

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

The Virginia Board for Asbestos, Lead and Home Inspectors met on May 10, 2006 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:

Frederick Heppner, Chairperson
Howard D. Varner
John C. Bouldin
Dolores C. Daniels
Wendy G. Hill
Thomas Joel Loving
David Bowen Hyatt
Dr. Clayton S. Sinyai

Board members Vickie Harlow and Richard L. Honeycutt were unable to attend the meeting.

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

Jay W. DeBoer, Director
Karen O'Neal, Deputy Director for LRD
David Dick, Executive Director
Earlyne Perkins, Legal Analyst
Marilyn Cohn, Administrative Assistant

Others who attended the meeting included:

Joseph W. Crockett, Representative of WACO, Inc.
David Spinazzolo, Metropolitan Laboratories, Respondent
Raymond Caldeyro, Respondent
Paul R. Schmidt, Counsel for Macsons, Inc.

Others via telephone conference call:

Carlos Pereira, Eagle Environmental Training School, Respondent
Gil Davis, Counsel for Eagle Environmental Training School

Eric Gregory of the Office of the Attorney General was present.

Chairperson Heppner, finding a quorum of the Board present, called the meeting to order at 9:05 am.

Call to Order

Mr. Loving moved that the Board approve the agenda. Mr. Bouldin seconded the motion, which was unanimously approved by the following members: Heppner, Hill, Varner, Loving, Bouldin, Daniels, Hyatt and Sinyai. Ms. Harlow and Mr. Honeycutt were not present for the vote.

Adopt Agenda

Mr. Howard moved that the Board approve the minutes of its February 1, 2006 meeting and the IFF minutes of January 31, February 16, March 9, March 13, March 16, April 5 and April 13, 2006. Mr. Bouldin seconded the motion which was unanimously approved by the following members: Heppner, Hill, Varner, Loving, Bouldin, Daniels, Hyatt and Sinyai. Ms. Harlow and Mr. Honeycutt were not present for the vote.

Approval of Board Minutes

Chairperson Heppner opened the floor for public comment. Mr. Joseph Crockett, representing WACO, Inc. addressed the Board concerning its proposed regulation amendments. No other members of the public present expressed a desire to address the Board.

Public Comment Period

In the matter of **File Number 2006-01143, Metropolitan Laboratories, 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 and recommendation. Mr. Spinazzolo, President of Metropolitan Laboratories, Inc. was present and addressed the Board.

File Number 2006-01143

Ms Hill moved that the Board adopt the summary and recommendation for Count 1 that Metropolitan Laboratories, Inc. was in violation of 18 VAC 15-30-450 of the Board's January 2, 2002 regulations. Mr. Varner seconded the motion which was unanimously approved by the following members: Hill, Varner, Loving, Bouldin, Daniels, Hyatt and Sinyai. Mr. Heppner recused himself and did not participate in the discussion or vote. Ms. Hill and Mr. Honeycutt were not present for the vote.

Ms Hill moved that the Board amend the probation and suspension sanctions recommended by the presiding Board member regarding Metro Labs accreditation to teach the Lead-

Based Paint Worker Initial Training and that condition 1 be amended as follows: "That the students from the August 29 and 30, 2005, class be offered the missing training at Metro Labs expense." Mr. Loving seconded the motion which was passed by the following votes: "YES" Hill, Varner, Loving, Daniels, Bouldin and Sinyai. "NO" Mr. Hyatt. Mr. Heppner recused himself and did not participate in the discussion or vote. Ms. Harlow and Mr. Honeycutt were not present for the vote.

In the matter of **File Number 2004-03638, Eagle Environmental Training School**, the Board reviewed the record which consisted of the investigative file, transcript and exhibits from the IFF and the presiding Board member's summary and recommendation. Mr. Carlos Pereira, President of Eagle and Gil Davis, Counsel for Eagle Environmental Training School were present via telephone. Mr. Davis addressed the Board. Upon a motion by Mr. Bouldin and seconded by Ms Hill, the Board accepted the presiding Board member's recommendation that Count 1 be closed with a finding of no violation of Virginia Code §54.1-516(A)(1). The motion was unanimously approved by the following members: Heppner, Hill, Varner, Loving, Bouldin, Daniels, Hyatt and Sinyai. Ms. Harlow and Mr. Honeycutt were not present for the vote.

File Number
2004-03638

In the matter of **File Number 2005-02172, USA Remediation Services, 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 and recommendation. No representative of USA Remediation Services, Inc. was present.

