

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, April 16, 2009

10:00 a.m.

Daniel Lehman, 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:

Daniel Lehman, 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: Kim Lineberger, Vice Chairman. Bill Neely, Douglas Greer, Mark Plyler, Lewis Caswell, and Wendi Nance.

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

Others present participating in the meeting included: James Johnson, Larry Fink, Edgar McGee, Gene Morgan, Jerrell Wigger, Lee Coles, Anthony Hunter and Joseph Henry.

Approval of Agenda:

Thursday, April 16, 2009

Motion

Mr. Caswell moved to approve the Thursday, April 16, 2009, agenda adding Tuck & Howell under Application Review number 5. Mr. Neely seconded the motion, which carried unanimously.

Approval of Minutes:

Thursday, January 15, 2009

Motion

Mr. Caswell moved to approve the Wednesday, January 15, 2009, meeting minutes. Ms. Nance seconded the motion, which carried unanimously.

Excused Members:

Mr. Frank Walker received an excused absence.

Chairman's Remarks:

Daniel Lehman

Chairman Lehman stated that the Board's legislation review process is going very well and there will be another working Board meeting scheduled in May.

Administrator's Remarks:

Michael Anderson

1. **Legislation** - Mr. Anderson reported that he is currently updating the recommended legislation changes and will be sending them out prior to the next scheduled working meeting.
2. **NASCLA** – Mr. Anderson reported that he attended the NASCLA Mid-Year meeting. The approved exam provider for the national building exam is PSI and they are awaiting two other providers to be approved.
3. **Office of Licensure Telephone Listing** – Mr. Anderson informed the Board that per the request of Mr. Randy Bryant, Deputy Director, a copy of the Office of Licensure Telephone Listing was

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sent via-email and placed in their books for informational purposes. Also, he reported that Mr. David Christian, III, was unable to attend the meeting and would reschedule at a later date.

4. **Expungement of Consent and Final Orders** - Mr. Anderson informed the Board that it has been Board's policy to publish disciplinary actions on the internet. Staff has recommended that the disciplinary actions be posted for an indefinite period of time. He stated that administrative base actions will be posted for five years and practice base actions will be posted for indefinite period of time.

Advisory Opinions:

Sheridon Spoon

NONE

Legislative Update:

NONE

Old Business:

NONE

New Business:

Recommendation of Investigation Review Committee:

January, 2009, IRC Recommendations:

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

March, 2009, IRC Recommendations:

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

Application Review Hearings:

Mr. James S. Johnson (Request to be released from probation)

Mr. Johnson appeared before the Board requesting that the probationary status be released from his General Contractor's License. Mr. Johnson waived his right to counsel. Mr. Johnson was sworn in by Mr. Eric Gore, Court Reporter.

Mr. Johnson appeared and offered the following testimony. Mr. Johnson testified that he has complied with the order; all fines have been paid and he has completed the Roofing 101 course. He asked the Board to remove the probationary status from his license.

MOTION

Mr. Caswell made a motion, to grant Mr. Johnson's request that his General Contractor's License be released from the probationary status. Mr. Neely seconded the motion, which carried unanimously.

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Mr. Lee Coles d.b.a. C & T Builders

Mr. Coles appeared before the Board because he answered "no" 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. Also, a Cease and Desist was issued against Mr. Cole for operating outside the scope of his license on October 16, 2008. Due to Mr. Coles' answers the application could not be processed in a routine manner by staff. Mr. Cole was sworn in by Mr. Eric Gore, Court Reporter. Mr. Cole was represented by Mr. Darryl Caldwell.

Mr. Coles appeared before the Board and offered the following testimony. Mr. Cole 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 did not know he was working outside the scope of his license. He testified that was his livelihood and asked the Board to approve his application. He has had three liens filed against him and they have been rectified.

MOTION:

Mrs. Lineberger 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. Mr. Neely seconded the motion, which carried unanimously. Chairman Lehman stated for the record that no action was taken in executive session.

Mr. Caldwell asked the Board to grant a continuance, pending a letter from LLR legal staff outlining the interpretation of Grandfather Provision.

MOTION:

Ms. Nance made a motion to grant Mr. Coles a continuance. Mr. Plyer 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. Anthony Hunter d.b.a. Hunter Construction Company

Mr. Hunter appeared before the Board because he answered "yes" on his General Contractor's Renewal 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. Hunter's answer the application could not be processed in a routine manner. Mr. Hunter waived his right to counsel. Mr. Hunter and Mr. Joseph Henry were sworn in by Mr. Eric Gore, Court Reporter.

Mr. Hunter appeared before the Board and offered the following testimony. Mr. Hunter testified that he answered "yes" on the present renewal application but it was an oversight on the previous renewal applications that he answered "no" he didn't have 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 ha a similar license in this state or any other stated revoked suspended or otherwise disciplined.

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Mr. Joseph Henry testified that he is a former customer of Mr. Hunter and he obtained a judgment against Mr. Hunter in November 2001, in the amount of \$10,660.78; and the judgment has not been satisfied.

