

BEFORE THE
SOUTH CAROLINA BUILDING CODES COUNCIL

TRANSCRIPT OF MEETING

Columbia, South Carolina

November 15, 2011

Commencing at 10:30 A.M.

COURT REPORTER: Janice B. Dunkin

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APPEARANCES:

Board Members:

Greg Parsons, Chairman
Curtis Rye
Henry Drury
Lee Jedziniak
John White
Richard Sandler
Frank Hill
Lloyd Schumann
Darbis Briggman
Adolf Zubia
Chris Cullum
Thomas Hance

Sheridon Spoon, Advice Attorney
Gary Wiggins, Administrator
Jennie Meade

Speakers:

Todd Bond
Joshua Phillips
Charles R. Caldwell
Bruce Cooley

1 MR. PARSONS: Public notice of this
2 meeting was properly posted at the
3 Building Codes Council Office, Synergy
4 Business Park, Kingstree Building and
5 provided to requesting persons,
6 organizations and news media in
7 Compliance with Section 30-4-80 of the
8 South Carolina Freedom of Information
9 Act. Okay. I call this meeting to
10 order. Do I hear a Motion to approve the
11 agenda?

12 MR. SCHUMANN: So Moved, Mr.
13 Chairman.

14 MR. ZUBIA: Second.

15 (Whereupon, a vote was taken and the
16 Motion carried unanimously)

17 MR. PARSONS: We have the next item
18 Approval of the Minutes. Do I hear a
19 Motion on the Approval of the Minutes?

20 MR. ZUBIA: Motion.

21 MR. PARSONS: Do I have a Second?

22 MR. SENDLER: I Second.

23 (Whereupon, the Motion was carried
24 unanimously)

25 MR. PARSONS: All right,

1 Approval/Disapproval of Absent Members.

2 Do we have -- Susan is not here.

3 MS. MEADE: Mr. Chairman, Susan had
4 a conflict of appointments. So, she was
5 not able to arrive today.

6 MR. PARSONS: Do I hear a Motion for

7 ---

8 MR. SENDLER: Mr. Chairman, how
9 about Tom Brock?

10 MR. PARSONS: All right.

11 MS. MEADE: Mr. Brock is supposed to
12 be here.

13 MR. PARSONS: All right. Well, then
14 what we will do is, we will roll this
15 down further on the agenda to see if Mr.
16 Brock is able to make it. All right, the
17 Chairman's Remarks. I see a lot of
18 bright new faces here at the Building
19 Codes Council, a lot of new members, and
20 with the new members, I think we are
21 going to have a lot of new perspective, a
22 lot of new ideas, and so I just ask y'all
23 to share those and participate, and you
24 know give us all the benefit of your
25 perspective as we move forward with the

1 business of the State of South Carolina
2 Building Codes Council. Also, I'd like
3 to express my appreciation to the members
4 of the audience. I know y'all in the
5 past have helped us, and provided some
6 insight to us, and helped us make better
7 decisions as we march down the path, and
8 with that, I'm going to turn that over to
9 the Administrator for any remarks.

10 MR. WIGGINS: Mr. Chairman, it's
11 been a relatively slow time where the
12 Council is concerned. We've been very
13 active with Contractor's Licensing Board
14 and other Boards. So, we do not have any
15 remarks at this point at this time, other
16 than the fact that we're still in our
17 comment period for the 2012 adoption
18 process.

19 MR. PARSONS: Okay.

20 MR. ZUBIA: Mr. Chairman, Gary,
21 could you tell us when the deadline is,
22 because I got asked that question this
23 morning, and I didn't know the answer.

24 MR. WIGGINS: The deadline for
25 submitting names will be the first

1 Wednesday in February. We hope to have
2 all the names that are submitted for the
3 Code Study Committee to the Council at
4 its February meeting. The deadline for
5 the comment period is March 1st. So, any
6 comments in Code revisions that are
7 received prior to March 1st will be
8 included in the package.

9 MR. PARSONS: Okay. All right, now,
10 Recognition of New Members, we have Tim
11 Hance, not Nance as it states on the
12 agenda, but Hance. Tim, welcome, and
13 then we have -- Tim replaces Gable
14 Stubbs. I don't see Gable in the
15 audience.

16 MR. WIGGINS: Mr. Chairman,
17 generally we have a certificate prepared,
18 but it did not come back yet from the
19 Governor's Office. So, we will have wait
20 until the next meeting for that.

21 MR. PARSONS: All right, next item
22 on the agenda is the Office of
23 Investigation and Enforcement.

24 MR. BOND: Okay. Building Codes
25 Council Investigative Review Committee

1 met on October 25th. We discussed eight
2 cases, which I believe the report is in
3 your packet there. If you have any
4 questions, I'd be willing to answer them
5 to the best of my ability. I tried to
6 make the issue discussion a little bit
7 more informative.

8 MR. PARSONS: Any questions by
9 Members of the Council? I like the
10 additional information. It really has
11 helped me understand what is going on.

12 MR. SPOON: And I don't if it would
13 benefit the new Members. If you have any
14 questions about this IRC Report,
15 basically, these six cases are Complaints
16 that have been investigated. After the
17 investigation was completed, it was taken
18 to the Investigative Review Committee,
19 and their recommendation is what is
20 before you, and Mr. Bond, the
21 Investigator, is giving you this
22 information with us, by design, a
23 capsulation of the issue that was alleged
24 in the Complaint, and the IRC's Logic as
25 to its disposition, and the IRC's

1 disposition is a recommendation to you.
2 So, you probably are familiar with the
3 fact that the completed investigations
4 have to be presented to the Board. So,
5 the item before you now is to accept the
6 IRC's recommendation as to a dismissal
7 and the Formal Complaint.

8 MR. Bond: There are two pages
9 there.

10 MR. SPOON: Well, you've got, the
11 first page is a dismissal. You've got
12 one that is recommended to you as a
13 Formal Complaint, which you will speak
14 to, and also one that is recommended as a
15 Letter of Caution, but it is the same --
16 same idea. It is a recommendation from
17 the IRC that you are being asked to
18 adopt.

19 MR. SENDLER: Sheridan, now we've
20 got a Formal Complaint. Will that come
21 before us?

22 MR. SPOON: That will, and that's
23 the one that I would say ask the least
24 questions about, because you will see
25 that again. I know a lot of times these

1 issue descriptions are short, and like I
2 said that is by design, but you've got an
3 IRC that you've appointed to review the
4 case in a lot more detail, and these are
5 their recommendations, but you will see
6 the one, if you authorize this one case,
7 and you will also notice there are no
8 names on here. That's also by design,
9 but the one that is suggested as a Formal
10 Complaint, that will then be sent to the
11 Office of General Counsel. They will
12 draft a Formal Complaint.

13 MR. SENDLER: And we will have a
14 hearing.

15 MR. SPOON: That you may see at a
16 later time.

17 MR. BOND: And I intentionally did
18 not include as much information on that
19 one, because of you might see, or you
20 will see it.

21 MR. ZUBIA: Mr. Chair?

22 MR. PARSONS: Yes?

23 MR. ZUBIA: One question, I guess,
24 and just maybe I am more sensitive than I
25 thought. Number Two on the first page

1 where it talks about -- it is 2011-10 on
2 your IRC Logic, there's no violation and
3 then hyphen, Town Administrator was
4 issued -- the relevancy of having that is
5 it is not a violation, it ---

6 MR. BOND: The relevancy of that is
7 the Code Enforcement Officer was not at
8 fault in this situation. The Town
9 Administrator was using some power he had
10 to do things that were in illegal. This
11 was in a town in the lower part of the
12 state where they recently cleaned out the
13 town administration. So, it shouldn't be
14 a problem on that. It was just to
15 clarify that while things may have
16 happened, it was not the Code Enforcement
17 Officer's fault.

18 MR. ZUBIA: Yeah, but there were --
19 and I'm surprised we're sharing or
20 getting a document that -- just you don't
21 want to step on anybody's toes, that's
22 all. If we're not going to take any
23 action there's no need to billboard
24 somebody ---

25 MR. BOND: You think I could have

1 just left off the comment?

2 MR. ZUBIA: Yeah, absolutely.

3 MR. BOND: Okay. I'll take that.

4 MR. SPOON: Yeah, and you're right,
5 and it is just an attempt in the one
6 column where it says issue description,
7 that really -- you could call that the
8 allegation. That is what was alleged in
9 the Complaint, and the IRC Logic. In
10 other words that would be -- this was the
11 rationale of the IRC used to get to
12 either Formal Complaint, Dismissal, or
13 Letter of Caution.

14 MR. BOND: Right.

15 MR. SPOON: So, it is always a
16 difficult -- I know for Investigations as
17 to how much to put in that column.

18 MR. SENDLER: I think it was a good
19 idea they put that in there. I mean, we
20 don't know where it was, or what town it
21 was in. We don't know who was involved,
22 and in reality, if the Town Administrator
23 had really been trying to enforce the
24 Codes, we could have gone after him for
25 Code Enforcement, Practicing Code

1 Enforcement without a license.

2 MR. PARSONS: We certainly could
3 have described it as another individual,
4 not necessarily their position or title.
5 Is there any more discussion on the items
6 presented here?