File Number
2005-02172

Mr. Varner moved that the Board adopt the summary and recommendation for Count 1 that USA Remediation Services, Inc. was in violation of 18 VAC 15-20-450 A.4. of the Board's January 2, 2002 regulations. Ms Hill seconded the motion which was unanimously approved by the following members: Heppner, Hill, Varner, Loving, Daniels, and Hyatt. Mr. Bouldin and Dr. Sinyai recused themselves and did not participate in the discussion or vote. Ms. Harlow and Mr. Honeycutt were not present for the vote.

Mr. Loving moved that the Board amend the sanction recommended by the presiding Board member regarding the payment of a monetary penalty for Count 1 in the amount of

\$2,500 in violation of 18 VAC 15-20-450 A.4. and suspension of their Asbestos License until such time that USA Remediation Services, Inc. has satisfied its \$14,500 fine to the EPA and the Board's \$2,500 penalty. Ms Hill seconded the motion which was approved by the following votes: "YES" Hill, Varner, Loving, Daniels and Hyatt; "NO" Heppner. Mr. Bouldin and Dr. Sinyai recused themselves and did not participate in the discussion or vote. Ms. Harlow and Mr. Honeycutt were not present for the vote.

In the matter of **File Number 2006-03744, Raymond Caldeyro, Jr.**, the Board reviewed the record, which consisted of the application file, transcript and exhibits from the IFF and the presiding officer's summary and recommendation. Raymond Caldeyro, Jr. (Respondent) was present and addressed the Board. Mr. Bouldin moved that the Board accept the summary and recommendation and approve the application for Raymond Caldeyro, Jr.'s Asbestos Supervisor license. Ms Daniels seconded the motion which was unanimously approved by the following members: Heppner, Hill, Varner, Loving, Bouldin, Daniels, Hyatt and Sinyai. Ms Harlow and Mr. Honeycutt were not present for the vote.

File Number
2006-03744

In the matter of **File Numbers 2006-03003 and 2006-03005, Val P. Capistrano**, the Board reviewed the record which consisted of the application file, transcript and exhibits from the IFF and the presiding officer's summary and recommendation. Mr. Varner moved that the Board accept the summary and recommendation and approve the application for Val P. Capistrano's Lead Worker license and Asbestos Supervisor license. Mr. Hyatt seconded the motion which was approved by the following votes: "YES" Heppner, Hill, Varner, Loving, Daniels, Hyatt and Sinyai; "NO" Bouldin. Ms Harlow and Mr. Honeycutt were not present for the vote.

File Numbers
2006-03003 and
2006-03005

In the matter of **File Number 2006-01120, Michael W. Garner**, the Board reviewed the record which consisted of the application file, transcript and exhibits from the IFF and the presiding officer's summary and recommendation. Mr. Bouldin moved that the Board accept the summary and recommendation and approve the application for Michael W. Garner's Asbestos Supervisor license. Ms Hill seconded the motion which was unanimously

File Number
2006-01120

approved by the following members: Heppner, Hill, Varner, Loving, Bouldin, Daniels and Sinyai. Mr. Hyatt recused himself and did not participate in the discussion or vote. Ms Harlow and Mr. Honeycutt were not present for the vote.

In the matter of **File Number 2006-03465, Jamal J. Nubi**, the Board reviewed the record which consisted of the application file, transcript and exhibits from the IFF and the presiding officer's summary and recommendation. Jamal J. Nubi (Respondent) was not present. Mr. Bouldin moved that the Board adopt the summary, but reject the recommendation and approve the application for Lead Worker license for Jamal J. Nubi. Mr. Varner seconded the motion which was approved by the following members: "YES" Heppner, Varner, Hyatt, Bouldin, Daniels and Sinyai; "NO" Loving and Hill. Ms Harlow and Mr. Honeycutt were not present for the vote.

File Number
2006-03465

The Board agreed without dissent to review File Numbers 2006-04272, 2006-04310 and 2006-04311 together as a block.

File Numbers
2006-04272,
2006-04310,
2006-04311

In the matter of **File Number 2006-04272, Scott Lee Harper; File Number 2006-04310, Galen F. Fitzwater; and File Number 2006-04311, Daniel Moore** the Board reviewed the records, which consisted of the application files, transcripts and exhibits from the IFFs and the presiding officer's summaries and recommendations. The Respondents were not present. Upon a motion by Mr. Bouldin and seconded by Mr. Varner, the Board adopted the summaries and recommendations and approved the application for Asbestos Supervisor license for Scott Lee Harper, the application for Asbestos Supervisor license for Galen F. Fitzwater and the application for Asbestos Supervisor license for Daniel Moore. The motion was unanimously approved by the following members: Heppner, Hill, Varner, Loving, Bouldin, Daniels, Hyatt and Sinyai. Ms Harlow and Mr. Honeycutt were not present for the vote.

