

SOUTH CAROLINA CONTRACTOR'S LICENSING BOARD

**Synergy Business Park, Kingstree Building
110 Centerview Drive, Kingstree Building, Room 202-02
Columbia, South Carolina 29210**

Minutes

Thursday, July 17, 2009

10:00 a.m.

Kim Lineberger, Vice-Chairman announced that the meeting was held in accordance with §30-4-80 of the South Carolina Freedom of Information Act by notice mailed to all requesting persons, organizations, and news media. In addition, notice was posted on the bulletin boards at the main entrance of the Kingstree Building.

WELCOME AND CALL TO ORDER:

Kim Lineberger, Vice-Chairman, called the regular meeting of the Contractor's Licensing Board to order at 10:00 a.m. Other members present for the meeting included: Bill Neely, Douglas Greer, Mark Plyler, Lewis Caswell, and Wendi Nance.

Staff members participating in the meeting included: Sheridan Spoon, Deputy General Counsel, Suzann Hawkins, Staff Attorney, Michael Anderson, Administrator, Joyce Thurber, Program Coordinator, Angela Scott, Administrative Assistant, Ron Spiker, Investigator and Eric Gore, Court Reporter

Others present participating in the meeting included: Robert Trammell, Ryan Phillips, Kenneth Anthony, Jr., Jimmy Epting, Larry Barnwell, Larry Fink, Robert Scroggs and Richard Mitchell.

Approval of Agenda:

Thursday July 16, 2009

Motion

Mr. Caswell moved to approve the Thursday, July 16, 2009, Agenda as previously noted. Ms. Nance seconded the motion, which carried unanimously.

Approval of Minutes:

Thursday, April 16, 2009

Motion

Mr. Neeley moved to approve the Wednesday, April 16, 2009, meeting minutes. Mr. Caswell seconded the motion, which carried unanimously.

Excused Members:

Mr. Daniel Lehman received an excused absence.

Chairman's Remarks:

Kim Lineberger

NONE

Administrator's Remarks:

Michael Anderson

1. **NASCLA** - Mr. Anderson reported that he and Mr. Stan Bowen will be attending the NASCLA 2009 Annual Conference September 15-18, 2009 in Nashville, Tennessee. He reported that two Board members may attend. There will be sessions which are applicable to state members, board members, contractors and staff who are involved in regulating the construction industry.
2. **PSI Report** – Mr. Anderson reported that he receive a monthly report from PSI stating the number of attendees whom passed or failed and the exam classification.
3. **Customer Care Center** – Mr. Anderson reported that the Customer Care Center is a part of the Office of Communication and Mrs. Connie Huffsettler is the supervisor. The Customer Care Center will begin with three Boards but eventually accept all calls that come into agency. Some

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calls may be referred to the Board's administrator for technical assistance or the licensing section.

4. **Office of Licensure** - Mr. Anderson reported that Mr. Christian was not present due to miscommunication between staff.
5. **Mr. Ron Spiker** – Mr. Anderson introduced Mr. Ron Spiker, Contractor's Licensing Board Chief Boiler Inspector.

Advisory Opinions:

Sheridon Spoon

NONE

Legislative Update:

NONE

Old Business:

NONE

New Business:

Recommendation of Investigation Review Committee:

April, 2009, IRC Recommendations:

Mr. Caswell made a motion, to approve the recommendations of the Investigative Review Committee. Mr. Greer seconded the motion, which carried unanimously.

May, 2009, IRC Recommendations:

Ms. Nance made a motion, to approve the recommendations of the Investigative Review Committee. Mr. Greer seconded the motion, which carried unanimously.

June, 2009, IRC Recommendations:

Mr. Walker made a motion, to approve the recommendations of the Investigative Review Committee. Mr. Neely seconded the motion, which carried unanimously.

