

*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 15, 2010**

**10:00 a.m.**

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

**WELCOME AND CALL TO ORDER:**

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

Staff members participating in the meeting included: Sheridon Spoon, Assistant General Counsel; Christa Bell, Staff Attorney; Suzanne Hawkins, Staff Attorney; James Saxon, Hearing Advisor; Michael Anderson, Administrator; Joyce Thurber, Program Coordinator; Angela Scott, Administrative Assistant; Steve Freshley, Office of Investigations and Enforcement and Eric Gore, Court Reporter.

Others present participating in the meeting included: Kenneth Tosky

**Approval of Agenda:**

*Thursday, April 15, 2010*

**MOTION:**

Mr. Caswell moved to approve the Thursday, April 15, 2010, Agenda as previously noted. Mr. Neely seconded the motion, which carried unanimously.

**Excused Members:**

None

**Approval of Minutes:**

*Thursday, January 21, 2010*

**MOTION:**

Mr. Neely moved to approve the Thursday, January 21, 2010, meeting minutes with the following corrections: under Election of Officers 4<sup>th</sup> and 8<sup>th</sup> sentences delete re-elected and add elected; and 6<sup>th</sup> sentence delete Doug and add Mark. Mr. Greer seconded the motion, which carried unanimously.

**Chairman's Remarks:**

*Kim Lineberger*

Mrs. Lineberger thanked the Board for giving her the opportunity to serve as Chairman.

**Administrator's Remarks:**

*Michael Anderson*

1. **Accredited Building Examination** - Mr. Anderson reported that the Accredited Building Examination will begin on May 1, 2010, and South Carolina has a reciprocal agreement with Alabama.
2. **Burglar and Fire Alarm and General Contractor's Renewals** – Mr. Anderson reported that Office of Licensure and Compliance are preparing for the Burglar and Fire and General Contractor's Renewals which will begin October 1, 2010.

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3. **David Christian/Roselind Bailey-Glover, Office of Licensure and Compliance** – Mr. Anderson reported that Mr. Christian and Mrs. Glover were not present and Mr. Christian was notified verbally and via e-mail regarding the meeting
4. **Office of Investigations and Enforcement and Office of General Counsel** - Mr. Anderson informed the Board that Mr. Randy Bryant, Assistant Deputy Director has requested that a representative from the Office of General Counsel; Office of Investigations; and Office of Licensure be placed on the Board and Commission's Agenda to present reports or other pertinent and appropriate information. These reports will be a standing item for all agendas in future.

Office of Investigation and Enforcement (OIE):

Steve Freshley reported the number of investigations as of today:

100 – <b>Open Cases</b>	38 – <b>2009 cases from 2009</b>
107 – <b>Cases received in 2010</b>	297 – <b>Investigations in 2009</b>

Mr. Freshley reported by July 1, 2010, all cases received in 2009 should be closed and it does not include cases that have been referred to Office of General Counsel. Their goal is not to have a case open more than six (6) months after receipt. The OIE has three investigators assigned to investigate Contractor's Licensing Complaints Mr. Ray Smith, Mr. Joe Martin and Mr. Andy Dempsey.

Mr. Anderson reported that he is very happy with the work that the OIE is doing.

Office of General Counsel (OGC):

Mrs. Christa Bell reported the number of cases as of today:

46 – <b>Open Cases</b>	26 – <b>Pending Actions Cases</b>	1 – <b>Appeal</b>
5 – <b>Pending Evidentiary Hearings</b>	3 – <b>Pending Final Order Hearings</b>	
1 – <b>Pending Final Orders</b>	66 – <b>Closed Cases</b>	
11 – <b>Cases Pending Consent or Memorandum of Agreement</b>		

Mrs. Bell reported that the one appeal case went to the Court of Appeals and Administrative Law Judge. The case was affirmed and the Respondent did not appeal the case therefore, the case is closed.

Mr. Anderson reported that staff works very closely with the OGC and have been able to close several cases through Consent Agreements.

Mr. Walker commended the OIE and Enforcement and OGC for doing an outstanding job. He stated that it is taking approximately four to five months for a Final Order Hearing to come before the Board. Therefore, he is asking the Board to evaluate the number of pending Final Order Hearings and possible call a special Board meeting.

Mr. Caswell concurred with Mr. Walker but wanted to make sure that the investigator gathers necessary documentation to present the case.

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Mr. Lehman asked whether Final Order Hearings could be held via conference call.