7 MR. CULLUM: Mr. Chair, I'd like to
8 make a Motion we accept the IRC
9 Recommendation as presented.

10 MR. PARSONS: Okay. Do I have a
11 second?

12 MR. RYE: Second.

13 (Whereupon, the Motion was carried
14 unanimously)

15 MR. BOND: Thank you. I also have
16 an OIE Case Status Report if y'all are
17 interested in that.

18 MR. PARSONS: Yes.

19 MR. BOND: Since the first of the
20 year, we've received twenty-two cases.
21 Currently, there are three active
22 investigations. We have closed seven of
23 those cases. A number of them today
24 y'all just approved. So, they will be
25 going forward to either be closed, added

1 to the closed cases six of them, and then
2 forwarded to OGC for proper action.

3 MR. PARSONS: Thank you.

4 MR. BOND: Thank you.

5 MR. PARSONS: All right. Moving
6 along here, the Office of the General
7 Counsel.

8 MR. WIGGINS: Mr. Chairman, Ms. Bell
9 could not be here today. She had a
10 conflict, but I do have the report.
11 Under Case Load Statistics, we have
12 currently three open cases, one pending
13 action pending a memorandum of agreement,
14 Consent Agreements zero, pending hearing
15 one, pending final order zero -- hearings
16 zero, pending final orders one, six cases
17 closed, no appeals.

18 MR. PARSONS: Okay. That's just an
19 information item there.

20 MR. WIGGINS: That's correct.

21 MR. PARSONS: Any questions or
22 comments on that information from Council
23 Members? All right. Do we have any
24 unfinished business?

25 MR. SENDLER: Mr. Chairman, I'd just

1 like to ask Gary, Gary are we getting a
2 lot of names in for the Building Codes
3 Study Committees?

4 MR. WIGGINS: We have gotten names
5 more so on the industry side, but not
6 near enough at this point to fill the
7 Committees. That's not unusual.
8 Generally around December or January I
9 usually end up sending out a second call
10 for volunteers.

11 MR. PARSONS: Okay. Encourage all
12 the Council Members to, you know, if you
13 know of some interested people to serve
14 on that Study Committee as we go through
15 the process of approving, or disproving,
16 or evaluating the modifications to the
17 Code. Please have them submit their
18 names to Gary.

19 MR. SENDLER: Mr. Chairman, I think
20 we need to encourage people in the
21 audience, because a lot of those folks
22 out there, if in some way shape or form
23 have an interest in the Building Code
24 Council, if they would encourage their
25 people or themselves to ---

1 MR. PARSONS: Certainly, certainly.
2 The people here that regularly attend the
3 Counsel, and we certainly appreciate you,
4 and as I said before your input and your
5 wisdom and your knowledge, and we would
6 appreciate that on the Study Committee
7 also.

8 MR. BRIGGMAN: Mr. Chairman, also,
9 you know, my remarks that we wanted to be
10 involved with this, because the local
11 jurisdiction who went out and bought the
12 Code Books for 2009. So, we need to make
13 sure this time that a lot of
14 jurisdictions hold off on buying the Code
15 Books, because they've got those Code
16 Books sitting on these shelves, but they
17 cannot use only for testing materials
18 only. So, if there is some little
19 something where we go forward on the
20 adoption of the 2012 Codes, that, you
21 know, that this is something that we look
22 at at the point that where it is not
23 going to have issue as that those
24 jurisdictions that does not have funds to
25 buy the books and cannot use them.

1 MR. PARSONS: I completely
2 understand, particularly with the now to
3 add to all those 2009 Code Books with the
4 2012 Energy Code is in the same
5 condition. Darbis, if it is any
6 consolation, I am in the market for a set
7 of 2009 Code Books. All right. Any
8 other comments on that?

9 MR. SENDLER: I have one other
10 question. Gary, don't leave please.

11 MR. WIGGINS: I'm not leaving.

12 MR. SENDLER: Oh, okay. The Energy
13 Code, Statutorily where are we now on
14 that? Don't we have some code in place
15 now until 2013 or 14 or something about
16 the State Statute.

17 MR. WIGGINS: The Energy Code
18 presently is on hold. Okay. We have the
19 Energy Standard that is a stand alone
20 State Statute. So, that means that the
21 authority that the Building Codes Council
22 has to adopt and modify the Energy Code
23 from this point forward is null and void
24 until such time as Council gets that
25 authority back, and that's got to be by

1 Statutory action.

2 MR. SENDLER: So, what does that
3 mean on this code cycle? Will we be
4 reviewing the 2012, or it won't be
5 reviewed?

6 MR. WIGGINS: Well, at the last
7 meeting if you recall, Council voted and
8 asked that the staff collect the code
9 modifications and present them before the
10 Committee and then again before the
11 Council, not necessarily for action, but
12 to see what code changes will be
13 available, and if, in fact, a piece of
14 Legislation occurs that could give that
15 authority back to Council, we are that
16 much ahead. Frankly, if you recall, that
17 was over my objections, because I think
18 it is a major waste of time, but if that
19 is what the Council wants to do, we will
20 certainly do it.

21 MR. PARSONS: Richard, just for a
22 point of information, we tried to get
23 that back on the agenda this cycle, for
24 this meeting, but we didn't have enough
25 time to get the public comments on it. I

1 expect it to be on the agenda at our
2 February Meeting.

3 MR. WIGGINS: Right. We already
4 have that scheduled for the February
5 meeting.

6 MR. ZUBIA: Mr. Chairman, and Mr.
7 Wiggins, did we not decide, was it the
8 Energy Code for the -- did we not decide
9 last Board Meeting?

10 MR. PARSONS: It was decided last
11 Board Meeting. The problem is we have a
12 Statute that we operate under that says
13 we are required to adopt that Code. All
14 right? There is another Statute that is
15 later than our Statute that says we are
16 going to adopt a different code for the
17 State, not we as the Building Codes
18 Council, but the State is going to adopt
19 a different code. So, I don't know if
20 you read the newspaper this morning, but
21 you had conflicting laws associated with
22 the dredging of the Savannah River, and
23 so it is -- it is a problem that they are
24 having that we really don't want to have,
25 I would think. So, if the Building Codes

1 Council Members would like to have input
2 into the discussion of the South Carolina
3 Energy Code and the Code for the State of
4 South Carolina. They are having a
5 working group meeting next week I
6 believe, and then a Senate Hearing
7 Meeting the week after that, and it is a
8 public meeting, and I encourage everyone
9 to attend. I plan to attend, and hope to
10 see y'all there.

11 MR. WIGGINS: Mr. Chairman, may I
12 add to that? The action on the Energy
13 Standard happened two years ago. The
14 authority giving to the Council happened
15 about -- for the current series of codes
16 in 1999. Consequently, what happened
17 last year is what is termed to be the
18 latest expression of the Legislature.
19 Now, I'm not an attorney. Maybe Sheridan
20 could expand on that. The fact is that
21 the Legislature did change the Energy
22 Standard and noted the 2006 IECC as the
23 Energy Standard period, and that was the
24 latest expression of the Legislature.
25 Now, whether we can claim that the

1 Council has the authority to trump that
2 or not, from a legal standpoint, I don't
3 know. I don't believe so.

4 MR. ZUBIA: Mr. Chairman, I believe
5 the action of this group was for us to go
6 on parallel path and review the code, not
7 necessary taking any formal action at
8 that the conclusion of that process, but
9 it gives us the opportunity to kind of
10 stay in tune for -- on pace should
11 something change, not that I expect it
12 to, but at least we are prepared.

13 MR. PARSONS: And you are correct in
14 your recognition.

15 MR. SENDLER: Gary, how long is the
16 Statute that we have the IECC 2006? Is
17 that indefinitely, or does it expire in
18 2014? What was the expression of the
19 Legislature?

20 MR. WIGGINS: In the Energy
21 Standard?

22 MR. SENDLER: Yeah.

23 MR. WIGGINS: The Energy Standard
24 named the 2006 IECC as the State Energy
25 Standard.

1 MR. SENDLER: Until it is changed?

2 MR. WIGGINS: Until it is changed.

3 MR. PARSONS: Do we have any more
4 comments or discussion? All right,
5 moving forward. We have two hearings.
6 They will now open. The first is in the
7 matter of Joshua M. Phillips.

8 MR. SPOON: Are you here Mr.
9 Phillips?

10 MR. SENDLER: Mr. Chairman, a
11 question, should it be done in Executive
12 Session, or is it supposed to be done in
13 public?

