

**South Carolina Residential Builders Commission
Board Meeting Minutes, Wednesday, June 14, 2006 – 10:00 am
Synergy Business Park, Kingstree Building
Columbia, South Carolina**

MEMBERS PRESENT

**John Curl
Al Bailey
Frank Clark
Caleb Davis
Timothy Roberts
Derrick Williams**

OTHERS PRESENT

**Rick Wilson, Deputy General Counsel
Louis Rosen, Hearing Advisor
Kent Lesesne, Staff Attorney
Bob Selman, ADD
Gary Wiggins, Building Codes Counsel
Charles IDO, Chief of Investigations, OIE
Christine Driver, Administrative Assistant
Patrice Deas, Administrative Assistant
Faye Grainger, Court Reporter**

MEMBERS ABSENT

Gale Crawford

Public Notice of this meeting was properly posted at the Board office and provided to any requesting persons, organizations, or news media in compliance with Section 30-4-80 of the S. C. Freedom of Information Act. A quorum was present at all times.

Call to Order

Mr. John Curl, Chairman, called the meeting to order.

Approval of Minutes

Motion: Mr. Davis moved to approve the minutes of April 12, 2006 meeting. Mr. Bailey seconded the motion, and with all members present voting favorably, the motion carried.

Approval of Recommendations of Investigative Review Committee

Motion: Mr. Bailey moved to approve the recommendations of the Investigative Review Committee, dated April 4, 2006 and May 2, 2006. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Approval of Recommendations of the Administrative Hearing Officer, David Bennett, for Citation

Appeals

Motion: Mr. Bailey moved to approve the recommendations of the Administrative Hearing Officer, David Bennett, Citation Appeals on behalf of Reginald D. Wood, Michael Kinloch, and Harold Young. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Approve Recommendation of Administrative Hearing Officer, David Bennett, for Bond Hearings

Motion: Mr. Davis moved to approve the recommendations of the Administrative Hearing Officer, David Bennett, Bond Hearings on behalf of Thomas Rogers, Trey Seabrook, Marion C. Galphin, and Marion C. Galphin. Mr. Bailey seconded the motion, and with all members present voting favorably, the motion carried.

Approve Recommendations of Administrator, Charles McAlister, for Bond Claims

Motion: Mr. Bailey moved to approve the recommendations of the Administrator, Charles McAlister, for Bond Claims on behalf of Joe L. Small, Angela Fahey, Crystal Waldrop, and Larry J. Bledsoe. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Application Review

Cecil D. Clark – Although the record shows that he was properly notified of this hearing Mr. Clark did not appear at the appointed time.

Todd Logan – Mr. Wilson informed the Commission that Mr. Logan is here today because he answered yes on this application for a criminal conviction. Mr. Logan stated that he was arrested, on September 28, 1990, for third degree murder for killing someone in a bar fight. Mr. Logan stated that he served fourteen year in prison. While in prison he spent his free time educating himself to be a productive citizen by taking courses in electronics, electricity, plumbing, masonry and carpentry.

Motion: Mr. Davis moved to allow Mr. Logan to become registered as a residential specialty contractor provided he submit to the Commission a letter of recommendation from his current employer stating how long he has worked for him, what type of work he has been doing, and his character. Mr. Clark seconded the motion, and with all members present voting favorably, the motion carried.

Request for Reinstatement of License

Donald B. Collins – Mr. Collins informed the Commission that he entered into a Consent Agreement, on September 26, 2005, in which he was to pay a fine of Seven Hundred and Fifty (\$750.00) Dollars within thirty (30) days of the date of the Order. Notify the Commission of any projects already in progress in writing within 24 hours of notice of suspension. Make corrections outlined in the inspection report within thirty (30) days of the date of the Order. Mr. Collins stated that he did not comply with the Consent Agreement within the thirty (30) day time frame and his license was suspended.

Mr. Collins informed the Commission that he has satisfactory complied with the Consent Agreement dated, September 26, 2005, by paying the Seven Hundred and Fifty (\$75.00) Dollar fine, notified the Commission of all pending project, and made corrections to Mr. Jones's home as outlined in the inspection report.

Motion: Mr. Davis moved to reinstate Mr. Collins license to active status. Mr. Clark seconded the motion, and with all members present voting favorably, the motion carried.

