one amended to delete the last sentence of the paragraph.

Upon a motion by Mr. Nott and seconded by Mr. Crockett, the Board adopted the summary, as amended, and the conclusion that Mr. McCloud violated § 18 VAC 15-20-450(A)(6) of the Board's 2002 Regulations. The motion passed unanimously. Members voting "YES" were Messrs. Crockett, Geller, Gerow, Nott, Heppner, and Bouldin; and Mses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Heppner moved that the Board reject the recommendation of the presiding Board member that the Board revoke Mr. McCloud's Asbestos Supervisor License and levy a monetary

penalty of \$2,500. Mr. Bouldin seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Gerow, Nott, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Nott moved that the Board revoke Mr. McCloud's Asbestos Supervisor License (3302-004282). Mr. Crockett seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Gerow, Nott, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

In the matter of **File Number 2004-01609**, **Board v. William S. McCloud**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the presiding Board member's summary, conclusion and recommendation. Both William McCloud (Respondent) and Glen Huff (Attorney for Respondent) addressed the Board. **File Number 2004-01609**

Earlyne Perkins shared with the Board that the minutes need to reflect a change in the Summation of Facts as follows: Paragraph one amended to delete the last sentence of the paragraph.

Upon a motion by Mr. Nott and seconded by Mr. Bouldin, the Board adopted the summary, as amended, and the conclusion that Mr. McCloud violated § 18 VAC 15-30-810(A)(6) of the Board's 1995 Regulations. The motion passed unanimously. Members voting "YES" were Messrs. Crockett, Geller, Gerow, Nott, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Heppner moved that the Board reject the recommendation of the presiding Board member that the Board revoke Mr. McCloud's Lead Supervisor License and levy a monetary penalty of \$2,500. Ms. Harlow seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Gerow, Nott, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Crockett moved that the Board revoke Mr. McCloud's Lead Supervisor License (3353-000250). Mr. Heppner seconded the motion. The motion failed with four "YES" votes and four "NO" votes. Members voting "YES" were Messrs. Geller, Crockett, Heppner, and Ms. Lowman. Members voting "NO" were Messrs. Nott, Gerow, and Bouldin, and Ms. Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Gerow moved that a Consent Order be offered with a monetary penalty of \$1000 and a reprimand from the Board. Mr. Bouldin seconded the motion which passed. Members voting "YES" were Messrs. Gerow, Bouldin, Geller, Heppner, and Nott, and Ms. Harlow. Members voting "NO" were Mr. Crockett and Ms. Lowman. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Due to a possible conflict of interest, Board Member John Gerow recused himself from the remainder of the Board meeting.

Mr. Nott moved that the Board reconsider the prior question that a Consent Order be offered due to the fact that Board member John Gerow recused himself. Mr. Heppner seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Nott, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Heppner moved that a Consent Order be offered with a monetary penalty of \$1000 and a reprimand from the Board. Ms. Harlow seconded the motion which passed. Members voting "YES" were Messrs. Bouldin, Geller, Heppner, and Nott, and Ms. Harlow. Members voting "NO" were Mr. Crockett and Ms. Lowman. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

The Consent Order was accepted by Mr. McCloud (Respondent).

In the matter of **File Number 2004-01603, Board v. Macsons, Inc.**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the presiding Board member's summary, conclusion and recommendation. Both Steven McCloud (Representing Macsons)

File Number
2004-01603

and Glen Huff (Attorney for Respondent) addressed the Board.

Earlyne Perkins shared with the Board that the minutes need to reflect a change in the Summation of Facts as follows: Paragraph one amended to delete the last sentence of the paragraph.