14 MR. SPOON: Yes, sir. It's an
15 application hearing.

16 MR. PARSONS: We will have an
17 opportunity to discuss it in Executive
18 Session. All right, Mr. Phillips. This
19 hearing -- this is a hearing in the
20 matter of Joshua M. Phillips being held
21 in Columbia, South Carolina on November
22 15th, 2011. My name is Gregory Parsons.
23 I'm the Vice-Chairman of the South
24 Carolina Building Codes Council. We have
25 other Members of the Council, Henry

1 Drury, Tim Hance, Dean Wilson, Darbis
2 Briggman, Adolf Zubia, Chris Cullum,
3 Lloyd Schumann, Sheridan Spoon is our
4 Advice Counsel, and Frank Hill, Richard
5 Sandler, John White, Lee Jedziniak, and
6 Curt Rye as other Members of the Council.
7 The purpose of this hearing is to
8 determine whether the Applicant should be
9 granted registration as a Residential
10 Inspector. Everyone is reminded that
11 these proceedings are being recorded and
12 that all witnesses must be sworn before
13 they testify. All remarks should be
14 directed to me, the Chair. Mr. Wiggins,
15 is the registration application in our
16 materials?

17 MR. WIGGINS: Yes. It is.

18 MR. PARSONS: What tab is it?

19 MR. WIGGINS: Both cases are under
20 Tab 2.

21 MR. PARSONS: All right. Okay, Mr.
22 Wiggins what -- just a second. Let's
23 give the Council a minute to review what
24 they have in front of them. All right,
25 in the issue of Mr. Phillips, Mr.

1 Wiggins, what reason does the staff have
2 for not approving this application?

3 MR. WIGGINS: Mr. Chairman, on
4 September 6th, 2011 the staff learned
5 that Mr. Joshua Phillips was practicing
6 Building Code Enforcement without a
7 current registration as required by law.
8 On that day the Cease and Desist Order
9 was mailed to Mr. Phillips ordering him
10 to cease practice. Mr. Phillips was
11 previously registered, but failed to
12 renew by the expiration date of July
13 30th, 2009. Mr. Phillips continued to
14 practice for more than twenty-five months
15 without being duly registered in
16 violation of the Building Codes
17 Enforcement Officers Practice Act. Mr.
18 Phillips is appealing to the Building
19 Codes Council to have his registration
20 reinstated.

21 MR. PARSONS: Do the Council Members
22 have any questions for ---

23 MR. CULLUM: I have a question.

24 MR. SPOON: Give me just one second.

25 MR. PARSONS: All right.

1 MR. SPOON: I didn't mean to cut you
2 off, sir. It's just that we kind of have
3 this format, and I promise you that you
4 will get to ask that question. It's just
5 that we have this -- we have this sort of
6 script format, if you will, and if -- it
7 is good to follow that.

8 MR. PARSONS: Okay. Mr. Wiggins,
9 did the staff subpoena any witnesses?

10 MR. WIGGINS: No, it did not.

11 MR. PARSONS: All right. Mr.
12 Phillips is present, I take it?

13 MR. PHILLIPS: Yes, sir.

14 MR. PARSONS: Are you represented by
15 legal counsel here today, Mr. Phillips?

16 MR. PHILLIPS: No.

17 MR. PARSONS: All right, you
18 understand you have the right to be
19 represented by legal counsel here today?

20 MR. PHILLIPS: Yes, sir.

21 MR. PARSONS: Do you wish to waive
22 that right and continue without an
23 attorney?

24 MR. PHILLIPS: Yes, sir.

25 MR. PARSONS: Do you have any

1 witnesses you intend to call to testify
2 today?

3 MR. PHILLIPS: Just one, Mr. Bruce
4 Cooley the Administrator for Abbeville
5 County.

6 MR. PARSONS: And at this time we
7 are going to ask Mr. Cooley if you will
8 stand and be sworn in and Mr. Phillips,
9 we are going to swear you in as well.

10 JOSHUA PHILLIPS AND BRUCE COOLEY, having been duly sworn
11 testifies as follows:

12 MR. PARSONS: So, Mr. Phillips, tell
13 us why you think you ought to be
14 reinstated.

15 MR. PHILLIPS: Of course, I'm in
16 here just to ask for renewal of my
17 registration. I've got a few things I'd
18 like to give Council if that is all
19 right. Here is a copy of my CEU's that I
20 received during the '09 registration
21 period.

22 MR. SPOON: Bring that in this
23 direction, if you would. All right, tell
24 us what is this again.

25 MR. PHILLIPS: This is the CEU form

1 from John England's class this here that
2 was taken in the period of '09. It was
3 not sent to the office of Mr. Wiggins and
4 Ms. Jennie Meade, but it was taken in
5 '09.

6 MR. SPOON: Okay, and this is two
7 packets? Is this copies? Is this a copy
8 of the same thing?

9 MR. PHILLIPS: Yes, sir.

10 MR. SPOON: So, you want to make
11 this part of the record?

12 MR. PHILLIPS: Yes, sir.

13 MR. SPOON: Okay.

14 MR. PARSONS: Do we have any
15 objection?

16 MR. WIGGINS: No objection.

17 MR. PARSONS: All right. We will
18 make that part of the record.

19 MR. PHILLIPS: And then I have
20 copies that were taken -- CEU's that were
21 taken in this year in 2011.

22 MR. PARSONS: Okay.

23 MR. SPOON: And that's also copies,
24 two copies of the same thing?

25 MR. PHILLIPS: Yes, sir.

1 MR. SPOON: All right. So, the
2 first one is 2010 and the second is 2011?

3 MR. PHILLIPS: 2009 and 2011.

4 MR. SPOON: '09, okay.

5 MR. PHILLIPS: I have no real excuse
6 for this not being done. I did not look
7 for one. I found lessons in what is
8 happening. One of which is that I
9 allowed my circumstances to determine who
10 I was, which is a sign of a lack of
11 character instead of me doing what was
12 right in my circumstances. I have
13 received punishment from the County on my
14 actions for not letting my renewal -- my
15 registration run out. I have a memo from
16 Mr. Cooley to me explaining what my
17 punishments were. I'd like to enter
18 those if I can.

19 MR. PARSONS: Do we have any
20 objection?

21 MR. WIGGINS: No objection.

22 MR. PHILLIPS: That memo states that
23 I would be docked eighteen hundred
24 dollars for the -- to pay back for Mr.
25 England coming in and doing inspections

1 until this time period. I also lost use
2 of a take-home vehicle. So, all and all
3 I'm well over two thousand dollars into
4 this mistake. I'm a normal guy. I need
5 my job, and I want it. So, I took the
6 time while I was in this to go and take
7 Certified Building Official exam, and
8 I've taken it and passed both. I have a
9 copy of my Certificate here if you would
10 like to look at that.

11 MR. SPOON: These are copies as
12 well?

13 MR. PHILLIPS: Yes, sir.

14 MR. SPOON: Okay. Just for the
15 record we will go ahead and make, I
16 believe, I don't want to speak for the
17 Chairman, but I think -- my suggestion is
18 to go ahead and make all four of these
19 things part of the record, the
20 certificate, the memo, and the two.

21 (Whereupon, Exhibit Numbers One,
22 Two, Three and Four were marked for
23 identification purposes and made a
24 part of the record)

25 MR. PHILLIPS: I wish I had

1 something fancy to say to you, but I
2 don't. I'm in your hands. That memo
3 states that if I'm not reinstated today
4 then I will be terminated, and so,
5 please, if you will, understand the
6 consequences of your judgment. I'm not
7 saying that I deserve anything less, but
8 I sure hope to get it. That's all I've
9 got to say. I want Mr. Cooley to testify
10 for my character and what not if that is
11 okay, oh and if you have any questions,
12 feel free to ask.

13 MR. PARSONS: Okay. Council Members
14 have any questions for Mr. Phillips?
15 Yes?

16 MR. SENDLER: Did you receive a
17 Cease and Desist Order at any time?

18 MR. PHILLIPS: September the -- I
19 believe Gary said September the 6th was
20 the day, yes, sir.

21 MR. SENDLER: Of what year?

22 MR. PHILLIPS: Of this year, yes,
23 sir.

24 MR. SENDLER: And did you Cease and
25 Desist then?

1 MR. PHILLIPS: Yes, sir.

2 MR. SENDLER: Prior to that time you
3 didn't receive one?

4 MR. PHILLIPS: No, sir.

5 MR. SENDLER: And when is your
6 certification?

7 MR. PHILLIPS: In 2009, the
8 registration is 2009.

9 MR. PARSONS: Any questions?

10 MR. ZUBIA: Mr. Chairman, I'm not
11 sure if it goes to the gentleman or Mr.
12 Wiggins. Is he current with all
13 requirements today if ---

14 MR. PARSONS: Well, we have Mr.
15 Phillips answer, and then we will ask
16 that same question to Mr. Wiggins, when
17 his time comes.

18 MR. PHILLIPS: According -- I have
19 twenty-four hours for each term period
20 and all my ICC certifications are up to
21 date that I have. So, yes sir.

