

SOUTH CAROLINA CONTRACTORS' LICENSING BOARD
Synergy Business Park, Kingstree Building
110 Centerview Drive, Kingstree Building, Room 108
Columbia, South Carolina 29210
Minutes

Thursday, October 17, 2013

10:00 a.m.

Lewis M. Caswell, Board Chair, 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:

Lewis M. Caswell, Board Chair, called the regular meeting of the South Carolina Contractors' Licensing Board to order at 10:03 a.m. Other Board members present for the meeting included: Bill Neely, James Lady, Daniel B. Lehman, Kimberly L. Lineberger, Legrand Richardson, Jr., W. Franklin Walker, James C. Patterson and Charles White.

Staff members participating in the meeting included: Georgia Lewis, Advice Counsel, Erin Baldwin, OGC, Andrew Rogers, OGC, Suzanne Hawkins, OGC, Roger Lowe, Board Administrator, Lil Ann Gray, Program Coordinator, Brenda Dunn, Administrative Assistant, Todd Bond, OIE Chief Investigator, and Nadine Garrett, Court Reporter.

Others present participating in the meeting included: Butch Bowers, Esquire, Nathan Wilcox, Jeffrey B. Haston, Kenneth D. Smith, Wesley Peel, Esquire, Scott Erlewine, and Ryan Hamrick.

Approval of Agenda:

Thursday, October 17, 2013

MOTION:

Mr. Lady made a motion to approve the October 17, 2013 agenda. Mr. Patterson 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.)

Approval of Minutes:

Thursday, July 28, 2013

MOTION:

Mr. Lehman made a motion to approve the July 18, 2013 minutes. Ms. Lineberger seconded the motion, which carried unanimously.

Monday, September 9, 2013

MOTION:

Mr. Neely made a motion to approve the September 9, 2013 minutes. Mr. White seconded the motion, which carried unanimously.

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Approval of Minutes - Continued:

Thursday, September 26, 2013

MOTION:

Mr. Lady made a motion to approve the September 26, 2013 minutes. Mr. Richardson seconded the motion, which carried unanimously.

Administrator's Remarks for Information:

Roger Lowe, Administrator

NASCLA Conference, Coeur d'Alene, Idaho; August 26th-29th, 2013

Mr. Lowe informed the board that staff did not attend the National Association of Contractors' Licensing Agency (NASCLA) yearly meeting held August 26th through August 29th in Coeur d'Alene, Idaho. Mr. Walker did attend and provided a brief report on the yearly meeting.

Mr. Lowe reviewed the Board's financial information for the month ending September 30, 2013, and PSI examination information.

Mr. Lowe reviewed the License Summary information for Contractors, Burglar/Fire, Fire Sprinkler and the Boiler Safety Program. He further stated that as of Tuesday, October 15, 2013, 48% of the mechanical licenses had been renewed.

Due to a conflict, Mr. Lowe requested that Ms. Gray handle the remainder of the board meeting.

Office of Investigations and Enforcement (OIE):

Todd Bond

OIE Status Report – Mr. Bond reported that since January 1, 2013, 136 cases were received with 40 active investigations. One hundred forty-six (146) cases have been closed to-date. The average age of currently active cases is 64 days.

Office of General Counsel (OGC):

Erin Baldwin

Ms. Baldwin reported that OGC currently has 43 open cases, 25 cases pending action, 3 cases are pending consent agreements or memoranda of agreement, 9 cases are pending disciplinary hearings, 3 cases pending final order hearings and 1 case is pending final order. Since January 1, 2013, 64 cases have been closed and there are 9 cases on appeal at this time.

Unfinished Business:

Section 40-11-410: Mr. Neely, chair of the *ad hoc* subcommittee, reported the recommendations of the committee to the Board and proposed that the subcommittee continue its work for submission of the recommendations with the proposed legislative cycle.

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New Business:

Mrs. Gray requested that the Board authorize that the fees, except replacement fees, charged for Burglar Alarm, Fire Alarm, and Fire Sprinkler Contractors' credentials be adjusted on an annual basis as appropriate for periods of one year or less.

MOTION:

Mr. Patterson made a motion to accept staff's recommendation(s). Mr. Lehman seconded the motion, which passed unanimously.

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Request for Interpretation

Kleinbard Bell & Brecker, LLP, requested a determination from the Board that the SC Alarm System Business Act, SC Code Ann. Section 40-79-5 et seq., does not apply to the developer of a mobile safety-related video-conferencing application and services available to users in South Carolina.

Alan Wong, Esq. and Eric Pritchard, Esq. with Kleinbard Bell Brecker, LLP, attended the Board meeting via teleconferencing and answered questions from the Board.

MOTION:

Mr. Lehman made a motion that the SC Alarm System Business Act, SC Code Ann. Section 40-79-5 et seq. does not apply to the developer of a mobile safety-related video-conferencing application and services available to users in South Carolina. Mr. Lady seconded the motion, which passed unanimously.

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Recommendation of Investigation Review Committee:

October 2, 2013, IRC Recommendation(s):

Mr. White made a motion to approve the recommendation(s) of the Investigative Review Committee. Mr. Patterson seconded the motion, which carried unanimously.

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Hearing Officer Recommendations – Final Order Hearings:

David Parker and David Parker d/b/a/ Covenant Building & Inspections, Inc.
(Case No.: 2011-144)

David Parker was not present. Mr. Neely was the hearing officer for the case and recused himself from the hearing. Ms. Baldwin represented the State and advised the Board that Mr. Parker had notified her in writing that he would not be attending the final order hearing. Ms. Baldwin requested that the Board uphold the Hearing Officer's Recommendation(s).