Upon a motion by Mr. Crockett and seconded by Ms. Lowman, the Board adopted the summary, as amended, and the conclusion that Macsons, Inc. violated § 18 VAC 15-20-450(A)(6) of the Board's 2002 Regulations. The motion passed unanimously. Members voting "YES" were Messrs. Crockett, Geller, Nott, Heppner, and Bouldin; and Mses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Heppner moved that the Board reject the recommendation of the presiding Board member that the Board levy a monetary penalty of \$1,000. Mr. Crockett seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Nott, Heppner, and Bouldin; and Mses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Nott moved that the Board revoke Macsons, Inc.'s Asbestos Contractor License (3306-000657) based upon the magnitude of the federal case and conviction, and the severity of the violation of the Board's regulations. Mr. Crockett seconded the motion which passed. Members voting "YES" were Messrs. Crockett, Nott, Heppner, and Bouldin; and Mses. Lowman and Harlow. Mr. Geller abstained. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

In the matter of **File Number 2004-01608, Board v. Macsons, Inc.**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the presiding Board member's summary, conclusion and recommendation. Both Steven McCloud (Representing Macsons) and Glen Huff (Attorney for Respondent) addressed the Board. **File Number 2004-01608**

Earlyne Perkins shared with the Board that the minutes need to reflect a change in the Summation of Facts as follows: Paragraph one amended to delete the last sentence of the paragraph.

Upon a motion by Mr. Heppner and seconded by Mr. Nott, the Board adopted the summary, as amended, and the conclusion that Mascons, Inc. violated § 18 VAC 15-30-810(A)(6) of the Board's 1995 Regulations.. The motion passed unanimously. Members voting "YES" were Messrs. Crockett, Geller, Nott, Heppner, and Bouldin; and Mses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Heppner moved that the Board reject the recommendation of the presiding Board member that the Board levy a monetary penalty of \$1,000. Mr. Nott seconded the motion which was passed. Members voting "YES" were Messrs. Crockett, Nott, Heppner, and Geller; and Mses. Lowman and Harlow. Mr. Bouldin abstained. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Ms. Harlow moved that a Consent Order be offered with a monetary penalty of \$1000 and a reprimand from the Board. Mr. Nott seconded the motion which passed. Members voting "YES" were Messrs. Bouldin, Heppner, and Nott, and Ms. Harlow. Members voting "NO" were Mr. Crockett and Ms. Lowman. Mr. Geller abstained. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Huff (Attorney for Respondent), acting on behalf of Macsons, declined the offer of the Consent Order.

Mr. Heppner moved that the Board revoke Macsons, Inc.'s Lead Contractor License (3358-000084) based upon the magnitude of the federal case and conviction, and the severity of the violation of the Board's regulations. The motion failed. Members voting "YES" were Messrs. Heppner, Crockett, and Nott. Messrs. Bouldin and Geller and Mses. Lowman and Harlow abstained. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Ms. Harlow moved that the Board issue a reprimand to Macsons, Inc.'s Lead Contractor License. Mr. Bouldin seconded the motion. The motion failed. Members voting "YES" were Mr. Bouldin and Ms. Harlow. Members voting "No" were Messrs. Heppner and Crockett. Messrs. Nott and Geller and Ms. Lowman abstained. The presiding Board member, Ms. Mentz, was unable

to attend the meeting and, therefore, did not participate in the discussion or vote.

Ms. Lowman moved that the Board suspend Macsons, Inc.'s Lead Contractor License for a period of three months based upon the magnitude of the federal case and conviction, and the severity of the violation of the Board's regulations. Mr. Heppner seconded the motion which passed. Members voting "YES" were Messrs. Heppner, Crockett, Bouldin, and Nott, and Ms. Lowman. Mr. Geller and Ms. Harlow abstained. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Board Member P. Bradley Nott, Jr. left the Board meeting at 11:45 AM.

Departure of Board Member

Mr. Huff, acting on behalf of William McCloud, indicated that Mr. McCloud had decided to reject the previously agreed to Consent Order for File Number 2004-01609.

File Number 2004-01609 Reconsidered

Ms. Harlow moved that the Board reconsider the offer of a Consent Order to Mr. William McCloud regarding his Lead Supervisor License. Mr. Heppner seconded the motion which was carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Mses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Heppner moved that the Board suspend Mr. McCloud's Lead Supervisor License (3353-000250) for a period of three months based upon the magnitude of the federal case and conviction, and the severity of the violation of the Board's regulations. Ms. Lowman seconded the motion which passed. Member's voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Ms. Lowman. Ms. Harlow Abstained. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

In the matter of **File Number 2004-01599, Board v. Scott J. Eggleston**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the presiding Board member's summary, conclusion and recommendation. Glen Huff (Attorney for Respondent) addressed the Board.

