

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

The Virginia Board for Asbestos, Lead, and Home Inspectors met on May 18, 2005 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
Joseph W. Crockett
P. Bradley Nott, Jr.
Howard D. Varner
John C. Bouldin
Dolores C. Daniels
Thomas Joel Loving
Wendy G. Hill
Vickie Harlow

Board member Richard L. Honeycutt was unable to attend the meeting.

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

Louise Fontaine Ware, Director
Karen O'Neal, Deputy Director for LRD
David Dick, Executive Director
Joseph Kossan, Regulatory Boards Administrator
Earlyne Perkins, Legal Assistant
Marilyn Mandel, Administrative Assistant

Others who attended the meeting included:

Stephen McCloud, Representing Macsons, Inc., Respondent
Glen Huff, Counsel for Macsons, Inc.
Paul Schmidt, Counsel for Macsons, Inc.
R. Leonard Vance, Counsel for Metropolitan Laboratories, Inc.
Helen Yarbrough, Cook & Wiley-Court Reporter for Macsons, Inc.

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

Chairperson Heppner, finding a quorum of the Board present, **Call to Order** called the meeting to order at 9:15AM.

Mr. Crockett moved that the Board approve the agenda as prepared by staff. Mr. Bouldin seconded the motion, which was unanimously approved by the following members: Heppner, Crockett, Nott, Varner, Harlow, Hill, Loving, Bouldin and Daniels.

Adopt Agenda

Mr. Crockett moved that the Board approve the minutes of its February 16, 2005 meeting and the IFF minutes of February 16, 2005 and March 17, 2005. Mr. Bouldin seconded the motion which was unanimously approved by the following members: Heppner, Crockett, Nott, Varner, Harlow, Hill, Loving, Bouldin and Daniels.

Approval of Board Minutes

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

Public Comment Period

Mr. Crockett recused himself and did not participate in the discussion or vote.

File Numbers

2004-01603

2004-01608

The Board agreed without dissent to review File Numbers 2004-01603 and 2004-01608 together. Counsel for Macsons, Inc. agreed.

In the matter of **File Numbers 2004-01603 and 2004-01608, Macsons, Inc.**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFFs and the presiding Board member's summary and recommendation. Mr. Huff and Mr. Schmidt, Counsel for Macsons, Inc., were present and addressed the Board. Stephen McCloud, President of Macsons, Inc. (Respondent) was present and also addressed the Board.

Mr. Nott moved that the meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of consultation with legal counsel and briefings by staff pertaining to actual or probable litigation as permitted by § 2.2-3711.A.7 of the *Code of Virginia* and for the purpose of deliberation on disciplinary cases resulting from IFF or formal hearings in order to reach a decision as permitted by § 2.2-3711.A.28 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 and David Dick. This motion is made with respect to the matter identified as agenda item V.5 and V.6. Mr. Bouldin

Closed Meeting Actual and Probable Litigation, Deliberate on Disciplinary Cases

seconded the motion, which was approved by the following members: Heppner, Nott, Varner, Harlow, Hill, Loving, Bouldin and Daniels. Mr. Crockett recused himself of any discussion during the closed meeting.

Mr. Loving 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. Ms. Hill seconded the motion, which was approved by the following members: Heppner, Nott, Varner, Harlow, Hill, Loving, Bouldin and Daniels. Mr. Crockett recused himself of any discussion during the closed meeting.

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: Howard Varner, Thomas J. Loving, Wendy Hill, Vickie Harlow, Frederick Heppner, P. Bradley Nott, John C. Bouldin, Jr., Delores C. Daniels.

NAYS: None

ABSENT DURING VOTE: Joseph Crockett

ABSENT DURING MEETING: Richard L. Honeycutt

Mr. Varner moved that the Board reject the Consent Order offer and consider entry of a final order in File Number 2004-01603. Mrs. Daniels seconded the motion, which was unanimously approved by the following members: Heppner, Nott, Varner, Harlow, Hill, Loving, Bouldin and Daniels. Mr. Crockett recused himself and did not participate in the discussion or vote. Mr. Honeycutt was not in attendance.

File Numbers
2004-01603
2004-01608

Mr. Varner moved that the Board adopt the summary and the conclusion of the presiding Board member from the March 17, 2005 IFF in File Number 2004-01603 for Count 1 that Macsons, Inc. violated 18 VAC 15-20-450.A.6 of the Board's January 2, 2002 regulations. Mrs. Daniels seconded the motion, which was unanimously approved by the following members: Heppner, Nott, Varner, Harlow, Hill, Loving, Bouldin and Daniels. Mr. Crockett recused himself and did not participate in the discussion or vote. Mr. Honeycutt was not in attendance.