Interpretation of §40-11-370 & §40-11-200 – Mr. Ryan Phillips

Mr. Phillips appeared before the Board requesting an interpretation of §40-11-370 and §40-11-200. Mr. Phillips was represented by Mr. Kenneth Anthony, Esquire. Mr. Phillips and Mr. Anderson were sworn in by Mr. Eric Gore, Court Reporter. Mr. Neely asked to be recused.

Mr. Anthony reported that Mr. Phillips has been a license contractor since 1999. Mr. Phillips received a citation for unlicensed practice in April 2009 and a fine of \$500.00. The fine of \$500.00 was paid on April 15, 2009. Since that time Greenville College would like for Mr. Phillips to do some construction work at a commercial complex and the Board's staff will not allow him to do the work. Mr. Anthony reported that there is no where in the statute that states that Mr. Phillips cannot do the job because he violated that statute. He asked that the Board give him an interpretation of §40-11-370 and §40-11-200 and asked whether Mr. Phillips could re-enter into a contract with Greenville County under §40-11-200.

Mr. Anderson testified that Mr. Phillips bid the job under Pinnacle Construction whom was not license by the Board. He was charged a fine of \$500.00.

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Mr. Phillips testified that he is a licensed contractor and it was a mistake that he signed the contract as Pinnacle Construction.

MOTION:

Mr. Neely made a motion to enter into executive session to seek legal advice. Ms. Nance seconded the motion, which carried unanimously. Mr. Caswell made a motion to come out of executive session. Ms. Nance seconded the motion, which carried unanimously. Vice-Chairman Lineberger stated for the record that no action was taken in executive session.

MOTION:

Mr. Walker made a motion, that §40-11-370 and §40-11-200 reads as following:

§40-11-370 - License required to use term "licensed contractor"; engaging in construction under assumed name; enforcement of contract.

(A) It is unlawful to use the term "licensed contractor" or to perform or offer to perform general or mechanical construction without first obtaining a license as required by this chapter.

(B) It is unlawful to engage in construction under a name other than the exact name which appears on the license issued pursuant to this chapter. "Engaging in construction" includes marketing, advertising, using site signs, and submitting contracts. This requirement does not include advertising on vehicles, which may use an abbreviated version of the license name so long as the advertising is not misleading.

(C) An entity which does not have a valid license as required by this chapter may not bring an action either at law or in equity to enforce the provisions of a contract. An entity that enters into a contract to engage in construction in a name other than the name that appears on its license may not bring an action either at law or in equity to enforce the provisions of the contract.

§40-11-200 - Unlawful practice; penalty.

(A) A person who practices or offers to practice in this State in violation of this chapter or who knowingly submits false information for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than five thousand dollars.

(B) It is a violation of this chapter for an awarding authority, owner, contractor, or an agent of an authority, owner, or contractor to consider a bid, sign a contract, or allow a contractor to begin work unless the bidder or contractor has first obtained the licenses required by this chapter. Bids or contracts submitted by contractors may not be reconsidered or resubmitted to an awarding authority, contractor, or owner if the contractor was not properly licensed at the time the initial bid or contract was submitted.

(C) Charges under this section may be preferred by the board by delivering evidence of a violation to a solicitor or a magistrate having jurisdiction.

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(D) Upon conviction under this section, the fines and assessments imposed by a court must be administered pursuant to Sections 14-1-205, 14-1-206, 14-1-207, 14-1-208, and 14-1-209.

Mr. Greer seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Application Review Hearings:

Mr. William L. Harrison

Mr. Harrison appeared before the Board because he answered "yes" on his General Contractor's Application that he has not had any lawsuits, judgments, liens or claims filed against him or his business, been arrested, charged indicted or convicted of violating any federal, state or local law or had a similar license in this state or any other state revoked, suspended or otherwise disciplined. Due to Mr. Harrison's answer the application could not be processed in a routine manner. Mr. Harrison waived his right to council.