22 MR. PARSONS: All right. Any other
23 questions for Mr. Phillips?

24 MR. BRIGGMAN: Yes. This was prior
25 to Cease and Desist I see you got the

1 Certified Building Official Certificates.
2 Do you have any other approved
3 accreditation from ICC?

4 MR. PHILLIPS: Yes, sir. I have all
5 four Residential Certifications and
6 Commercial.

7 MR. BRIGGMAN: So, the issue is at
8 hand is that you did not -- you had
9 certification to do what you were
10 registered with the job?

11 MR. PHILLIPS: Yes, sir. I didn't
12 register with the State.

13 MR. BRIGGMAN: You did not file with
14 the State.

15 MR. PHILLIPS: Yes, sir.

16 MR. PARSONS: Anybody have any
17 questions for Mr. Phillips. Mr.
18 Phillips, you have someone here to speak
19 on your behalf also?

20 MR. PHILLIPS: Yes, sir.

21 MR. COOLEY: Good morning,
22 gentlemen. My name is Bruce Cooley.
23 July the 11th I became Abbeville County
24 Director after being McCormick County
25 Administrator for six years. Shortly

1 thereafter I learned that Mr. Phillips
2 and Mr. Caldwell, who will follow, their
3 certification had lapsed. I had two
4 choices at that point in time. One was
5 to fire them immediately, but believing
6 in grace and mercy, I decided to give
7 them the opportunity if you give them the
8 opportunity to rectify their mistakes.
9 I've known Mr. Phillips for probably five
10 or six years. He was a Building
11 Inspector in McCormick County before he
12 went to -- back to Abbeville County.
13 I've known him to be a fine young man who
14 I think just used very poor lapse in
15 judgment in not getting his paperwork in
16 the way he should have, and while I do
17 believe in grace and mercy, I can assure
18 you I also believe in wrath and judgment.
19 If you reinstate Mr. Phillips
20 certification today, I can guarantee you
21 that I am going to check with Mr. Wiggins
22 periodically to make sure that his
23 certification is still current, and if it
24 is not current, we won't be back before
25 you. He will be terminated immediately,

In re: SOUTH CAROLINA BUILDING CODES COUNCIL

1 but I would like for you to express grace
2 and mercy to him today and give him one
3 more opportunity. That's all I've got to
4 say unless you have any questions of me.

5 MR. PARSONS: Members of the Council
6 have any questions of Mr. Cooley?

7 MR. SENDLER: I have one question.
8 I presume, based on what you just said,
9 that he's done a satisfactory job other
10 than the fact he is not registered.
11 You've had no complaints or anything?

12 MR. COOLEY: He has done an
13 excellent job, and I will also go on to
14 say, you asked the question, or somebody
15 asked the question if he had been doing
16 any inspections since I was notified by
17 Mr. Wiggins that his certification is
18 lapsed, the answer is no. I had Ryan
19 Branyon, who was my Building Inspector,
20 or my Chief Building Official in
21 McCormick County came up and did some
22 inspections for me for a while, but, of
23 course, McCormick County did not allow
24 that to go on for a long period of time.
25 We then entered into an agreement with

1 England and Associates or England
2 Enterprises, and they have been doing all
3 the building inspections in Abbeville
4 County since September, or since Mr.
5 Branyon stopped doing them.

6 MR. BRIGGMAN: Mr. Chairman, a
7 question. When this was brought to your
8 attention, did you as the Director
9 contact Mr. Wiggins in writing or call
10 him, phone call?

11 MR. COOLEY: I contacted both him
12 and Ms. Meade by phone, and I basically
13 asked them what my options were, because
14 to be honest with you I didn't know. I
15 had never faced this situation before,
16 and they sort of laid out the options
17 that they needed to come before the
18 Council here, and then my choice was,
19 what do I do with them. Do I give them
20 another opportunity, or do I just go
21 ahead and terminate them, and I chose to
22 give them another opportunity, because I
23 think both of them are excellent
24 employees who once again just had a poor
25 lapse in judgment and who among us

1 hasn't?

2 MR. DRURY: I have a question. Is
3 there a check and balance with Abbeville
4 County now? I assume since there are two
5 people here that there was no one kind of
6 helping watch some of the things that
7 they were responsible to be licensed for.

8 MR. COOLEY: I'll be honest with
9 you. I don't know, the gentleman asked
10 earlier, their certification lapsed June
11 30, 2009. I don't know why Abbeville
12 County was not notified prior to that, or
13 if they were. I can't speak for my
14 predecessor. All I can speak to is
15 myself. I will follow up with Mr.
16 Wiggins periodically, and there will be a
17 check and balance in the future.

18 MR. PARSONS: Any other questions by
19 Members of the Council. Mr. Cooley,
20 thank you so much.

21 MR. COOLEY: Thank you.

22 MR. SPOON: Just looking at the
23 format here, Mr. Phillips, is there
24 anything you want to say in closing?

25 MR. PHILLIPS: No, sir.

1 MR. SPOON: You didn't have any
2 additional witnesses, right?

3 MR. PHILLIPS: No, sir.

4 MR. SPOON: And do you have anything
5 else you want to make part of the record?

6 MR. PHILLIPS: No, sir.

7 MR. SPOON: One thing. This is a
8 procedural, kind of a technical thing, on
9 your application form that you filled
10 out, it is an application for
11 registration Code Enforcement Officer,
12 and I think earlier it was referred to as
13 an inspector. Is that the same thing,
14 Residential Inspector?

15 MR. PHILLIPS: Can I see the
16 application?

17 MR. SPOON: This is just the one
18 that you filled out. It's our form.

19 MR. PHILLIPS: And what was the
20 question? It is checked Building
21 Inspector, I think. It should have been
22 Residential Inspector. I apologize.

23 MR. SPOON: That's all right. I
24 only asked you that, because I may have
25 to write an Order on this, and I just

1 want to make sure I had it right.

2 MR. PARSONS: All right. Is there a
3 Motion to go into Executive Session to
4 discuss this issue?

5 MR. SENDLER: Mr. Chairman, I move
6 we go into Executive Session to discuss
7 this.

8 MR. DRURY: Henry Drury, you second
9 that.

10 MR. WIGGINS: Mr. Chairman, may I
11 ask one question?

12 MR. PARSONS: Yes.

13 MR. WIGGINS: The next case is
14 identical, same jurisdiction, same
15 situation. Would you prefer to take them
16 as a single issue. There is no
17 difference between the two.

18 MR. PARSONS: All right. We will
19 leave that to the Council. Richard, you
20 made a Motion there. Would like to
21 rescind that?

22 MR. SENDLER: I don't have a problem
23 with doing that. I'm not sure what the
24 proper way to do that is.

25 MR. SPOON: You can do it that way.

1 The suggestion was to hear the next case
2 in that it is similar, and then go into
3 Executive Session to consider both.

4 MR. PARSONS: Adolph?

5 MR. ZUBIA: Mr. Chairman, before we
6 move to the next case, let me make sure I
7 follow Sheridan's process. We had a
8 question asked of both gentlemen, and you
9 said we were going to follow it up with
10 Mr. Wiggins, and we kind of bypassed it.

11 MR. SPOON: You've got a question
12 for Mr. Wiggins?

13 MR. ZUBIA: Correct.

14 MR. SPOON: Okay. I'm sorry. I
15 forgot about that.

16 MR. ZUBIA: Mr. Wiggins, if
17 everything was what it was, but it isn't,
18 it's kind of a weird way of stating it,
19 would Mr. Phillips comply with all of
20 your requirements to be a currently
21 registered Residential Inspector if this
22 hearing would not be occurring at this
23 time?

24 MR. WIGGINS: Yes. He would. We
25 received the continuing education, and

1 everything looks like it is in order.
2 So, we could issue the license today if
3 we did not have the discrepancy.

4 MR. PARSONS: Any other questions of
5 Mr. Wiggins?

6 MR. HILL: Mr. Chairman, I have a
7 question for Mr. Wiggins. What is
8 involved in notification of these
9 applicants when their certification
10 expires?

11 MR. WIGGINS: Registration is with
12 the individual. It is not with the
13 jurisdiction. We notify the individuals
14 at an address that is requested on the
15 form each year or each cycle. We ask for
16 the mailing address. It could be an
17 office address. It could be the home
18 address. It could be a P.O. Box,
19 anything that the applicant gives us, but
20 we do notify. We send out a notification
21 to that address every two years during
22 the month of May, I believe. Jennie?

23 MS. MEADE: Between April and May.

24 MR. WIGGINS: Yeah, April and May.

25 MR. SENDLER: I have a question.

1 The Order to Cease and Desist that is in
2 our Tab 2 undated unsigned. What is
3 that, in the event that we decide to
4 continue or ---

5 MR. WIGGINS: No.

6 MR. SENDLER: Did this Order go out
7 at some point?

8 MR. WIGGINS: That's an electronic
9 copy of the Cease and Desist that went
10 out. That's the Cease and Desist that's
11 referenced to.

12 MR. SENDLER: Now, I don't know,
13 Sheridan, but I don't like to bring this
14 up, but Mr. Phillips last name is not
15 spelled correctly here, the Cease and
16 Desist Order, but I think he did
17 acknowledge he got it. I'm not sure.