Mr. Varner moved that the Board accept the recommendation of the presiding Board member from the March 17, 2005 IFF in File Number 2004-01603 for Count 1 that Macsons Inc.'s Asbestos Contractor License (3306-000657) is revoked and that the last sentence of the sixth paragraph "Therefore, it appears that the cases...in the Macsons' case." and the last sentence in the seventh paragraph "Further I believe...not to be continued." are rejected. Mrs. Daniels seconded the motion, which was unanimously approved by the following members: Heppner, Nott, Varner, Harlow, Hill, Loving, Bouldin and Daniels. Mr. Crockett recused himself and did not participate in the discussion or vote. Mr. Honeycutt was not in attendance.

Mr. Varner moved that the Board reject the Consent Order offer and consider entry of a final order in File Number 2004-01608. Mrs. Daniels seconded the motion, which was unanimously approved by the following members: Heppner, Nott, Varner, Harlow, Hill, Loving, Bouldin and Daniels. Mr. Crockett recused himself and did not participate in the discussion or vote. Mr. Honeycutt was not in attendance.

Mr. Varner moved that the Board adopt the summary and the conclusion of the presiding Board member from the March 17, 2005 IFF in File Number 2004-01608 for Count 1 that Macsons, Inc. violated 18 VAC 15-30-810.A.6 of the Board's October 1,

1995 regulations. Mrs. Daniels seconded the motion, which was unanimously approved by the following members: Heppner, Nott, Varner, Harlow, Hill, Loving, Bouldin and Daniels. Mr. Crockett recused himself and did not participate in the discussion or vote. Mr. Honeycutt was not in attendance.

Mr. Varner moved that the Board accept the recommendation of the presiding Board member from the March 17, 2005 IFF in File Number 2004-01608 for Count 1 that Macsons Inc.'s Lead Contractor License (3358-000084) is revoked and that the last sentence of the sixth paragraph "Therefore, it appears that the cases...in the Macsons' case." and the last sentence in the seventh paragraph "Further I believe...not to be continued." are rejected. Mrs. Daniels seconded the motion, which was unanimously approved by the following members: Heppner, Nott, Varner, Harlow, Hill, Loving, Bouldin and Daniels. Mr. Crockett recused himself and did not participate in the discussion or vote. Mr. Honeycutt was not in attendance.

The Board agreed without dissent to review File Numbers 2004-01673, 2004-01674 and 2004-01675 together. Counsel for Metropolitan Laboratories, Inc. agreed.

File Numbers
2004-01673
2004-01674
2004-01675

In the matter of **File Numbers 2004-01673, 2004-01674, and 2004-01675, Metropolitan Laboratories, Inc.**, the Board reviewed the Consent Orders offered to and signed by Metropolitan Laboratories, Inc. (Respondent). Mr. R. Leonard Vance, Counsel for Metropolitan Laboratories, Inc. was present and addressed the Board.

Mr. Nott moved that the Board accept the Consent Order offered for File Number 2004-01673, which imposes a monetary penalty of \$1,000 for Count 1 plus \$100 in Board costs; that the Board accept the Consent Order offered for File Number 2004-01674 which imposes a monetary penalty of \$1,000 for Count 2 plus \$100 in Board costs; and, that the Board accept the Consent Order offered for File Number 2004-01675 which imposes a monetary penalty of \$1,000 for Count 5 plus \$100 in Board costs, totaling \$3,300 and Metropolitan Laboratories, Inc. further agrees to comply fully with the Board's Regulations governing asbestos and lead training programs. Mr. Loving seconded the motion which was approved by the following members: Heppner, Nott, Varner, Loving, Bouldin and Daniels. Mr. Crockett and Ms. Hill abstained. Ms. Harlow recused herself and did not participate in

the discussion or vote. Mr. Honeycutt was not in attendance.

In the matter of **File Numbers 2005-02236 and 2005-02237, LVI Services of North Carolina, Inc.**, the Board reviewed the record, which consisted of the application file, transcript and exhibits from the IFF and the presiding Board member's summary and recommendation. No representative of LVI Services of North Carolina, Inc. (Respondent) was present. Mr. Crockett moved that the Board accept the summary and recommendations of the presiding board member with a correction of a misplaced decimal in the last sentence of the last paragraph of Recommendation #1, File Numbers 2005-02236 and 2005-02237 to change ". . .(less than 0.45 F/CC)" to read ". . . (less than .045 F/CC)" and approve the asbestos contractor license application and lead contractor license application for LVI Services of North Carolina, Inc. Mr. Nott seconded the motion which was unanimously approved by the following members: Heppner, Nott, Varner, Loving, Bouldin, Daniels, Crockett, Hill and Harlow.