File Number 2004-01599

Earlyne Perkins shared with the Board that the minutes need to reflect a typographical error in the Summation of Facts #1 as follows: The first sentence of paragraph one is deleted and replaced with "On December 23, 2003, in the United States District Court for the Eastern District of Virginia, Alexandria Division, Eggleston was convicted on two counts of False Statements, in violation of 18 U.S.C. § 1001 and 2, both felonies." The last sentence of paragraph one was also deleted.

Upon a motion by Ms. Lowman and seconded by Mr. Crockett, the Board adopted the summary, as amended, and the conclusion that Mr. Eggleston violated § 18 VAC 15-20-450(A)(6) of the Board's 2002 Regulations. The motion passed unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Heppner moved that the Board reject the recommendation of the presiding Board member that the Board suspend Mr. Eggleston's Asbestos Supervisor License until such time as he completes his recertification and levy a monetary penalty of \$500. Mr. Bouldin seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Crockett moved that the Board revoke Mr. Eggleston's Asbestos Supervisor License (3302-0006427) based upon the magnitude of the federal case and conviction, and the severity of the violation of the Board's regulations. Mr. Heppner seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

In the matter of **File Number 2004-01600**, Board v. Scott J. Eggleston, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the presiding Board member's summary, conclusion and recommendation. Glen Huff (Attorney for Respondent) addressed the Board.

File Number
2004-01600

Earlyne Perkins shared with the Board that the minutes need to

reflect a typographical error in the Summation of Facts #1 as follows: The first sentence of paragraph one is deleted and replaced with "On December 23, 2003, in the United States District Court for the Eastern District of Virginia, Alexandria Division, Eggleston was convicted on two counts of False Statements, in violation of 18 U.S.C. § 1001 and 2, both felonies." The last sentence of paragraph one was also deleted.

Upon a motion by Mr. Heppner and seconded by Ms. Lowman, the Board adopted the summary, as amended, and the conclusion that Mr. Eggleston violated § 18 VAC 15-20-450(A)(6) of the Board's 2002 Regulations. The motion passed unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Heppner moved that the Board reject the recommendation of the presiding Board member that the Board levy a monetary penalty of \$500. Mr. Crockett seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Crockett moved that the Board revoke Mr. Eggleston's Asbestos Project Monitor License (3309-000573) based upon the magnitude of the federal case and conviction, and the severity of the violation of the Board's regulations. Mr. Heppner seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Heppner moved that the Board act upon files 2004-1601, 2004-01602, and 2004-01607 in a bloc. Mr. Crockett seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

File Numbers
2004-01601,
2004-01602, &
2004-01607

In the matter of **File Numbers 2004-01601, 2004-01602, and 2004-01607, Board v. Scott J. Eggleston**, the Board reviewed

the records, which consisted of the investigative files, transcripts and exhibits from the IFF, and the presiding Board member's summaries, conclusions and recommendations. Glen Huff (Attorney for Respondent) addressed the Board.

Earlyne Perkins shared with the Board that the minutes need to reflect a typographical error in the Summation of Facts #1 in each of the files as follows: The first sentence of paragraph one is deleted and replaced with "On December 23, 2003, in the United States District Court for the Eastern District of Virginia, Alexandria Division, Eggleston was convicted on two counts of False Statements, in violation of 18 U.S.C. § 1001 and 2, both felonies." The last sentence of paragraph one was also deleted.

Upon a motion by Mr. Heppner and seconded by Mr. Bouldin, the Board adopted the summaries, as amended, and the conclusions that Mr. Eggleston violated § 18 VAC 15-20-450(A)(6) of the Board's 2002 Regulations with regard to File Numbers 2004-01601 and 2004-01602, and violated § 18 VAC 15-30-810(A)(6) of the Board's 1995 Regulations with regard to File Number 2004-01607. The motion passed unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Heppner moved that the Board reject the recommendations of the presiding Board member that the Board levy a monetary penalty of \$500 for each violation found in File Numbers 2004-01601, 2004-01602, and 2004-01607. Mr. Bouldin seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Crockett moved that the Board revoke Mr. Eggleston's Asbestos Inspector License (3303-000832), Asbestos Project Designer License (3305-000774), and his Lead Project Designer's License (3357-000121) based upon the magnitude of the federal case and conviction, and the severity of the violation of the Board's regulations. Mr. Heppner seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the

discussion or vote.