18 MR. SPOON: It's in the caption.
19 You understand -- it's in the caption of
20 the C&D it says Phlipps instead of
21 Phillips, but what did you say -- the
22 question?

23 MR. SENDLER: I just said I don't
24 know what the ramifications of that are,
25 but did he, in fact, get the Cease and

1 Desist Order? He said he did.

2 MR. SPOON: I believe that's a typo.
3 Is that right, Gary?

4 MR. WIGGINS: That is a typo, yes.

5 MR. SPOON: It does have the
6 applicant's registration number there.
7 It is 1846, and ---

8 MR. PARSONS: It is what it is. All
9 right any other questions for Mr.
10 Wiggins?

11 MR. ZUBIA: Yes. Was it mailed to
12 his house or was it mailed to Abbeville?

13 MR. WIGGINS: It is mailed to the
14 address that is on the Cease and Desist
15 Order or the jurisdiction.

16 MR. PARSONS: Do you mean it would
17 be mailed to the -- do you mean it was
18 mailed to the address of the individual,
19 the licensed individual, the address that
20 you have on file?

21 MR. WIGGINS: Yes. Whatever the
22 address is on file -- whatever the
23 address is on the C&D is what we have.

24 MR. HILL: Is the same address of
25 his notification that his certification

1 expired goes to? Do you know that?

2 MR. WIGGINS: I cannot answer that.
3 I'd have to go back into the records and
4 see exactly what address was used.

5 MR. PARSONS: Any other questions?

6 MR. WILSON: Can I ask Mr. Phillips
7 a question?

8 MR. PARSONS: Well, we are going to
9 ask Mr. Phillips to respond once we are
10 done here with Gary. Any other questions
11 for Gary? Thank you, Gary. Mr.
12 Phillips, do you have anything in
13 response to what Gary has presented here?

14 MR. PHILLIPS: No, sir. Mr. Cooley
15 received the Cease and Desist Order. I
16 was out that day. My mother-in-law had
17 passed, and he called me that day to tell
18 me that there had been a Cease and Desist
19 Order.

20 MR. PARSONS: All right. Do we have
21 any other questions for Mr. Phillips?

22 MR. WILSON: Have you moved in the
23 past three years? Was that one reason?
24 Did you receive your renewal back in
25 2009?

1 MR. PHILLIPS: Yes. Yes, sir.

2 MR. PARSONS: Any other questions
3 for Mr. Phillips?

4 MR. BRIGGMAN: Mr. Phillips, what's
5 the staff in the office administrative
6 wise?

7 MR. PHILLIPS: I'm the Building
8 Inspector, and Mr. Caldwell is the Chief
9 Building Inspector, and then there's a
10 permit tech.

11 MR. BRIGGMAN: Okay, a permit tech,
12 so you do not have an administrative wise
13 of secretaries or anything in the
14 building department.

15 MR. PARSONS: All right. We were
16 asked whether -- I'm sorry, are there
17 anymore questions for Mr. Phillips? We
18 were asked whether we wanted to take both
19 cases together or hearing them back to
20 back prior to deciding, and I'm going to
21 leave that to the Council, and I'll hear
22 a Motion either way.

23 MR. DRURY: I make a Motion that we
24 combine them as one.

25 MR. RYE: Second.

1 MR. PARSONS: All in favor of the
2 Motions ---

3 MR. ZUBIA: Wait, wait. Combine is
4 the wrong term. Hear them and Closed
5 Session, but not combining ---

6 MR. SPOON: We are going to hear
7 both cases ---

8 MR. PARSONS: Consecutively.

9 MR. SPOON: And then we will go into
10 an Executive Session each case.

11 MR. PARSONS: That's correct. I
12 have a Motion that we're going to hear
13 the second case prior to deciding the
14 first case.

15 (Whereupon, the Motion was carried
16 unanimously)

17 MR. PARSONS: The Motion carries.

18 MR. SENDLER: I think we should
19 asked all the Members of the Council who
20 make the Motion to state their name.
21 We've got so many new people I don't know
22 all the players, and I'm sure Jennie and
23 the recorder don't know everybody's
24 names.

25 MR. PARSONS: That's an excellent

1 idea. Please take note. All right this
2 concludes the evidentiary portion on the
3 hearing on Mr. Phillips. We are now
4 going to move into the evidentiary
5 portion of our next hearing for Mr.
6 Caldwell, and then we are going to make
7 our determination on the two cases. All
8 right, Mr. Caldwell, I'm going to read my
9 script here. You've heard my
10 introduction. You heard me introduce
11 Members of the Council. Is that correct?

12 MR. CALDWELL: Yes, sir.

13 MR. PARSONS: And you know who our
14 Advice Attorney is, and you understand
15 that the purpose of this hearing is to
16 determine whether the Applicant should be
17 granted registration as a Residential
18 Inspector, and you understand that the
19 proceedings are being recorded and that
20 witnesses must be sworn before they
21 testify. All remarks should be directed
22 towards me. Now, would you -- we are
23 going a little bit out of order, and we
24 are going to ask that you be sworn by the
25 Court Reporter.

1 CHARLES CALDWELL, having been duly sworn testifies as
2 follows:

3 MR. PARSONS: All right. Mr.
4 Caldwell do you understand that you have
5 the right to be represented by an
6 attorney?

7 MR. CALDWELL: Yes, sir.

8 MR. PARSONS: Do you have an
9 attorney here with you today?

10 MR. CALDWELL: No, sir.

11 MR. PARSONS: Do you wish to waive
12 the right to be represented and continue
13 this hearing without an attorney?

14 MR. CALDWELL: Yes, sir.

15 MR. PARSONS: All right. Do you
16 have any witnesses other than Mr. Cooley
17 that you intend to call and testify on
18 your behalf?

19 MR. CALDWELL: No, sir.

20 MR. PARSONS: At this time, we are
21 going to ask Mr. Wiggins to tell us the
22 reason that the staff had for not
23 approving the application.

24 MR. WIGGINS: Thank you, Mr.
25 Chairman. On September the 6th, 2011,

1 staff learned that Mr. Charles Caldwell
2 was practicing building code enforcement
3 without a current registration as
4 required by law. On that same day the
5 Cease and Desist Order was mailed to Mr.
6 Caldwell ordering him to cease practice.
7 Mr. Caldwell was previously registered
8 and failed to renew prior to the
9 expiration date of July 30th, 2009. Mr.
10 Caldwell continued to practice more than
11 twenty-five months without being duly
12 registered in violation of the Building
13 Code Enforcement Offices Practice Act.
14 Mr. Caldwell is appealing to the Building
15 Codes Council to have his registration
16 reinstated.

17 MR. PARSONS: And I understand that
18 you have not subpoenaed any witnesses
19 here for Mr. Caldwell.

20 MR. WIGGINS: No. We have not.

21 MR. PARSONS: All right. Mr.
22 Caldwell?

23 MR. CALDWELL: Yes, sir.

24 MR. PARSONS: why do you believe
25 that we should reinstate your license?

1 MR. CALDWELL: I'm just begging for
2 mercy. I made a bad mistake, and I'm
3 just asking for your help.

4 MR. PARSONS: Do we have questions
5 by the Council on Mr. Caldwell?

6 MR. DRURY: I'm Henry Drury. As far
7 as the continuing education form, is that
8 what didn't get mailed in, and that's why
9 we -- is that basically what the issue
10 is?

11 MR. CALDWELL: I do have this also.

12 MR. SPOON: Okay, bring those up
13 here, and this is for what year?

14 MR. CALDWELL: For the two years.

15 MR. SPOON: Both years?

16 MR. CALDWELL: Yes, sir. It is a
17 total of forty-eight.

18 MR. DRURY: So, you took the
19 courses, but for whatever reason, the
20 letters never got mailed to Columbia?

21 MR. CALDWELL: Yes, sir. I went
22 through a divorce.

23 MR. SENDLER: Mr. Chairman, I have a
24 question. Did you apply for registration
25 or re-registration any time during that

1 period of time, or did -- why did you not
2 apply when you got a Cease and Desist
3 order?

4 MR. CALDWELL: We didn't get the
5 Cease and Desist Order until the 6th of
6 this year.

7 MR. SENDLER: This year?

8 MR. CALDWELL: Right.

9 MR. SENDLER: So, the time it lapsed
10 until this year, you didn't get a Cease
11 and ---

12 MR. CALDWELL: No, sir.

13 MR. SENDLER: --- but you were aware
14 that it was -- were you aware of the fact
15 that you were not registered?

16 MR. CALDWELL: To be straight honest
17 with you, at that time I was not even
18 thinking of it.

19 MR. SENDLER: Well, how much money
20 does it cost to register?

21 MR. CALDWELL: I think it is fifty
22 dollars.

23 MR. BRIGGMAN: Mr. Chairman, I've
24 got a question. Continuing education for
25 the jurisdiction you are in, and prior to

1 this, because y'all went out and got
2 these hours prior to the Cease and
3 Desist.

