

MINUTES OF MEETING

VIRGINIA BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS INFORMAL FACT-FINDING CONFERENCES JULY 23, 2003 (11:00 A.M.)

The Virginia 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 L. Honeycutt, Board Member, Presided. No other Board Members were present.

Douglas W. Schroder 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

C=Complainant/Claimant
A=Applicant
R=Respondent/Regulant
Invest=Investigator
W=Witness

Participants

Keystone Environmental Services
File Number 2002-02925 (Disc)
No decision was made.

Orlando Perdomo – R
John Hardin Young – R's Atty
W. Ozmore – Invest.
Carlos Perdomo - W

Keystone Environmental Services
File Number 2002-02927 (Disc)
No decision was made.

Orlando Perdomo – R
John Hardin Young – R's Atty
W. Ozmore – Invest.
Carlos Perdomo - W

Elbert Lee Davis
File Number 2003-00602 (Disc)

Elbert Lee Davis- R
William A. Lascara – R's Atty
N. Matthews - Invest

J & W Sandblasting
File Number 2003-00601 (Disc)

Paul Murphy - R
William A. Lascara – R's Atty
N. Matthews - Invest

The meeting adjourned at 1:45 p.m.

Virginia Board for Asbestos, Lead, and Home Inspectors

Pamela M. Mentz, Chairman

Louise Fontaine Ware, Secretary

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Custodian of Records

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
BOARD FOR ASBESTOS, LEAD AND HOME INSPECTORS**

**IN RE: ELBERT LEE DAVIS
LICENSE NUMBER: 3353 001088
FILE NUMBER: 2003-00602**

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on July 23, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to Elbert Lee Davis on June 13, 2003. The following individuals participated at the conference: Elbert Lee Davis, Respondent; William A. Lascara, Esquire, Attorney for Respondent; Nathan Matthews, Investigator; Douglas Schroder, Staff Member; and Richard L. Honeycutt, presiding Board Member.

Background

On or about December 4, 2001, the City of Franklin, Virginia, as owner, by James P. Council, as Mayor, entered into a construction contract in the amount of \$176,110 with J & W Sandblasting of North Carolina, Inc. (J & W), as contractor, for preparation and painting of an elevated water tank located on College Drive, Franklin, Virginia. The paint removed by J & W from the elevated water tank contained a lead content of at least 13.7%.

Summation of Facts

1. On June 7, 2002, Jeannie Buckingham (Buckingham), Occupational Health Senior Compliance Officer, Virginia Occupational Safety & Health Division of the Virginia Department of Labor and Industry, inspected J & W while the company was engaged in the removal of paint containing lead from an elevated water tank, located on College Drive in Franklin, Virginia.
2. Buckingham's inspection revealed that three of the individuals on site that day, Gabriel Garcia, Samuel Tutt and Adam Brown, who were engaged in sandblasting activities or general labor relating to the sandblasting activities to include clean-up of spent abrasives contaminated with lead contaminated paint, did not have a lead worker or supervisor license issued by the Virginia Department of Professional and Occupational Regulation. Also on-site that day, was Lee Davis (Davis), the licensed lead supervisor, employed by J & W, who was supervising the lead abatement project.
3. Davis allowed employees of J & W to act as lead workers on a lead abatement project without lead worker licenses.

Conclusion and Recommendation

Count 1: Code of Virginia § 54.1-516(A)(2) to wit: § 54.1-503(C)

Davis' actions of allowing employees of J & W to act as lead workers on a lead abatement project without lead worker licenses is a violation of Code of Virginia § 54.1-516(A)(2) to wit: § 54.1-503(C) of the Virginia Code. I recommend a monetary penalty of \$2,500.00 be imposed for the violation of the regulation.

By: _____

Richard L. Honeycutt
Presiding IFF Board Member
Board for Asbestos, Lead and
Home Inspectors

Date: July 23, 2003

FINAL ORDER RECOMMENDATION

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 LICENSE (LICENSE NO. 3353 001088) UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION**

BOARD FOR ASBESTOS, LEAD AND HOME INSPECTORS

**IN RE: J & W SANDBLASTING OF NORTH CAROLINA, INC.
LICENSE NUMBER: 3358 000150**

FILE NUMBER: 2003-00602

Summary of the Informal Fact-Finding Conference

An Informal Fact-Finding Conference (IFF) was convened on July 23, 2003, at the Department of Professional and Occupational Regulation, pursuant to a Notice of Informal Fact-Finding Conference sent by certified mail to J & W Sandblasting of North Carolina, Inc. (J & W) on June 12, 2003. The following individuals participated at the conference: Paul Murphy, on behalf of J & W, Respondent, William A. Lascara, Esquire, Attorney for Respondent; Nathan Matthews, Investigator; Douglas Schroder, Staff Member; and Richard L. Honeycutt, presiding Board Member.

Background

On or about December 4, 2001, the City of Franklin, Virginia, as owner, by James P. Councill, as Mayor, entered into a construction contract in the amount of \$176,110 with J & W Sandblasting of North Carolina, Inc. (J & W), as contractor, for preparation and painting of an elevated water tank located on College Drive, Franklin, Virginia. The paint removed by J & W from the elevated water tank contained a lead paint content of at least 13.7%.

Summation of Facts

1. On June 7, 2002, Jeannie Buckingham, Occupational Health Senior Compliance Officer, Virginia Occupational Safety & Health Division of the Virginia Department of Labor and Industry, inspected J & W Sandblasting of North Carolina, Inc. while they were engaged in the removal of paint containing lead from an elevated water tank, located on College Drive in Franklin, Virginia.
2. Buckingham's inspection revealed that three of the individuals on site that day, Gabriel Garcia, Samuel Tutt and Adam Brown, who were engaged in sandblasting activities or general labor relating to the sandblasting activities to include clean-up of spent abrasives contaminated with lead contaminated paint, did not have a lead worker or supervisor license issued by the Virginia Department of Professional and Occupational Regulation. Also on-site that day, was Lee Davis (Davis), J & W's licensed lead supervisor, who was supervising the job.
3. J & W allowed employees without lead worker licenses to work on a lead abatement project.

Conclusion and Recommendation

Count 1: Code of Virginia § 54.1-516(B)(ii) (Three Violations)

J & W's actions of allowing three employees to work on a lead abatement project without lead worker licenses is a violation of Code of Virginia § 54.1-516(B)(ii) of the Virginia Code (Three violations). I recommend a monetary penalty of \$1,500.00 be imposed for the First Violation; \$1,500.00 for the Second Violation and \$1,500.00 for the Third Violation for a total of \$4,500.00.

By: _____

Richard L. Honeycutt
Presiding IFF Board Member
Board for Asbestos, Lead and
Home Inspectors

Date: July 23, 2003

FINAL ORDER RECOMMENDATION

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 LICENSE (LICENSE NO. 3358 000150) UNTIL SUCH TIME AS SAID AMOUNT IS PAID IN FULL.