The Board agreed without dissent to act upon file numbers 2004-01596, 2004-01598, and 2004-01606 in a bloc.

File Number's
2004-01596,
2004-01598, &
2004-01606

In the matter of **File Numbers 2004-01596, 2004-01598, and 2004-01606**, Board v. Frederick L. Guest, the Board reviewed the records, which consisted of the investigative files, transcripts and exhibits from the IFF, and the presiding Board member's summaries, conclusions and recommendations. Glen Huff (Attorney for Respondent) addressed the Board.

Earlyne Perkins shared with the Board that the minutes need to reflect a typographical error in the Summation of Facts #1 in each of the files as follows: The first sentence of paragraph one is deleted and replaced with "On December 23, 2003, in the United States District Court for the Eastern District of Virginia, Alexandria Division, Guest was convicted on two counts of False Statements, in violation of 18 U.S.C. § 1001 and 2, both felonies." The last sentence of paragraph one was also deleted.

Upon a motion by Mr. Heppner and seconded by Mr. Crockett, the Board adopted the summaries, as amended, and the conclusions that Mr. Guest violated § 18 VAC 15-20-450(A)(6) of the Board's 2002 Regulations with regard to File Numbers 2004-01596 and 2004-01598, and violated § 18 VAC 15-30-810(A)(6) of the Board's 1995 Regulations with regard to File Number 2004-01606. The motion passed unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Heppner moved that the Board reject the recommendations of the presiding Board member that the Board levy a monetary penalty of \$500 for each violation found in File Numbers 2004-01596, 2004-01598, and 2004-01606. Mr. Bouldin seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Crockett moved that the Board revoke Mr. Guest's Asbestos Inspector License (3303-001534), Asbestos Project Monitor License (3309-000466), and his Lead Risk Assessor License

(3356-000066) based upon the magnitude of the federal case and conviction, and the severity of the violation of the Board's regulations. Mr. Heppner seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

In the matter of **File Number 2004-01595, Board v. ETMS, Inc.**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the presiding Board member's summary, conclusion and recommendation. Glen Huff (Attorney for Respondent) addressed the Board. **File Number 2004-01595**

Earlyne Perkins shared with the Board that the minutes need to reflect a typographical error in the Summation of Facts #1 as follows: The first sentence of paragraph one is deleted and replaced with "On January 5, 2004, in the United States District Court for the Eastern District of Virginia, Alexandria Division, ETMS, Inc. was convicted on two counts of False Statements, in violation of 18 U.S.C. § 1001 and 2, both felonies." The last sentence of paragraph one was also deleted.

Upon a motion by Mr. Heppner and seconded by Mr. Crockett, the Board adopted the summary, as amended, and the conclusion that ETMS, Inc. violated § 18 VAC 15-20-450(A)(6) of the Board's 2002 Regulations. The motion passed unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Heppner moved that the Board reject the recommendation of the presiding Board member that the Board levy a monetary penalty of \$1,000. Mr. Bouldin seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Meses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Mr. Crockett moved that the Board revoke ETMS Inc.'s Asbestos Analytical Laboratory License (3333-000154) based upon the magnitude of the federal case and conviction, and the severity of

the violation of the Board's regulations. Mr. Heppner seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Mses. Lowman and Harlow. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

In the matter of **File Number 2004-02155, Board v. Elvin Ventura**, the Board reviewed the record, which consisted of the application file, transcript and exhibits from the IFF, and the presiding officer's summary, conclusion and recommendation. Elvin Ventura (Respondent) was not present. Upon a motion by Mr. Crockett and seconded by Ms. Harlow, the Board adopted the summary and recommendation, and approved the application for Asbestos Worker license for Elvin Ventura. The motion passed unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Mses. Lowman and Harlow.