4 MR. CALDWELL: Yes, sir.

5 MR. BRIGGMAN: Correct?

6 MR. CALDWELL: Yes, sir.

7 MR. BRIGGMAN: Have y'all been
8 participating in any continuing education
9 prior to that point after you received
10 the letter?

11 MR. CALDWELL: After we received it?

12 MR. BRIGGMAN: Yes, prior ---

13 MR. CALDWELL: Yes, sir. I already
14 have fourteen more credit that we went to
15 the next fall.

16 MR. BRIGGMAN: But was y'all current
17 on submitting that up unto this point?

18 MR. CALDWELL: Yes, sir.

19 MR. BRIGGMAN: So, is there this
20 time frame is there some unforeseen
21 reason both of you did not submit the
22 necessary paperwork to the State?

23 MR. CALDWELL: Yes, sir.

24 MR. BRIGGMAN: Construction wise for
25 the jurisdiction, how much do y'all have?

1 MR. CALDWELL: Very little, actually
2 I'm also -- I do the maintenance on the
3 maintenance track. I took it over six
4 years ago. I do all the maintenance for
5 the County on their buildings.

6 MR. CULLUM: Mr. Chairman?

7 MR. PARSONS: Yes.

8 MR. CULLUM: Chris Cullum, your
9 application indicates Building Inspector.
10 You applied for Building Inspector. What
11 are your credentials?

12 MR. CALDWELL: It should be
13 Residential. Same thing, should be
14 Residential.

15 MR. CULLUM: So, your license is for
16 Residential?

17 MR. CALDWELL: Yes, sir.

18 MR. CULLUM: Strictly residential,
19 mechanical, plumbing ---

20 MR. CALDWELL: Yes, sir, all four.

21 MR. PARSONS: Any questions by
22 Members of the Council?

23 MR. DRURY: Mr. Chairman, I have a
24 question for Mr. Wiggins.

25 MR. PARSONS: I move that we get in

1 that once -- once we are finished with
2 Mr. Caldwell.

3 MR. WILSON: This is Dean Wilson.
4 So, y'all have another division that does
5 commercial inspections as well? Do y'all
6 have commercial inspectors?

7 MR. CALDWELL: We -- actually, no,
8 sir. We do now, Josh.

9 MR. ZUBIA: Mr. Chairman, just a
10 question. Mr. Caldwell, were you also
11 reprimanded similar to the previous
12 speaker?

13 MR. CALDWELL: Yes, sir. I have
14 that copy, also the contract for England
15 Enterprises.

16 MR. SPOON: This is a Memo to Mr.
17 Caldwell from Mr. Cooley dated November
18 14th, '11 as well as a personnel action
19 form that is dated October 6th, '11. We
20 can make this part of the record, and
21 you've also submitted a Professional
22 Service Agreement with England
23 Enterprises. Do you want to make that
24 part of the record?

25 MR. CALDWELL: Yes, sir.

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MR. SPOON: Okay.

(Whereupon, Applicant's Exhibit Numbers One, Two and Three were marked for identification purposes and made a part of the record)

MR. PARSONS: All right, Mr. Caldwell, tell us what the relevance is of these two items here on our decision.

MR. CALDWELL: I think Mr. Cooley called me in his office. That is written and it went into my personnel file, and I also lost privilege of the truck. We are actually paying England Enterprise back for inspections that they had to do for us.

MR. PARSONS: All right, and what is the purpose and what is the role of this Personal Service Agreement with England Enterprise?

MR. CALDWELL: England Enterprise did our inspections for us when we had a Cease and Desist Order, contracted with them.

MR. PARSONS: All right. Mr. Caldwell, is there any other relevant

1 information you have that you would like
2 to present to us.

3 MR. SENDLER: Mr. Chairman, before
4 we hear him I'd like to ask Mr. Caldwell
5 a question, several questions. You've
6 been the Chief Building Official for
7 McCormick County for six years?

8 MR. CALDWELL: Abbeville County.

9 MR. SENDLER: Abbeville County for
10 six years, and prior to that did you also
11 work in McCormick County?

12 MR. CALDWELL: No, sir.

13 MR. SENDLER: You didn't. During
14 that period of time, if y'all had a
15 commercial building, who did that
16 inspection? Did you do that also?

17 MR. CALDWELL: To a certain extent,
18 yes, but we don't have any commercials
19 going on in Abbeville County.

20 MR. SENDLER: So, if we were to
21 reinstate this, would y'all farm that out
22 in the future to somebody that was ---

23 MR. CALDWELL: No, sir. Josh would
24 be able to do it from now on.

25 MR. SENDLER: Is he a ---

1 MR. CALDWELL: CBO.

2 MR. SENDLER: Okay. He is licensed
3 to do that.

4 MR. CALDWELL: Yes, sir.

5 MR. PARSONS: Adolf?

6 MR. ZUBIA: Following that line of
7 question, my concern for the two year
8 period or twenty-five month period that
9 you operated, you were doing your job
10 without being registered. My question
11 is, what was approved through your
12 office, and was there any process, and
13 that's kind of an Administrator's
14 response, was there any process, or is
15 there going to be a process, where that
16 is going to be validated or verified, or
17 there any concern?

18 MR. PARSONS: That again, that's a
19 very good question, and, of course, that
20 -- we are directing questions to Mr.
21 Caldwell, and same question, and I won't
22 forget you this time, Adolf. We can ask
23 Gary, and then we can ask Mr. Cooley to
24 address that also. Any other questions
25 for Mr. Caldwell? Okay. Thank you, Mr.

1 Caldwell, and we are going to give you an
2 opportunity to close up too. All right,
3 Mr. Cooley?

4 BRUCE COOLEY, having been previously duly sworn
5 testifies as follows:

6 MR. COOLEY: While that question is
7 fresh on my mind, I'm not sure what we
8 are going to do to validate those
9 inspections that were done between 2009
10 and the time they received the Cease and
11 Desist Order. That is probably something
12 I'll need to work through with Mr.
13 Wiggins to figure out what we need to do.
14 That is something I have discussed with
15 our County Attorney however, because --
16 and I'm not an Attorney here. You have
17 an Attorney present, but I would imagine
18 Abbeville County has quite a bit of
19 liability possibly out there on all those
20 inspections that were done between the
21 time that their certification lapsed and
22 the time we hired England Enterprises to
23 do inspections for us, because, I mean,
24 quite frankly, if a house burns down, and
25 somebody comes forward and says my wiring

1 was not inspected properly, because your
2 building inspector was not certified to
3 inspect it, that's a problem. So, it is
4 something that we are going to need to
5 look at. How we remedy that situation I
6 don't know if we have to go back and
7 reinspect. It is going to be kind of
8 hard to reinspect houses that are already
9 built that the wiring is already covered
10 up by walls. So, I will be checking with
11 Mr. Wiggins to see what we can do to
12 rectify the situation. I really don't
13 know to be honest with you. What I said
14 earlier for Mr. Phillips pretty much goes
15 for Mr. Caldwell. I have not known Mr.
16 Caldwell quite as long as I've known Mr.
17 Phillips. Let me say, too. I think I
18 confused some of you about McCormick
19 versus Abbeville. This is all about
20 Abbeville County. I'm the one who has
21 ties to McCormick County, not them. I
22 was the Administrator for McCormick
23 County for six years. Then I came to
24 Abbeville County. Shortly upon my
25 arrival in Abbeville County is when I

1 realized or was told that their
2 certification had lapsed, and they needed
3 to cease and desist. Mr. Wiggins told me
4 in no uncertain terms they were not to be
5 out doing any building inspections during
6 the time they were notified that their
7 certification had lapsed and the time they
8 appeared before you gentlemen today, and
9 they have not done any. England
10 Enterprises or Mr. Branyon did all of it
11 between that period of time. Mr.
12 Caldwell has been with Abbeville County I
13 think about twelve years now, eleven and
14 a half. He started the building
15 department. So, he started it from the
16 ground up and has built it to what it is.
17 Does it have some flaws? I guess like
18 most counties, it has some flaws. Part
19 of flaws are the fact as Mr. Briggman
20 pointed out we are a small county with a
21 very small staff that is trying -- and
22 I'm not trying to make excuses for these
23 two gentlemen today, but we are a very
24 small staff that is trying to get their
25 certification done, trying to get all the

1 building inspections done, trying to get
2 the building maintenance done, and trying
3 to get the paperwork filed that needs to
4 be filed. Mr. Caldwell does an excellent
5 job as a building official. He does an
6 excellent job as a builder period. When
7 we need building maintenance done in the
8 County, he goes out and does the building
9 maintenance. Once again, I consider Mr.
10 Caldwell a very fine individual who just
11 had a poor lapse in judgment, and as I
12 promised you with Mr. Phillips, I believe
13 in grace and mercy, but I also believe in
14 judgment and wrath. If this happens to
15 Mr. Caldwell again, we won't bother you
16 with the case. We will handle the case
17 in Abbeville County by a termination
18 notice. Any questions?

