

## MINUTES OF MEETING

### BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS INFORMAL FACT-FINDING CONFERENCES AUGUST 19, 2004

The Board for Asbestos, Lead, and Home Inspectors convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Richard Honeycutt, Board member, presided. No other Board members were present.

Douglas W. Schroder appeared for the Department of Professional and Occupational Regulation.

The conference was 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. Potomac Abatement, Inc.  
File Number 2004-04189 (Disc)

Anthony Farnella – R  
Douglas Lasure – W

2. Potomac Abatement, Inc.  
File Number 2004-04190 (Disc)

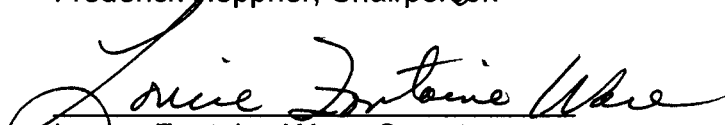
Anthony Farnella – R  
Douglas Lasure – W

The meeting adjourned at 4:45 p.m.

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS



\_\_\_\_\_  
Frederick Heppner, Chairperson



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

COPY TESTE:

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

**IN THE  
COMMONWEALTH OF VIRGINIA**

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

Re: Potomac Abatement, Inc.

File Number: 2004-04189  
License Number: 3306000281

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

On June 2, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was sent, via certified mail, to Anthony Farnella, Sr., President, Potomac Abatement, Inc. to the address of record. The Notice included the Informal Fact-Finding Conference Memorandum ("IFF Memorandum"), which contained the facts regarding the regulatory and/or statutory issues in this matter. The certified mail was signed for and received.

On July 15, 2004, Mr. Farnella called and requested the Informal Fact-Finding Conference ("IFF Conference") be rescheduled since he would be out of town that day. In addition, Mr. Farnella sent a fax letter requesting the IFF Conference be rescheduled.

On July 22, 2004, notification of rescheduling was mailed to Mr. Farnella to his address of record. The certified mail was signed for and received.

On August 19, 2004, the IFF Conference was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF Conference: Anthony Farnella, Sr., Vice-President, Potomac Abatement, Inc., Respondent; Douglas Lasure, President, Potomac Abatement, Inc., Witness; Doug Schroder, Staff Member; and Richard Honeycutt, Presiding Board Member.

**RECOMMENDATION**

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

Count 1: Board Regulation (Effective January 2, 2002)

Potomac's felony convictions are a violation of Board Regulation 18 VAC 15-20-450.A.6. The operations manager for Potomac Abatement obtained a total of

fifty-nine (59) false training certificates for lead and asbestos workers and supervisors. The 59 certificates represented 880 hours of training fraudulently certified for Potomac employees. Of the 59 certificates, 19 were for *initial* training in asbestos/lead work and supervision. The remaining 40 fraudulent certificates were for refreshers. Because of the false certificates submitted to the Board by Potomac, licenses were issued to untrained asbestos supervisors and workers by the Commonwealth of Virginia.

In July of 2000, Potomac performed asbestos abatement and demolition work for Pan American in Washington, D.C. Forty-two (42) workers were without proper training. Potomac worked on other asbestos projects with false training certificates; two of which were in Virginia: Old Salem Village Apartments in Falls Church, and Richmond Plaza in Richmond.

During the IFF Conference, it was determined that Potomac had a small office staff (3 project managers, 1 operations manager, 1 assistant project manager, 1 warehouse manager, and 1 bookkeeper). A small office staff, all working in a central location, knew or should have known that something was amiss with the training.

During the IFF Conference, Farnella indicated that he received no complaints about the work done at the time in question, and that there was an independent industrial hygienist ("IH") monitoring the projects. However, Potomac did not present evidence to prove that an IH was on site during all aspects of all projects to ensure the safety of the public. Additionally, the IH may not have addressed the potential harm to the workers themselves if they were improperly trained. It is particularly concerning that approximately nineteen (19) of the fraudulent training certificates were for initial worker or supervisor training. During the IFF Conference, Farnella stated that Potomac employed approximately 80 workers and supervisors.

During the IFF Conference, Mr. Lasure described the operational and management changes put into place since the training issues came to light. The most significant change described was the reduction in staff. However, there are still no adequate checks and balances in place to ensure an employee is attending training rather than being at a job site.

Therefore, I recommend revocation of Potomac's asbestos contractor's license.

Count 2: Board Regulation (Effective January 2, 2002)

Potomac's failure to report the felony convictions to the Board within 30 days is a violation of Board Regulation 18 VAC 15-20-450.A.7. During the IFF Conference, Potomac indicated that none of the lawyers they had retained in connection with this matter had notified the Board of the conviction or Potomac of its responsibility

to report it. However, it is Potomac's responsibility to know the requirements of the Board's regulations and ensure its compliance with them. Therefore, I recommend that a monetary penalty of \$500.00 be imposed.

By: \_\_\_\_\_  
Richard Honeycutt  
Presiding Board Member

Board for Asbestos, Lead, and Home Inspectors

Date: \_\_\_\_\_

**MONETARY PENALTY TERMS**

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

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

INFORMAL FACT FINDING CONFERENCE MEMORANDUM

TO: Adjudication Section  
BOARD: Board for Asbestos, Lead, and Home Inspectors  
Date: April 19, 2004  
RE: 2004-04189 Board for Asbestos, Lead, and Home Inspectors vs.  
Potomac Abatement, Inc.

LICENSE, CERTIFICATION, OR REGISTRATION NUMBER:  
3306 000281

EXPIRATION DATE OF LICENSE:  
January 31, 2004

INVESTIGATOR: Stacy C. Payne  
ASSISTANT DIRECTOR: M. Wayne Brown

COMMENTS:

License was initially issued on January 29, 1990.

2004-04189 Board for Asbestos, Lead, and Home Inspectors vs. Potomac Abatement, Inc.

1. Violation of Board Regulation (Effective January 2, 2002)

18 VAC 15-20-450(A) (6)

FACTS:

On December 20, 2002, in the United States District Court Eastern District of Virginia, Alexandria Division Potomac Abatement, Inc. was convicted of two counts of False Statements, a felony, in violation of 18 U.S.C. § 1001 and 2. The court sentenced Potomac Abatement, Inc. to 5 years probation, a special assessment of \$800 and \$100,000 fine.

2. Violation of Board Regulation (Effective January 2, 2002)

18 VAC 15-20-450(A) (7)

FACTS:

On December 20, 2002, in the United States District Court Eastern District of Virginia, Alexandria Division Potomac Abatement, Inc. was convicted of two counts of False Statements, a felony, in violation of 18 U.S.C. § 1001 and 2. The court sentenced Potomac Abatement, Inc. to 5 years probation, a special assessment of \$800 and \$100,000 fine. Potomac Abatement, Inc. failed to notify the Board within 30 days of its conviction.

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

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

1. Name: Richard Honeycutt
2. Title: Presiding Officer/Board Member
3. Agency: Asbestos, Lead, and Home Inspectors
4. Transaction: Informal Fact-Finding Conferences on 8/19/04
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:

Lead Corp. Lead & Asbestos Abatement

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

Richard Honeycutt  
Signature

8-19-04  
Date