In the matter of **File Numbers 2004-01603 and 2004-01608, Macsons, Inc.**, Paul Schmidt, Counsel for Macsons, Inc., was present and addressed the Board.

File Numbers
2004-01603 and
2004-01608

Mr. Hyatt moved that the meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of

Closed Meeting
Status of Appeal

consultation with legal counsel and briefings by staff pertaining to status of appeal litigation as permitted by § 2.2-3711.A.7 of the *Code of Virginia*. The following non-members will be in attendance to reasonably aid the consideration of the topic: Eric Gregory, Karen O'Neal, David Dick and Earlyne Perkins. This motion is made with respect to the matter identified as agenda item VI. Mr. Varner seconded the motion, which was unanimously approved by the following members: Heppner, Varner, Loving, Bouldin, Daniels, Hill, Hyatt and Sinyai. Ms. Harlow and Mr. Honeycutt were not present for the vote.

Litigation

Mr. Bouldin moved that the closed meeting, as authorized by Section 2.2-3711.A.7 of the *Code of Virginia* be adjourned and that the Board immediately reconvene in open public meeting. Dr. Sinyai seconded the motion which was unanimously approved by the following members: Heppner, Varner, Loving, Bouldin, Daniels, Hill, Hyatt and Sinyai. Ms. Harlow and Mr. Honeycutt were not present for the vote.

WHEREAS, the Board for Asbestos, Lead and Home Inspectors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

**Certification of
Closed Meeting**

WHEREAS, § 2.2-3712 of the *Code of Virginia* requires a certification by this Board for Asbestos, Lead and Home Inspectors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Board for Asbestos, Lead and Home Inspectors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board for Asbestos, Lead and Home Inspectors.

ROLL CALL VOTE

YES: Mr. Varner, Ms. Daniels, Mr. Loving, Mr. Hyatt, Dr.

Sinyai, Mr. Heppner, Mr. Bouldin, Ms. Hill.

NAYS: None

ABSENT DURING VOTE: None

ABSENT DURING MEETING: Ms. Harlow and Mr. Honeycutt

In the matter of **File Numbers 2004-01603 and 2004-01608, Macsons, Inc.**, the Board reviewed the Consent Order as proposed by Respondent counsel. Mr. Varner moved that the Board accept the Consent Order offered for File Numbers 2004-01603 and 2004-01608, which imposes a monetary penalty of \$2,500 for Count 1 and Count 2, plus \$25,000 in Board costs and a monetary donation in the amount of \$10,000 to the Board's educational programs. Macsons, Inc. further agrees to remain in good standing with the EPA and comply with the EPA Compliance Agreement and to notify the Board, in writing, no later than 30 days prior to each board meeting, of any violations of the EPA Agreement; and also agrees to dismiss with prejudice any and all legal proceedings, civil and otherwise, and not to pursue further legal proceedings against the board and its former Board Member Joseph Crockett and Waco, Inc. In consideration of the Consent Order, the Board withdraws the revocations of Macsons' lead and asbestos abatement licenses previously imposed. Ms Daniels seconded the motion which was unanimously approved by the following members: Heppner, Varner, Loving, Bouldin, Daniels, Hill, Hyatt and Sinyai. Ms. Harlow and Mr. Honeycutt were not present for the vote.

David Dick provided the Board with the public comments received during the public comment period on its proposed asbestos regulation amendments and a draft Summary of Public Comment and Agency Response. There were no public comments received during the public comment period on its proposed lead-abatement regulation amendments. The Board reviewed the public comments and the draft Summary of Public Comment and Agency Response.

**Proposed
Regulatory
Amendments**

Mr. Varner moved that the Board adopt the amended Summary of Public Comment and Agency Response for the asbestos regulation amendments. The motion was seconded by Mr.

**Summary of Public
Comment and
Agency Response**

Bouldin and unanimously approved by the following members: Heppner, Varner, Loving, Bouldin, Daniels, Hill, Hyatt and Sinyai. Ms. Harlow and Mr. Honeycutt were not present for the vote.

Adopted

Mr. Loving moved that the board adopt the proposed amendments to the asbestos licensing regulations as final regulations with the following changes:

**Adopt Final
Asbestos Licensing
Regulations**

Amend 18 VAC 15-20-451 E 2

Obtain a written acknowledgment from the owner [or agent of the owner] that the owner [or agent of the owner] has been notified of the requirement to secure the services of a licensed asbestos project monitor. Such acknowledgment must include the address of the building where the asbestos project is to take place; the date the work is to be performed; the name, address, and license number of the licensed asbestos contractor performing the work; and [the signature and date of signature of both the building or property owner and the licensed asbestos contractor evidence that the building or property owner or agent of the owner has received the notification].