File Numbers
2005-02236
2005-02237

In the matter of **File Number 2004-03638, Eagle Environmental Training School**, the Board reviewed the Consent Order which was offered to the Respondent, Eagle Environmental Training School. Ms. Harlow moved that the Board reject the Consent Order and present a revised Consent Order with an increased penalty on Count 1 for violation of *Code of Virginia* §54.1-516, in the amount of \$2,500; and, if rejected by Respondent, the matter is to be referred to an Informal Fact-Finding Conference. Mr. Nott seconded the motion which was approved by the following members: Heppner, Nott, Varner, Loving, Bouldin, Daniels, Hill and Harlow. Mr. Crockett abstained.

File Number
2004-03638

David Dick presented the staff's response regarding the public comments offered by Angela Mulleano and Colleen Becker at the February 16, 2005 ALHI Board Meeting. The Board took no action.

Other Business

Mr. Crockett moved that the Board adopt the following resolution:

**Department of Professional and
Occupational Regulation**

Board for Asbestos, Lead, and Home Inspectors

Resolution To

Thomas K. Perry

WHEREAS, Thomas K. Perry, has faithfully and diligently served as the Assistant Administrator for the Board for Asbestos, Lead and Home Inspectors from February 10, 2000 to March 9, 2005; and

WHEREAS, Thomas K. Perry, has made significant contributions to the implementation of the Home Inspector regulatory program and to the continued operation of all three of the Board's regulatory programs, and

WHEREAS, Thomas K. Perry, did always strive to provide excellent customer service to the people of the Commonwealth of Virginia and especially to those regulated by the Board; and

WHEREAS, the Board wishes to acknowledge its gratitude and deepest appreciation for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth.

NOW THEREFORE BE IT RESOLVED, by the Board for Asbestos, Lead, and Home Inspectors this eighteenth day of May, 2005 that Thomas K. Perry be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens and the Board for Asbestos, Lead, and Home Inspectors; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held.

Ms. Harlow seconded the motion, which was unanimously approved by the following members: Crockett, Varner, Nott, Honeycutt, Loving, Heppner, Bouldin, Hill, Harlow and Daniels.

David Dick advised the Board that their proposed amendments to the Asbestos Licensing Regulations and the Lead-Based Paint Activities Regulations were still undergoing policy review by the Department of Planning and Budget.

Regulatory Action

The following meeting dates have been scheduled.

Confirm Meeting Dates

- August 17, 2005
- November 2, 2005
- February 8, 2006
- May 10, 2006

- August 16, 2006
- November 1, 2006

Karen O'Neal made a presentation to the Board of the Commonwealth's Regulatory Review process. **New Board Member Training**

Mr. Heppner asked the Board members to complete their conflict of interest forms and travel vouchers. **Conflict of Interest Forms and Travel Vouchers**

Mr. Heppner, finding no further business to conduct, adjourned the meeting. **Adjournment**



Frederick Heppner, Chairperson



Louise Fontaine Ware, 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: 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: _____

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: _____

employee of MCS. Angelo Mullano situation

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

Dated: 05/18/05

Signature: Vickie A. Harlow

**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: 5/18/05

Signature: 

**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 18, 2005

Signature: Dolores C. Daniels

**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: 5/18/05

Signature: Fred Heppner

**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
CONTRACTING
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 ;
ASBESTOS + LEAD CONTRACTOR
 - (b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: 8-18-05

Signature: Joseph W. Crockett

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

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

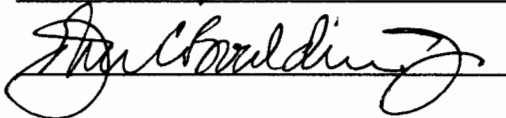
1. Name: John C. Bouldin
2. Title: Board Member - Asbestos, Lead and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

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: ASHI, NAHI, VAREI, NAVA ASHI, I.T.A., Protects Home Inspections, ICC

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

Dated: 5/18/05

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: 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:

P. Bradley Nott, Jr.
MAY 18, 2005

**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: 2004-D1603, 2004-01608

6. I declare that:

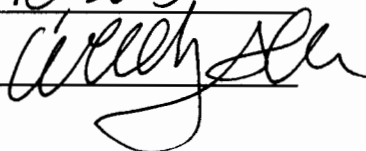
(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

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

Dated:

May 18 2005

Signature:



I have no transactions with Macsons. I have prepared technical specifications which are placed in a bid package prepared by architectural firms and then put out to bid. Macsons on occasion has been low bid on some projects.

**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: _____

NONE

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

Dated: _____

May 18, 2005

Signature: _____

Howard D. Varner