Mr. Harrison appeared before the Board and offered the following testimony. Mr. Harrison testified that he should have answered "yes" on the General Contractor's Application that he has had lawsuits, judgments, liens or claims filed against him or his business. He was 40% partner in a construction business in Gastonia, North Carolina from 2005-2008. In October 2006, his two partners cut him out of the business and during the following six months they stopped making payments on any company accounts that he was the personal guarantee for. In the subsequent years he was able to identify multiple liens and judgments against his former company. Some of the liens and judgments included material suppliers, subcontractors and his father whom loaned the company \$50, 00.00. Mr. Harrison testified that he was arrested twice for embezzlement.

MOTION:

Mrs. Lineberger made a motion to enter into executive session to seek legal advice. Mr. Greer seconded the motion, which carried unanimously. Ms. Nance made a motion to come out of executive session. Mr. Greer seconded the motion, which carried unanimously. Vice-Chairman Lineberger stated for the record that no action was taken in executive session.

MOTION:

Ms. Caswell made a motion to grant Mr. Harrison's General Contractor's License pending he provides a financial statement subsequent to staff's approval. Ms. Nance seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Mr. Bobby Scroggs, A & W Land Acquisition & Dev. LLC

Mr. Scroggs appeared before the Board because he answered "no" on his General Contractor's Application that he has had any lawsuits, judgments, liens or claims filed against him or his business, been arrested, charged indicted or convicted of violating any federal, state or local law or had a similar license in this state or any other state revoked, suspended or otherwise disciplined. Due to Mr. Scroggs'

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answer the application could not be processed in a routine manner. Mr. Scroggs waived his right to counsel. Mr. Scroggs and Mr. Anderson were sworn in by Mr. Eric Gore, Court Reporter.

Mr. Scroggs appeared before the Board and offered the following testimony. Mr. Scroggs testified that he answered "no" on the application because there was a judgment filed against him that was not suppose to be, He had an attorney in Charleston, South Carolina that did not take care of this matter and he had not way of knowing the judgment was filed. Since that time the attorney has been disbarred and arrested. He testified that this is his livelihood and he need to work.

MOTION:

Mr. Walke made a motion to approve Mr. Scroggs' General Contractor's Application. Mr. Neely seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Administrative Hearings (Final Orders):

Mr. Benard Fripp, Diversified Services

Mr. Fripp was not present. Mr. Walker asked to be recused because he was the Hearing Officer. Ms. Suzanne Hawkins represented the State.

Ms. Hawkins requested that the Board uphold the Hearing Officer's Recommendation.

MOTION:

Mr. Caswell made a motion to uphold the Hearing Officer's Recommendation. Mr. Neely seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Mr. Robert Trammell & Company

Ms. Suzanne Hawkins represented the State. Mr. Neely asked to be recused because he was the Hearing Officer.

Ms. Hawkins asked that the Hearing Officer's Recommendations be upheld.

MOTION:

Mr. Greer made a motion to uphold the Hearing Officer's Recommendation. Mr. Caswell seconded the motion, which carried unanimously.

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Mr. Edward Pero, Atlantic Air Restoration Services, LLC

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Mr. Pero was not present. Ms. Suzanne Hawkins represented the State. Mr. Walker asked to be recused because he was the Hearing Officer.

Ms. Hawkins asked that the Hearing Officer's Recommendations be upheld.

MOTION:

Mr. Caswell made a motion to uphold the Hearing Officer's Recommendations. Mr. Greer seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Public Comments:

NONE

Date of Next Meeting

Thursday, October 15, 2009, Meeting Room 202-02

The next meeting of the Board is scheduled for Thursday, October 15 2009, in conference room 202-02.

Adjournment

Mrs. Nance moved for the meeting to be adjourned. Mr. Plyer seconded the motion, which carried unanimously.

The July 16, 2009, meeting of the South Carolina Contractor's Licensing Board was adjourned at 12:45 p.m.