Amend 18 VAC 15-20-456

- A. Asbestos project monitors shall conduct inspections of the contractor's work practices and inspections of the containment [~~when the project monitor is present~~].
- B. Asbestos project monitors shall be present on the job site each day [asbestos abatement activities response actions] are being conducted [or in accordance with the owner-approved contractual agreement with the project monitor], shall perform the duties and functions established in 18 VAC 15-20-455, and shall maintain a daily log of all work performed. The daily log shall include, but not be limited to, inspection reports, air sampling data, type of work performed by the contractor, problems encountered and corrective action taken.

Mr. Bouldin seconded the motion which was unanimously approved by the following members: Heppner, Varner, Loving, Bouldin, Daniels, Hill, Hyatt and Sinyai. Ms. Harlow and Mr. Honeycutt were not present for the vote.

**Adopt Final Lead-
Based Activities
Regulations**

Mr. Bouldin moved that the board adopt the proposed amendments to the lead-based paint regulations as final regulations with the following changes:

Amend 18 VAC 15-30-420

B. The training manager shall notify the board at least [~~seven business days~~ 48 hours] prior to the start date of any accredited lead training program. [~~For the purposes of this section, a business day shall mean Monday through Friday with the exception of federal holidays.~~]

C. The training manager shall provide an updated notification when an accredited lead training program will begin on a date other than the start date specified in the original notification as follows:

1. For accredited lead training programs beginning prior to the start date provided to the board, an updated notification must be received by the board at least [~~seven business days~~ 48 hours] before the new start date.
2. For accredited lead training programs beginning after the start date provided to the board, an updated notification must be received by the board at least [~~two business days~~ 48 hours] before the start date provided to the board.

Mr. Loving seconded the motion which was unanimously approved by the following members: Heppner, Varner, Loving, Bouldin, Daniels, Hill, Hyatt and Sinyai. Ms. Harlow and Mr. Honeycutt were not present for the vote.

In the absence of Joseph Kossan, David Dick provided the Board with an update on the training program audit activity.

Other Business

The following meeting dates have been scheduled.

**Confirm Meeting
Dates**

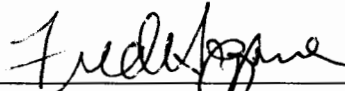
- August 16, 2006
- November 1, 2006

Mr. Heppner asked the Board members to complete their conflict of interest forms and travel vouchers.

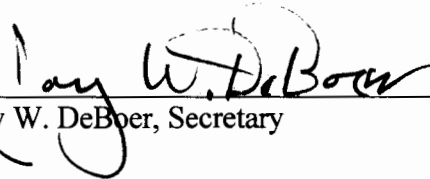
**Conflict of Interest
Forms and Travel
Vouchers**

Chairperson Heppner, finding no further business to conduct, adjourned the meeting at 2:00 PM.

Adjournment



Frederick Heppner, Chairperson



Jay W. DeBoer, Secretary

COPY TESTE:

Custodian of the Records

**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: _____

5/10/06

Signature: _____

Frederick Heppner

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

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

1. Name: Howard D. Varner
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: _____

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

Dated: _____

Signature: _____

Howard D. Varner
May 10, 2006

**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: _____

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: Protectus Home Inspections,

YR/FTA, VAREE, ASHTZ, NAME, ICE

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

Dated: May 10, 2000

Signature: John C. Bouldin

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

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

1. Name: Dolores C. Daniels
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: _____

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

Dated: May 10, 2006

Signature: Dolores C. Daniels

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

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

1. Name: Wendy G. Hill
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: _____

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

Dated:

May 10, 2006

Signature:

Wendy G. Hill

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

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

1. Name: Thomas Joel Loving
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: _____

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

Dated:

5-10-06

Signature:

Thomas Joel Loving

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

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

1. Name: David Bowen Hyatt
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: _____

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

Dated: 5/10/06

Signature: David Bowen Hyatt

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

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

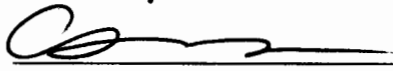
1. Name: Dr. Clayton S. Sinyai
2. Title: Board Member - Asbestos, Lead and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

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: _____

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

Dated: 9 May 2006

Signature: 
Clayton Sinyai