MOTION:

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

MOTION:

Mrs. Lineberger made a motion to deny Mr. Hunter's Application until such time as all liens in the past 10 years have been rectified. Mr. Plyer seconded the motion, which carried unanimously.

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Mr. Edgar McGee d.b.a. E C M Management

Mr. McGee appeared before the Board because he answered "yes" on his General Contractor's Application that within the last 10 years, he has received notice of final judgments, liens, or claims of any kind filed against him or any business entity in which he has or was an officer, principal or major shareholder. Mr. McGee waived his right to counsel. Mr. McGee was sworn in by Mr. Eric Gore, Court Reporter.

Mr. Neely asked to be recused because of a prior business acquaintance with Mr. McGee.

Mr. McGee appeared before the Board and offered the following testimony. Mr. McGee testified that he has no intention of practicing as a general contractor but would like to become a construction manager or insurance adjuster. He testified that he can not pay the judgments filed against him therefore; the liens can not be rectified. He asked that his license be transferred to an LLC under Group 3 Classification.

MOTION:

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

MOTION:

Mr. Plyer made a motion to deny Mr. McGee's reinstatement application. Mrs. Lineberger seconded the motion, which carried unanimously.

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Administrative Hearings:

Mr. Willard Wilson

Ms. Suzanne Hawkins represented the State. Mr. Jerrell Wigger represented Mr. Willard Wilson. Mr. Neeley asked to be recused because he was the Hearing Officer.

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Ms. Hawkins asked that the Hearing Officer's Recommendations be upheld and the complaint be dismissed with a letter of caution.

Mr. Wigger stated that he concurred with Ms. Hawkins although the letter of caution was not apart of the Hearing Officer's Recommendation.

MOTION:

Mr. Caswell made a motion to uphold the Hearing Officer's Recommendation and the complaint be dismissed with a letter of caution. Mr. Greer seconded the motion, which carried unanimously.

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Mr. Gene Morgan

Mr. Joe Connell represented the State. Mr. Neeley asked to be recused because he was the Hearing Officer. Mr. Morgan waived his right to counsel. Mr. Morgan was sworn in by Mr. Eric Gore, Court Reporter.

Mr. Connell informed the Board that Mr. Morgan's license has lapsed and Mr. Morgan has decided that he is not going to continue in business. Therefore, he asked that the Hearing Officer's Recommendations be upheld.

Mr. Morgan appeared before the Board and offered the following testimony. Mr. Morgan testified that he is no longer in the business and would like to relinquish his license.

MOTION:

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

MOTION:

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

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Southeastern Canopy Erectors, LLC

Ms. Suzanne Hawkins represented the State. Respondent was not present and proper notice was served on January 16, 2009. Ms. Hawkins asked that the Hearing Officer's Recommendations be upheld.

MOTION:

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

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IRA Handy d.b.a. Handy's Moisture & Plumbing Service

Mr. Caswell asked to be recused because he was the Hearing Officer.

Ms. Suzanne Hawkins represented the State. Mr. Handy waived his right to counsel. Mr. Handy was sworn in by Mr. Eric Gore, Court Reporter.

Ms. Hawkins informed the Board that Mr. Handy held two licenses with the Contractor's Licensing Board. She asked that Mr. Handy's current license and any other license be revoked.

Mr. Handy appeared before the Board and offered the following testimony. Mr. Handy testified that due to some work ethics his company was dissolved. He failed to notify LLR and asked that the Board decrease the \$4000.00 fine. He is currently doing business as IRA Construction and asked the Board to allow him to continue doing business under his current license. He asked that the Board not include his plumbing license or any current license he has not be included with the case.

MOTION:

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

MOTION:

Mrs. Lineberger made a motion to uphold the Hearing Officer's Recommendations. Mr. Plyer seconded the motion, which carried unanimously.

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Jerry Tuck d.b.a. Tuck & Howell, Inc.

Ms. Suzanne Hawkins represented the State. Mr. Tuck was represented by Mr. Christopher Smith, Jr.

Mr. Smith asked that the Consent Agreement in which Mr. Tuck signed be renegotiated and have a full Board meeting based on pending litigation. He stated that Mr. Tuck did not understand what he was signing and failed to contact his attorney. Mr. Tuck can not comply with the consent agreement because of pending litigation and he can not enter into the complainant's home.

Mr. Tuck appeared before the Board and offered the following testimony. Mr. Tuck testified that he has been in business for approximately 53 years and owned his own business for 40 years. This is the first law suit filed against him.

Ms. Hawkins asked that the Board adopt the Consent Agreement.

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MOTION:

Mr. Neely made a motion to uphold the Consent Agreement. Mr. Caswell seconded the motion, which carried unanimously.

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Date of Next Meeting

Thursday, July 16, 2009, Meeting Room 202-02

The next meeting of the Board is scheduled for Thursday, July 16, 2009, in conference room 202-02.

Adjournment

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

The April 16, 2009, meeting of the South Carolina Contractor's Licensing Board was adjourned at 3:30 p.m.