MOTION:

Mr. Lehman made a motion to accept the Hearing Officer's recommendation(s). Ms. Lineberger seconded the motion, which carried unanimously.

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Jeffrey B. Haston (Case No.: 2012-43)

Mr. Haston was present, waived his right to counsel and was sworn in. Mr. Walker was the hearing officer on the case and recused himself from the hearing. Ms. Baldwin represented the State and requested the Board uphold the Hearing Officer's Recommendation(s).

MOTION:

Mr. Lady made a motion to accept the Hearing Officer's recommendation(s). Mr. Neely seconded the motion, which carried unanimously.

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Ram Jack of South Carolina, Inc. and Scott Erlewine (Case No.: 2011-128)

Mr. Erlewine was present and was sworn in. Wesley Peel, Esq. appeared as attorney for Ram Jack of SC and Scott Erlewine. Mr. Walker was the hearing officer on the case and recused himself from the hearing. Mr. Andrew Rogers represented the State and requested the Board uphold the Hearing Officer's Recommendation(s).

MOTION:

Mr. Lady made a motion to go into executive session to seek legal advice. Ms. Lineberger seconded the motion, which carried unanimously.

MOTION:

Mr. Lehman made a motion to come out of executive session and back into open session. Mr. Neely seconded the motion, which carried unanimously.

MOTION:

Mr. Patterson made a motion that the Hearing Officer's recommendation(s) not be approved and that all charges against the respondents be dismissed. Mr. Richardson seconded the motion, which carried with four affirmative votes and three negative votes.

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Application Reviews:

DM Constructors, LLC and Kenneth Darrell Smith

DM Constructors, LLC and Kenneth Darrell Smith. Staff unable to issue license due to affirmative answer regarding judgments. Kenneth Darrell Smith appeared before the Board and was sworn in. Mr. Smith waived his right to legal counsel and answered questions from the Board.

MOTION:

Ms. Lineberger made a motion to approve the request. Mr. White seconded the motion, which carried with seven affirmative votes and one negative vote.

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Christopher M. Gleaton (IHC Security Services, Inc.)

Christopher M. Gleaton (IHC Security Services, Inc., BAC.5421/FAC.3349). Staff unable to approve Mr. Gleaton as a registered employee due to matters appearing on Criminal Background Check. Mr. Gleaton was not present.

MOTION:

Mr. Patterson made a motion to deny the Registered Employee Application. Ms. Lineberger seconded the motion, which carried unanimously.

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Lakeshia Renee Durant (Sonitrol Security Systems of Charleston, Inc.) BAC.5298

Lakeshia Renee Durant (Sonitrol Security Systems of Charleston, Inc., BAC.5298). Staff unable to approve Ms Durant as a registered employee due to matters appearing on Criminal Background Check. Ms. Durant was not present.

MOTION:

Mr. White made a motion to deny the Registered Employee Application. Mr. Lehman seconded the motion, which carried unanimously.

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Horsepower Site Services, LLC and David Ryan Hamrick

Horsepower Site Services, LLC and David Ryan Hamrick (CLG.118200). Staff unable to approve the issuance of the SC Public Utilities subclassification water and sewer lines. Mr. Hamrick is currently licensed in NC having taken and passed the NC Public Utilities technical

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examination which covers work done under the NC specialty classifications including, but not limited to, (PU) Water Lines and Sewer Lines and (PU) Water Purification and Sewage Disposal. NC and SC currently have an exam waiver/reciprocity agreement that provides that the NC (PU) Water Lines and Sewer Lines technical examination is equivalent to the SC Water and Sewer Lines technical examination; and the NC (PU) Water Purification and Sewage Disposal technical examination is equivalent to the SC Water and Sewer Plants technical examination. Applicant is requesting the Board approve the NC Public Utilities technical examination under the current NC SC exam waiver agreement pursuant to section 40-11-290 for the SC Public Utilities subclassifications Water and Sewer Lines and Water and Sewer Plants. Ryan Hamrick appeared before the Board and was sworn in. Mr. Hamrick answered questions from the Board.

MOTION:

Mr. Walker made a motion to approve the request. Mr. Lady seconded the motion, which carried unanimously.

MOTION:

Mr. Lady made a motion that staff be able to accept the NC Public Utilities technical examination under the current North Carolina and South Carolina waiver agreement pursuant to section 40-11-290 for the SC Public Utilities subclassifications Water and Sewer Lines and Water and Sewer Plants. Mr. White seconded the motion, which carried unanimously.

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Vivint, Inc., (formerly known as APX) – BAC.5569

Suzanne Hawkins represented the State. Ms. Hawkins stated Vivint, Inc. has appealed the Board's denial of its burglar alarm system business license in South Carolina. Ms. Hawkins presented to the Board a Consent Agreement between the State and Vivint that would resolve the issues and requested that the Board approve the Consent Agreement. Butch Bowers, Esq. and Nathan Wilcox appeared on behalf of Vivint, Inc.

MOTION:

Mr. Patterson made a motion to go into executive session to seek legal advice. Mr. White seconded the motion, which carried unanimously.

MOTION:

Mr. White made a motion to come out of executive session and back into open session. Ms. Lineberger seconded the motion, which carried unanimously.

MOTION:

Mr. Lady made a motion to approve the Consent Agreement. Mr. Walker seconded the motion, with seven affirmative votes and one negative vote.

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Public Comments:

NONE

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Date of Next Meeting:

Thursday, January 16, 2014; 10:00 A.M., Meeting Room 108, Kingstree Building.

Adjournment:

Mr. Richardson made a motion to adjourn the meeting. Mr. Patterson seconded the motion, which carried unanimously.

The October 17, 2013 meeting of the South Carolina Contractors' Licensing Board was adjourned at 2:12 p.m.