19 MR. SCHUMANN: Lloyd Schumann.

20 MR. COOLEY: Yes.

21 MR. SCHUMANN: I assume you are know
22 all the building that is doubt at this
23 time?

24 MR. COOLEY: I do not at this point
25 in time, no, sir.

1 MR. SCHUMANN: You were able to go
2 back I guess and figure out which ones
3 were.

4 MR. COOLEY: I'm sure we can pull
5 some records, but, again, we are small
6 County with a small staff, and that will
7 probably take some time to do, and even
8 if you do, I need to check once again
9 with Mr. Wiggins, and maybe some other
10 building officials around the state.
11 What do you do when the electrical is
12 already in place, and the plumbing is
13 already in place, and all that? You
14 can't take and have people rip the walls
15 out so you can inspect the wiring, and
16 I'm not -- trust me, I'm not a building
17 official. So, you know, I may say
18 something stupid to you guys, but, you
19 know, I know you can't rip walls down to
20 see what wiring looks like once the wall
21 is up.

22 MR. PARSONS: Any other questions of
23 Mr. Cooley?

24 MR. ZUBIA: Mr. Chairman, well maybe
25 we will discuss this in closed quarters,

1 because I see some opportunities in this,
2 and I'll bring them up later.

3 MR. PARSONS: Thank you, Mr. Cooley.
4 Adolf, you had a question of Gary? You
5 had a question of Gary?

6 MR. ZUBIA: I guess that would ---

7 MR. CULLUM: Mr. Wiggins, Chris
8 Cullum, I would just like your
9 information perspective on the
10 certifications of Mr. Caldwell. Are they
11 all in place from Administration's
12 standpoint, are continuing ed documents
13 in order for a proper license?

14 MR. WIGGINS: To the best of my
15 recollection, when we received the
16 application I think that there were
17 twenty-four units accounted for, but Mr.
18 Caldwell did say that he presented forty-
19 eight. We would have to look it up to
20 make sure that the continuing education
21 for forty-eight hours is appropriate we
22 can accept them, but the application, if
23 I'm not mistaken, is twenty-four hours.

24 MR. SENDLER: Mr. Wiggins, when
25 somebody doesn't renew their

1 certification or their registration, do
2 you send something out at that time to
3 the registrant's address or the
4 registrant and say you've either
5 overlooked it, or y'all have not for some
6 reason, or do you just assume that they
7 didn't want to re-register?

8 MR. WIGGINS: We send out the Cease
9 and Desist Order when we find out that
10 the person has not re-registered and is
11 continuing to work. We have people leave
12 the system. We have people join the
13 system each year, each registration
14 cycle. So, there is -- we have no way
15 unless we sort through each and every
16 application individually to determine
17 whether a registrant has in fact re-
18 registered or not.

19 MR. SENDLER: So, they went for
20 twenty-five months, I think it was
21 between the time their registration
22 lapsed and they actually received the
23 Cease and Desist Order.

24 MR. WIGGINS: That's correct.

25 MR. SENDLER: Being a licensed

1 builder, you know, I keep up with mine
2 and I worry about it, but I'm just trying
3 to see how you did not -- fifty dollars
4 certainly wasn't the reason they didn't
5 do it. The County would pay that I'm
6 sure. I just don't understand what went
7 on.

8 MR. DRURY: I have a question about
9 that, Mr. Chairman.

10 MR. PARSONS: You have a question
11 for Gary?

12 MR. DRURY: Yes, sir. In the
13 continuing education class, are there any
14 courses that are offered where that
15 continuing education administrator or
16 instructor sends this in and maybe gets
17 them to pay the fee at that time included
18 in the package with the course? I know
19 in other licensing venues that is the
20 case sometimes that the instructor will
21 include taking care of some of that. It
22 looked like it was oversight, you know,
23 on this getting it mailed in, and I was
24 trying to find out if that does happen
25 with other instructor's classes?

1 MR. WIGGINS: We could look at any
2 continuing education that is submitted.
3 I'm just going by recollection. I
4 thought that there were twenty-four hours
5 submitted, but if there are forty-eight
6 or more than forty-eight we can accept
7 them regardless of when the hours were
8 actually taken. For instance, a person
9 could have had twenty-four hours during
10 the licensing period and taken another
11 twenty-four hours six months ago. As
12 long as we can make up that forty-eight
13 hours, we will credit it to the licensing
14 period. Did that cover it?

15 MR. DRURY: Well, the question I
16 have is, are there any classes that are
17 offered where the instructor takes care
18 of mailing in the actual continuing
19 education form to you?

20 MR. WIGGINS: The continuing
21 education forms are supposed to be
22 maintained by the individual, because
23 what we do after we register is we do a
24 one hundred percent audit of every
25 registrant, and at that point in time,

1 they are required to send in the
2 continuing education. If at that point
3 we find out they do not enough continuing
4 education, then we notify the individual
5 and the license is suspended. It is not
6 revoked, suspended until that continuing
7 education can be acquired.

8 MR. PARSONS: Any other questions of
9 Gary?

10 MR. SENDLER: And in this case they
11 both just lapsed, both individuals that
12 we are hearing, their registration just
13 lapsed.

14 MR. WIGGINS: Yes. That's correct.

15 MR. PARSONS: Gary, thank you. All
16 right, Mr. Caldwell, is there any --
17 would you like to respond to the
18 information that Gary had to present to
19 us?

20 MR. CALDWELL: He should have a copy
21 of forty-eight, because well I've got
22 paperwork presenting it.

23 MR. PARSONS: Okay.

24 MR. CALDWELL: ----

25 MR. PARSONS: Okay. Does the

1 Council have any last questions of Mr.
2 Caldwell? Mr. Caldwell, thank you so
3 much.

4 MR. PARSONS: That concludes the
5 evidentiary portion of the hearing on Mr.
6 Caldwell. Do I hear a Motion to ---

7 MR. ZUBIA: Mr. Chairman, I don't
8 let Mr. Wiggins get off so easy. I've
9 got some questions.

10 MR. PARSONS: All right. If your
11 questions, Adolf, can be in a procedural
12 type nature and not as it relates to
13 these specific cases, I would appreciate
14 that.

15 MR. ZUBIA: Thank you. What would
16 be the normal process regarding their re-
17 application if they were late given --
18 say the application expired a month
19 before, but for hoopla they were late,
20 what happens then? What is the normal
21 process?

22 MR. WIGGINS: In all cases every
23 registration is issued lapses on the last
24 day of the last day of the registration
25 cycle. So, if there is one day, or one

1 month, or one year after that point, that
2 license is no longer valid, but there is
3 no grace period. So, consequently an
4 individual that practices after the
5 registration lapses is in violation
6 whether it is a day or it is a year. It
7 doesn't make any difference.

8 MR. ZUBIA: The process then comes
9 before us for adjudication initially?

10 MR. WIGGINS: If in fact the
11 individual wants to be re-registered,
12 yes. In some cases upon lapsing we find
13 out that the person has either moved out
14 of state, or left the construction
15 industry, died or retired.

16 MR. ZUBIA: That would not be back
17 before us.

18 MR. WIGGINS: No, they will not be
19 back before you.

20 MR. ZUBIA: Just for my
21 understanding, there is not a late fee
22 for that one month. They do a whole re-
23 application process.

24 MR. WIGGINS: No, the application
25 process would have to be done regardless

1 -- regardless of whether the license was
2 lapsed or whether it was still valid.
3 The application process with the
4 application fee and the continuing
5 education has to be completed either way.

6 MR. ZUBIA: One last question, if
7 the individual is registered with you in
8 the eight or nine areas that they can
9 register, if one lapses, he's still good
10 to go on the other seven. If he's
11 certified as a residential inspector, or
12 mechanical inspector, or it doesn't
13 matter?

14 MR. WIGGINS: No. We only issue one
15 registration per individual. The
16 registration on a combination includes
17 all of those disciplines. So, if we have
18 a residential inspector, or a commercial
19 inspector that person would have hold
20 four certifications, building, plumbing,
21 electrical, and mechanical. If the
22 registration lapses, everything lapses.

23 MR. ZUBIA: And Mr. Chairman, I'm
24 just a little concerned, because I'm not
25 sure who is going to be excluded in the

1 closed session, so if I'm out of line,
2 please let me know.

3 MR. PARSONS: Gary will be excluded.

4 MR. ZUBIA: Excluded, good, not good
5 but, and my question, and I knew I would
6 have some questions regarding the
7 process, do we have, not case history,
8 but my concern, has something like this
9 occurred in the past where we have
10 structures that have been previously
11 inspected or approved by a non registered
12 employee?

13 MR. WIGGINS: Yes. We have sent a
14 good number of C&D's in the past, some
15 against Code Enforcement Officers, some
16 against Mayors, City Managers, and other
17 individuals that thought they were Code
18 Enforcement Officers, and they have, in
19 fact, inspected buildings.

20 MR. ZUBIA: What action occurred
21 subsequent to that?

22 MR. WIGGINS: From the Council,
23 there is no action that Council can take.
24 If there is a problem due to the
25 inspection or possibly could have been

1 corrected by an appropriate inspection,
2 then that becomes a civil action.