Obie E. Bagley – Mr. Bagley informed the Commission that he is requesting that his specialty registration be reinstated in order for him to provide for his family. Mr. Bagley stated that his registration expired, on June 30, 2005.

Motion: Mr. Davis moved to reinstate Mr. Bagley's residential specialty registration provided he submits a surety bond acceptable to the Commission in the amount of Five Thousand (\$5,000.00) Dollars. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Certificate of Authorization

Jim Brodeur, Faye Brodeur, and Holley Wallace – Mr. Lesesne informed the Commission that a complaint was lodged by a consumer who entered into an agreement with Shandon Construction to perform an addition to their existing home. As a result of the complaint being lodged and an investigation by Sharon Cook it was determined that Shandon Construction and the individual that signed the contract, as Shandon Construction was Holley Wallace. Holley Wallace at one time held a residential specialty contractors registration with the Commission. That registration was current at the time the contract was signed and has lapsed. Mr. James Brodeur who is a licensed residential builder with the Commission, and Mr. Holley Wallace were in a partnership. Mr. Wallace being a 100% shareholder in a company called the Wallace Company. Mr. James Brodeur and Mrs. Faye Brodeur own a company by the name of New Image Renovations. Through a corporate trust they joined the companies together to form a company by the name of Shandon Construction. At the time they had the company structured with a 50/50 agreement in terms as how the profits are split. It was our position based on what we saw at the time and three citations were issued. One to Mr. James Brodeur for aiding and abetting, one to Holley Wallace for unlicensed practice, and one to Mrs. Faye Brodeur based on her association with the entity for unlicensed practice. After further investigation it was determined that Mrs. Brodeur's association with the entity was in name only she had no involvement with the construction and does not hold a license.

Mr. Lesesne further stated that the citations were appealed and that they have reached an agreement in this matter. The Agreement is as follows:

In the Matter of James Brodeur:

1. The Department moves to amend the alleged violation for Citation 754 to Section 40-59-410 (failure to obtain a certificate of authorization for corporate practice) and to amend the penalty to One Hundred Twenty-five (\$125.00) Dollars.

2. Respondent moves to withdraw the Notice of Protest.
3. Respondent agrees to remit the penalty of One Hundred Twenty-five (R125.00) Dollars to the Commission not more than ten (10) days from the date of this Agreement. Said penalty shall not be deemed paid until received by the Commission.

In the Matter of Faye Brodeur:

1. The Department moves to withdraw the Citation 755 and dismiss the matter in its entirety.
2. Respondent moves to withdraw the Notice of Protest.

In the Matter of Holley Wallace:

1. The Department moves to amend the alleged violation for Citation 753 to Section 40-59-410 of the 1976 Code of Laws of South Carolina, as amended (failure to obtain a certificate of authorization for corporate practice) and to amend the penalty to One Hundred Twenty-five (\$120.00) Dollars.
2. Respondent moves to withdraw the Notice of Protest.
3. Respondent agrees to remit the penalty of One Hundred Twenty-five (\$125.00) to the Commission not more than ten (10) days from the date of this Agreement. Said penalty shall not be deemed paid until received by the Commission.

Mr. Joseph M. McCulloch, Jr. informed the Commission that Mr. Brodeur and Mr. Wallace did not have a Certificate of Authority at the time they entered into the contract, but were both licensed by the Commission.

Motion: Mr. Bailey moved to approve the proposed agreement to withdraw the citation against Faye Brodeur and the citation for James Brodeur and Holley Wallace be amended to reflect failure to obtain a Certificate of Authorization and violation of Section 49-59-410. Mr. Williams seconded the motion, and with all members present voting favorably, the motion carried.

Mr. McCulloch informed the Commission the Mr. Brodeur and Mr. Wallace both held a license since 1997, however Mr. Wallace registration is not current at this time. There have been no citations or appearances before this board. Their failure to have the Certificate of Authorization is serious, but since that time they have made extensive efforts to receive a Certificate of Authorization, which has a predicate requirement of a bond. The bonding companies have declined to issue them a bond for Shandon Construction. The bonding companies will not write a bond for the small companies, but will write a bond for the larger corporations. After many attempts to secure a bond for the corporation in order to apply for a Certificate of Authorization they have been unable to obtain a bond.