**File Number
2004-02155**

David Dick updated the Board on the status of HB 462 (Summary Suspension of Licenses) and HB 463 (Necessity of Licensure). Both bills were passed by the House of Delegates and were scheduled to be reviewed by the Senate Committee on General Laws when it meets on the afternoon of February 18, 2004. Passage by the Senate is expected.

**Legislative and
Regulatory Action**

Ms. Harlow moved that the Board adopt a Notice of Intended Regulatory Action (NOIRA) to review current requirements for Asbestos Project Monitors and adopting ostensible ownership language. Mr. Crockett seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Mses. Lowman and Harlow.

Ms. Lowman moved that the Board accept the proposed letter drafted by staff to be sent to Training Providers concerning English-Only accredited training programs. Mr. Crockett seconded the motion which carried unanimously. Members voting "YES" were Messrs. Crockett, Geller, Heppner, and Bouldin; and Mses. Lowman and Harlow.

Other Business

The following meeting dates have been scheduled.

Next Meeting Date

- May 19, 2004
- August 19, 2004
- November 3, 2004

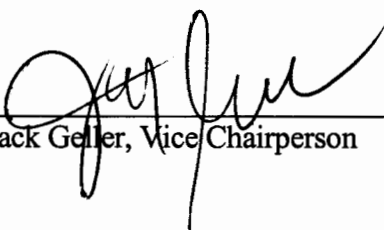
Vice Chairperson Geller asked the Board members to complete

Conflict of Interest

their conflict of interest forms and travel vouchers.

**Forms and Travel
Vouchers**

Vice Chairperson Geller, finding no further business to conduct, **Adjournment**
adjourned the meeting at 1:55 PM.



Jack Geller, Vice Chairperson



Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of the Records

**VIRGINIA BOARD FOR
ASBESTOS, LEAD, AND HOME INSPECTORS**

TENTATIVE AGENDA

BOARD MEETING

WEDNESDAY, FEBRUARY 18, 2004

9:00 A.M., CONFERENCE ROOM 4 WEST

**DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230**

I. CALL TO ORDER

II. APPROVAL OF AGENDA

1. Board Agenda, February 18, 2004

III. APPROVAL OF MINUTES

2. Board Minutes, November 4, 2003
3. IFF Minutes-Licensing, January 8, 2004
4. IFF Minutes-Disciplinary, January 8, 2004

IV. PUBLIC COMMENT PERIOD – Five minute public comment, per person, on those items not included on the agenda with the exception of any open disciplinary or application files.

V. ENFORCEMENT CASES

5. File Number 2004-01605 – Marcor Remediation, Inc.
IFF by Mentz - Disciplinary
6. File Number 2004-01610 – Marcor Remediation, Inc.
IFF by Mentz - Disciplinary
7. File Number 2004-01604 – William S. McCloud
IFF by Mentz - Disciplinary
8. File Number 2004-01609 – William S. McCloud
IFF by Mentz - Disciplinary

9. File Number 2004-01603 – Macsons, Inc.
IFF by Mentz - Disciplinary
10. File Number 2004-01608 – Macsons, Inc.
IFF by Mentz - Disciplinary
11. File Number 2004-01599 – Scott J. Eggleston
IFF by Mentz - Disciplinary
12. File Number 2004-01600 – Scott J. Eggleston
IFF by Mentz - Disciplinary
13. File Number 2004-01601 – Scott J. Eggleston
IFF by Mentz - Disciplinary
14. File Number 2004-01602 – Scott J. Eggleston
IFF by Mentz - Disciplinary
15. File Number 2004-01607 – Scott J. Eggleston
IFF by Mentz - Disciplinary
16. File Number 2004-01596 – Frederick L. Guest
IFF by Mentz - Disciplinary
17. File Number 2004-01598 – Frederick L. Guest
IFF by Mentz - Disciplinary
18. File Number 2004-01606 – Frederick L. Guest
IFF by Mentz - Disciplinary
19. File Number 2004-01595 – ETMS, Inc.
IFF by Mentz - Disciplinary
20. File Number 2004-02155 – Elvin Ventura
IFF by Cooper - Licensing
21. File Number 2004-02156 – Jesus Rubi
IFF by Cooper - Licensing