3 MR. ZUBIA: A what?

4 MR. WIGGINS: Civil action. We
5 cannot take any action, we being the
6 Council, cannot take any action against a
7 person who is not licensed. The only
8 action we can take is against a licensee.
9 We can stop a person ---

10 MR. SPOON: Other than a Cease and
11 Desist, if someone is out there ---

12 MR. WIGGINS: We can stop a person.

13 MR. SPOON: --- either with a lapsed
14 licensed or never had a license at all,
15 the Council could issue an Order to Cease
16 and Desist to that person.

17 MR. PARSONS: That would be up to
18 the local solicitor to enforce that Cease
19 and Desist.

20 MR. SPOON: No, it is up to the
21 Council.

22 MR. WIGGINS: And let me clarify
23 that. We do have a further step if in
24 fact the person continues to practice
25 after the Cease and Desist then we turn

1 it over to the Administrative Law Court,
2 and the fines there can reach -- and we
3 have gotten ten thousand dollars or
4 better depending on the number of days
5 the person practiced.

6 MR. ZUBIA: And again with some
7 latitude, Mr. Chair, does the Council
8 make recommendations -- recommendations
9 for someone like Mr. Cooley regarding
10 some potential lawsuits even though that
11 may fall under Mr. Wiggins purview?

12 MR. PARSONS: That is something the
13 Council can take up in due time. Right
14 now, we have these two hearings that
15 we've been provided with evidence, and
16 we've closed the evidentiary portion, and
17 I don't want to -- I don't want to cut
18 the Council short. I want to make sure
19 that the Council Members have the
20 information that they need from an
21 evidentiary portion standpoint to ensure
22 that they can make a decision that they
23 are going to be satisfied with in
24 deposing of these two cases that we have
25 in front of us.

1 MR. COOLEY: Can I ask one question?

2 MR. SPOON: Mr. Cooley, now I'm not
3 sure that you can. Do the Council
4 Members have any initial question for Mr.
5 Cooley as it relates to the issue in the
6 application?

7 MR. PARSONS: Okay. With that. Do
8 I hear a Motion to go into Executive
9 Session?

10 MR. RYE: I Move to go into
11 Executive Session.

12 MR. DRURY: I Second.

13 (Whereupon, the Motion was carried
14 unanimously)

15 MR. PARSONS: All right. We are now
16 in Executive Session for disposition of
17 Hearings.

18 (Whereupon, the Council went into
19 Executive Session at 11:52 a.m.)

20 MR. PARSONS: Okay, Members of
21 Council, do I hear a Motion to come out
22 of Executive Session?

23 MR. RYE: So moved.

24 MR. ZUBIA: Second.

25 (Whereupon, the Motion was carried

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unanimously)

MR. PARSONS: Motion carries.

(Whereupon, the Council came out of
Executive Session at 12:31 p.m.)

MR. PARSONS: All right. Do I hear
a Motion on the disposition of the
Application for Joshua M. Phillips?

MR. ZUBIA: Mr. Chairman, I make a
Motion that we reinstate the license for
Mr. Josh Phillips upon him meeting all
the requirements of Mr. Wiggins' office.
Secondly, to direct the Administrator to
file a formal complaint regarding the
parties actions.

MR. PARSONS: All right. Do I have
a second on that Motion?

MR. BRIGGMAN: Second.

(Whereupon, the Motion was carried
unanimously)

MR. PARSONS: Motion carries. All
right. Do I hear a Motion on the
disposition of the application for
Charles R. Caldwell?

MR. CULLUM: Mr. Chairman, I'd like
to make a Motion that we reinstate Mr.

1 Caldwell's license application with the
2 condition that he meets all the
3 requirements of that position, and also
4 that we direct the Administrator to file
5 a formal complaint for his actions.

6 MR. PARSONS: Do I have a second for
7 that Motion?

8 MR. RYE: Second.

9 MR. PARSONS: All right. Curtis Rye
10 Second that Motion.

11 (Whereupon, the Motion was carried
12 unanimously)

13 MR. PARSONS: Motion carries. All
14 right. That concludes the business of
15 Joshua M. Phillips and Charles R.
16 Caldwell applications for reinstatement.
17 So, Gary, that means you can come sit
18 over here if you like. All right. Do we
19 have any comments by members of the
20 public. Okay. Our next meeting date is
21 February 22nd, 2012. We have our meeting
22 dates for next year at the bottom of this
23 agenda obviously subject to change. Is
24 there any other business before this
25 Council?

1 MR. WHITE: Mr. Chair, probably want
2 to come back to absent members.

3 MR. PARSONS: You are very good.
4 All right. There's a reason they have
5 you in charge over there. We have Thomas
6 Brock. We are not sure what happened,
7 and then we have Susan Herdina where she
8 had some business conflicts. I'll
9 entertain a Motion for approval or
10 disapproval of one or more of those
11 members.

12 MR. SCHUMANN: I approve their
13 absence.

14 MR. PARSONS: All right. Do we have
15 a second?

16 MR. CULLUM: I'll second.

17 MR. PARSONS: All right. Chris
18 Cullum second.

19 (Whereupon, the Motion was carried
20 unanimously)

21 MR. PARSONS: The Motion carries.
22 Any other business before this Council?

23 MR. SENDLER: Mr. Chairman, quickly,
24 all these dates, I know in the past every
25 year we wait until near Thanksgiving to

1 change it, but I'm sure this is around
2 Thanksgiving, and we always end up not
3 being able to get a room or something at
4 the time we want. Would it behoove us to
5 maybe to deal with this at the next
6 meeting or something so that we don't get
7 down to November and wonder when we are
8 going to meet.

9 MS. MEADE: Mr. Chairman, if the
10 Council would come up with an alternate
11 date at the next meeting, I'll be able to
12 schedule it in plenty of time, but please
13 remember to check any conferences, or
14 anything else, that may be a problem.

15 MR. PARSONS: All right. Now,
16 Richard, let me understand your concern.
17 If you don't like November 28th ---

18 MR. SENDLER: Well, it is probably
19 right around Thanksgiving, and every year
20 we move it. Since I've been on the
21 Council every year we've moved it. So,
22 why don't we just move it, but a lot of
23 times Jennie has to jump through hoops to
24 get a place to meet.

25 MR. PARSONS: That's right, but

1 where are we going to move it to?

2 MR. SENDLER: Huh?

3 MS. MEADE: well, Mr. Chair ---

4 MR. SENDLER: If we moved it,
5 whatever date we want to do it, I mean,
6 we don't know any better now than we are
7 going to know in August the 22nd when we
8 want to have it.

9 MS. MEADE: Mr. Chairman, it does
10 put -- I did bring a calendar this time,
11 and it just happens that the 28th of
12 November is the week after Thanksgiving
13 this time.

14 MR. SENDLER: All right.

15 MS. MEADE: So, if you wish to keep
16 it on the 28th we can.

17 MR. BRIGGMAN: Sounds good.

18 MR. PARSONS: Okay. Your concern
19 was that it was at Thanksgiving week?

20 MR. SENDLER: Yeah, we end doing it,
21 and then we have trouble finding a room.
22 I'm just saying let's be the smarter than
23 the other Councils and get a room early.

24 MR. PARSONS: Right. Is there any
25 other -- yes?

1 MR. BRIGGMAN: Yes. I was fortunate
2 to attend the Governor's Orientation a
3 month ago.

4 MR. PARSONS: Yes.

5 MR. BRIGGMAN: And as a person that
6 continued education travels a lot, one of
7 the things you mentioned that Building
8 Codes Council there are funds for Members
9 to attend the conference, and I wondered
10 if Mr. Wiggins is at large to speak now,
11 or speak at the next meeting in regards
12 to that.

13 MR. WIGGINS: Okay. The policy is
14 to allow two Board Members to travel to a
15 nationally recognized meeting, and that
16 would be ICC. So, that something that
17 the Council would have to discuss among
18 themselves and select two people.

19 MR. ZUBIA: Is that two a year, or
20 two per conference, because that does not
21 necessarily clarify the policy I saw.

22 MR. WIGGINS: It is two per
23 conference.

24 MR. PARSONS: All right. Any other
25 comments or questions?

1 MR. SENDLER: Mr. Chairman, I Move
2 we adjourn.

3 MR. PARSONS: So Moved.
4 (Whereupon, the Meeting was
5 adjourned at 12:38 p.m.)

CERTIFICATE OF REPORTER

I, Janice Dunkin, a Notary Public for the State of South Carolina, do hereby certify that I reported the foregoing proceedings at the time and place herein designated and that the foregoing pages, are a true, accurate and correct transcript of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, nor in anyway interested in the event of said cause.

In witness my hand and official seal this the 8th day of December, 2011, York, South Carolina, State of South Carolina.

Janice Dunkin
Court Reporter/Notary Public

My Commission Expires:
9-7-2014

In re: SOUTH CAROLINA BUILDING CODES COUNCIL