Mr. McCulloch further advised that they have revised the corporate structures of Mr. Brodeur's corporation, which at that time he held 49% interest and his wife held 51% interest on the advice of a CPA. The corporate structure has been revised and the partnership has been revised so that now Mr. Brodeur

has 51% interest in this partnership doing business as Shandon Construction. This was done in an effort to comply with the Certificate of Authorization law, which includes those percentages, because they cannot get a bond in order to comply with the Certificate of Authorization. Mr. McCulloch further stated that there is a law suite pending at this time. In that litigation the complainants noted the citations and failure to have a Certificate of Authorization and if you do not have a license you have no recourse.

Mr. Curl informed Mr. McCullough that this Commission license individuals. The state has large companies that hired employees that would oversee the construction and pull the permits and then the large companies would leave the state and leave the employee holding the liabilities. Therefore the Certificate of Authorization was made into law so that we would have someone other than the licensee for that company responsible.

Motion: Mr. Davis moved to reduce the fine for James Brodeur to \$125.00 and Holley Wallace to \$125.00, because they were properly licensed at the time they entered into the agreement. Mr. Bailey seconded the motion, and with all members present voting favorably, the motion carried.

Mr. Curl stated the Commission would take the issue of bonding for Certificates of Authorization under advisement at a later time.

Absence of Member:

The Chairman reported that Gale Crawford asked to be excused from the meeting.

Motion: Mr. Bailey moved to excuse Ms. Crawford's absence. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

New Business

Mr. Curl introduced the draft of proposed procedures concerning approval of home inspector schools prepared by Mr. McAlister for review. Mr. Selman stated that the law requires home inspector schools to be approved by the Commission. Once the schools were approved there was never a follow up. Under these procedures all approved schools will be re-evaluated ever three years. The schools must resubmit their required syllabus information. Failure to do so would remove the school from the approved list of schools.

Motion: Mr. Clark made a motion to approve the draft of proposed procedures concerning approval of home inspectors schools as a policy. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Policy: Criteria for Review of Home Inspector Schools

Mr. Curl informed the Commission of an upcoming NASCLA Conference on August 22 – August 26, and that LLR has approved two commissioners to attend this conference.

Motion: Mr. Bailey made a motion to allow John Curl and Derrick Williams to attend the NASCLA Conference in August. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Mr. Curl presented to the Commission a copy of the Contractor Guide to Business, Law and Project Management, SC Residential Builders Fifth Edition for approval.

Motion: Mr. Davis moved to approve the Contractor Guide to Business, Law and Project Management, SC Residential Builders Fifth Edition. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Gale K. Bell – Mr. Gale Bell presented to the Commission the Accounting Practitioners role in preparation of Financial Statements for Boards, Commission, Financial Institutions or any other third party with interest in financial positions of certain company's. Accounting Practitioners are licensed by the State of South Carolina. They can prepare Compilation Reports, but not Reviews or Audits. When the Commission made the decision to only allow reviewed reports, you cut the Accounting Practitioner out of the process. Only licensed CPA's can prepare reviewed statements. Mr. Bell is asking the Commission to change the policy to allow Accounting Practitioners to continue doing the compiled statements.

Mr. Curl stated that the Commission would not change anything at this time, and this matter will be taken under advisement.

Mr. Clark informed the Commission that while he was at the BOASC meeting in May that he was approached by code officials concerning the scope of practice of a licensed residential builder and a specialty contractor. If you are a licensed builder you can subcontract electrical work from another builder all though you are not a licensed electrician. The scope of a licensed residential builder is to cover all specialty classifications. Mr. Clark is asking that the Commission review this decision again for further clarification.

Mr. Curl stated that since we have started licensing electricians, licensing HVAC, and licensing plumbers. Somewhere along the line the code officials started interrupting the law that even though you were a licensed builder you had to have a license to do one of the other trades even though the law says if you are a licensed builder you can do all aspects of construction.

Unfinished Business

None

Adjournment

There being no further business, the business meeting for June 14, 2006 concluded at 11:07 a.m.

The next scheduled board meeting will be held on July 12, 2006, at 10:00 a.m. Synergy Business Park, Kingstree Building, Room 108. (Note: Subject to Change)

Hearings

Mr. Curl called the hearings to order. Mr. Louis Rosen was the hearing advisor. Mr. Kent Lesesne represented the state.