VI. LEGISLATIVE AND REGULATORY ACTION

- Legislative Update
 22. Summary Suspension of Licenses (HB 462)
 23. Necessity of Licensure (HB 463)
- Regulation Issues- NOIRA

- 24. Ostensible Ownership of firms
 - o Project Monitor required

- 25. Background Investigations for applicants- 54.1-204C

VII. OTHER BUSINESS

- 26. Memo to Accredited Asbestos and Accredited Lead Training Provider Concerning English Only Accredited Training Programs

VIII. CONFIRM 2004 MEETING DATES

- May 19, 2004
- August 19, 2004
- November 3, 2004

IX. COMPLETE CONFLICT OF INTEREST FORMS AND TRAVEL VOUCHERS

X. ADJOURN

Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-8595 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.

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

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

1. Name: Joseph W. Crockett
2. Title: Board Member - Asbestos, Lead and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: ASBESTOS + LEAD
ABATEMENT CONTRACTING - WACO, INC
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: WACO, INC
ENVIRONMENTAL CONTRACTOR
 - (b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: 2-18-04
Signature: Joseph W. Crockett

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

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

- 1. Name: Frederick Heppner
- 2. Title: Board Member - Asbestos, Lead and Home Inspectors
- 3. Agency: Department of Professional and Occupational Regulation
- 4. Transaction: Board Meeting
- 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: Home Inspector

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

Dated: 2/18/04

Signature: Frederick Heppner

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

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

1. Name: John C. Bouldin
2. Title: Board Member - Asbestos, Lead and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: None

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: Protechs Home Inspections,

Inspection Training Assoc (ITA), NAHI, ASHI, VARGI, VBCOA
Referral Status Real Estate License.

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

Dated:

2/18/04
John Bouldin

Signature:

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

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

- 1. Name: P. Bradley Nott, Jr.
- 2. Title: Board Member - Asbestos, Lead and Home Inspectors
- 3. Agency: Department of Professional and Occupational Regulation
- 4. Transaction: Board Meeting
- 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: _____
None

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

Dated: P. Bradley Nott, Jr.
Signature: 2/18/04

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

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

1. Name: Vickie Harlow
2. Title: Board Member - Asbestos, Lead and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: Vanderwerker-Black
and in associati w/ MARCOR, only that Van-Black
represents Marcor &
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: _____

MCS, Inc, VCU/MCU

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

Dated:

Vickie Harlow 2/18/04

Signature:

(* do research for the law firm (V-B;) but I am not involved in the Marcor defense.

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

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

1. Name: Jack A. Geller
2. Title: Board Member - Asbestos, Lead and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

_____ ENVIRONMENTAL CONSULTING _____

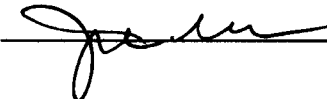
6. I declare that:

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

_____ GELLER ENV. LABS, LLC _____

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

Dated: 2/18/04

Signature: 

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

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

- 1. Name: Suzanne K. Lowman
- 2. Title: Board Member - Asbestos, Lead, and Home Inspectors
- 3. Agency: Department of Professional and Occupational Regulation
- 4. Transaction: Board Meeting

- 5. Nature of Personal Interest Affected by Transaction: ~~None~~ Hold licenses
for Project Mgmt, Inspector, Mgt Planner,
Lead Inspector, Lead Designer
- 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:

None same
as above.

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

Dated: 2-18-04
Signature: Suzanne K Lowman

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

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

- 1. Name: John J. Gerow
- 2. Title: Board Member - Asbestos, Lead and Home Inspectors
- 3. Agency: Department of Professional and Occupational Regulation
- 4. Transaction: Board Meeting
- 5. Nature of Personal Interest Affected by Transaction: Macsons / William Macleoud -
Letter written by my firm as a character reference - recused
myself from voting, based on letter.
- 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: Asbestos TRAINING / CONSULTING.

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

Dated: 2/28/04

Signature: John J. Gerow

*ETMS / Scott Eggleston / Fred Guest -
recused myself due to personal & business
relationship with Guest, Eggleston & ETMS.*

**RECEIVED
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