Approve Recommendations of Administrative Hearing Officers, John Curl and Frank Clark, for Administrative Hearings

Larry Simpson – This matter was heard before John Curl, Administrative Hearing Officer, on March 16, 2006. Mr. Curl's recommendation was as follows:

1. The Respondent pays a fine of One Thousand Dollars (\$1,000) within six months of the date of this order is served upon him or his attorney. This fine shall not be deemed paid until received by the Commission. Failure to pay the fine within the time allowed shall result in the continued suspension of his registration until such time as the fine is paid.
2. The Respondent's registration to engage in the practice of residential specialty contracting shall be suspended for a period of six months from the date this order is served upon him or his attorney.
3. Prior to re-licensure, the Respondent must obtain a surety bond satisfactory to the Commission.
4. A Cease and Desist Order is hereby issued to the Respondent, pursuant to S.C. Code Ann. 40-59-100, requiring the Respondent to cease and desist from engaging in the practice of residential home building and residential specialty contracting while his license is suspended.
5. This order is to take effect upon the service of the order upon the Respondent or his attorney.

Mr. John Curl recused himself from voting because he was the hearing officer in this matter.

Motion Mr. Davis moved to approve John Curl's, Administrative Hearing Officer's Recommendation for Larry Simpson. Mr. Bailey seconded the motion, and with all members present voting favorably, the motion carried.

Larry Simpson – This matter was heard before John Curl, Administrative Hearing Officer, on March 16, 2006. Mr. Curl's recommendation was as follows:

1. The Respondent shall pay a fine of Two Thousand Five Hundred (\$2,500.00) Dollars. This fine shall not be deemed paid until received by the Commission.
2. The Respondent's registration as a residential specialty contractor shall be, and it hereby is, revoked. The Respondent is directed to return his pocket card to the Commission's offices within seven (7) days of the service of this order upon him.
3. If the Respondent reapplies in the future for licensure, he must appear before the Commission, and answer to the Commission for his incompetence and misconduct in this matter. At this time, the Respondent shall appear before the Commission and present, among other matters, evidence

satisfactory to the Commission, in its discretion, regarding the Respondent's fitness and qualifications to be registered as a residential specialty contractor in this state. At that time, the Commission, in its discretion, may deny licensure, require passage of an examination, discretion, may deny licensure, require passage of an examination, among other requirements, or impose such additional terms and among other requirements, or impose such additional terms and conditions upon the Respondent's registration as it may deem appropriate.

4. A Cease and Desist Order is hereby issued to the Respondent, pursuant to S.C. Code Ann 40-59-100, requiring the Respondent to cease and desist from engaging in the practice of residential home building and residential specialty contracting.
5. This order is to take effect upon service of the order upon the Respondent or his attorney.

Mr. John Curl recused himself from voting because he was the hearing officer in this matter.

Motion Mr. Davis moved to approve John Curl, Administrative Hearing Officer's Recommendation for Larry Simpson. Mr. Bailey seconded the motion, and with all members present voting favorably, the motion carried.

James Sherfield – This matter was heard before Frank Clark, Administrative Hearing Officer, on April 18, 2006. Mr. Clark's recommendation was as follows:

1. The Respondent pay a fine of Three Thousand Five Hundred (\$3,500.00) within thirty days of the service of this order upon him. This fine shall not be deemed paid until received by the Commission. Failure to pay the fine shall prevent the Respondent from being re-registered
2. .The Respondent's registration as a residential specialty contractor is, and it hereby is, suspended indefinitely.
3. If the Respondent reapplies in the future for licensure, he must appear before the Commission, and answer to the Commission for his incompetence and misconduct in this matter. At that time, among other matters, evidence satisfactory to the Commission, in its discretion, regarding the Respondent's fitness and qualifications to be registered as a residential specialty contractor in this state. At that time, the Commission, in its discretion, may deny licensure, require a bond, require passage of an examination, among other requirements, or impose such additional terms and conditions upon the Respondent's registration as it may deem appropriate.
4. A Cease and Desist Order is hereby issued to the Respondent, pursuant to S.C. Code Ann 40-59-100, requiring the Respondent to cease and desist from engaging in the practice of residential home building and residential specialty contracting.
5. This order is to take effect upon the service of the order on the Respondent.

Mr. Frank Clark recused himself from voting because he was the hearing officer in this matter.

Motion Mr. Bailey moved to approve Frank Clark, Administrative Hearing Officer's Recommendation for James Sherfield. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Transcripts of these hearings may be obtained from Faye Grainger, Certified Court Reporter.