Mr. Anderson informed the Board that they would have to seek legal advice regarding this matter. He wanted to make sure the Board was in compliance with the Administrative Procedure Act regarding due process. The Board may want to look into appointing a committee to review all Hearing Officer's Recommendations for Final Orders and make a recommendation to the Board.

Chairman Lineberger made a recommendation to have Mr. Anderson and Mrs. Bell monitor the number of Final Order Hearings and present a report at the next meeting. Also, she made a recommendation to require field inspectors to document the number of hours worked and mileage per case. She asked whether the Board could be reimbursed for legal and investigations fees.

Mr. Anderson stated currently there is pending legislation to prevent the Board from requesting reimbursement.

Mr. Freshley asked that OIE be notified of the Board's decision regarding reimbursement of investigation and legal fees because the field inspector must document the file with the number of hours and miles driven.

Mr. Anderson stated that the Board could make a policy that the investigators gather and maintain the information. If the respondent is found in violation at the evidentiary hearing; the Litigation Attorney may request reimbursement.

**MOTION:**

Mr. Caswell made a motion to grant permission to the Administrator to write a policy requesting that Office of Investigation and Enforcement maintain a log with the actual expenses occurred during investigations; provide a copy of the documentation to the Litigation Attorney at the Evidentiary Hearing, to take in consideration for the charges for cost of investigation. Ms. Nance seconded the motion, which carried unanimously.

Mrs. Bell stated that the director has asked that language is included on the citation that states if respondent do not pay or appeal the citation within thirty (30) days their license may be immediately suspended without a hearing until such time as if the citation is paid. She stated that adding the language to the citation would address the due process concern and if the citation is paid the license reinstated.

Mr. Caswell asked who would execute the order to suspend the license.

Mrs. Bell advised that the OLC would send the Order to the licensee suspending the license.

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Chairman Lingeberger requested that staff present a report at the next meeting regarding the logistics of the citation process.

5. **PSI Portion Pass Report** – Mr. Anderson presented and explained the PSI Portion Pass Report.

**Advisory Opinions:**

*Sheridon Spoon*

NONE

**Legislative Update:**

Mr. Anderson reported that there is legislation in the House and Senate to exempt One and Two Family Dwelling to make it voluntarily instead of mandatory to install fire sprinklers.

Mr. Greer stated that it should be a business or personal decision whether homeowners want to install fire sprinklers in their home. The requirement should be mandatory in rental property.

**Old Business:**

NONE

**New Business:**

**Revision – General Policy for Licensure Requirements for Recreational Projects:**

Mr. Anderson asked for the Board's clarification on the General Policy for Licensure Requirement for Recreational Projects does that includes golf court construction.

Chairman Lineberger stated that she did not think golf court construction needed to be included in the policy. She stated that an individual would have to be licensed based on the different classifications that were entailed in the construction.

After review and discussion, the Board agreed to leave the language in the policy.

**Recommendation of Investigation Review Committee:**

*February 2010, IRC Recommendations:*

Chairman Lineberger asked was a Board member present at the February 2010, IRC meeting.

Mr. Lehman asked why wasn't the respondents name not listed under the consent agreement.

Mr. Anderson stated yes, a Board member was present and the respondents name was not listed because the respondent did not sign the Consent Agreement the matter may appear before the Board.

*March 2010, IRC Recommendations:*

**MOTION:**

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

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*April 2010, IRC Recommendations:*

Mr. Lehman stated that the Respondents names is listed on the April 2010, IRC Report.

Mr. Anderson reported that the case was forwarded to Administrative Law Court (ALC) and a "Do Not Issue" Order for Reinstatement has been issued, therefore the case would not appear before the Board.

Mr. Sheridan Spoon advised that the Board may want to consider not having the respondent's name listed on any of the IRC Reports because it may appear before the Board as a formal complaint.

Chairman Lineberger stated that the Board would like for the respondents name listed and will accept any information in which they are privy too.

Mr. Caswell asked whether that IRC Committee add the following information on the IRC Report: prior violations and/or complaints and the disposition. He stated the Board would be more receptive to approve or disapprove the IRC Recommendations.

Mr. Spoon advised when the Board approves the IRC Report they are authorizing a complaint to go forward.

**MOTION:**

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

**Application Hearing:**

***Kenneth S. Tosky and Kenneth Scott Builders, Inc.***

The Board held an Application Hearing for Mr. Kenneth S. Tosky and Kenneth Scott Builders, Inc.

**MOTION:**

Mr. Caswell made a motion to grant Mr. Tosky's license pending a corrected application with all questions answered properly; the highest license Mr. Tosky maybe granted is a Group 4 Classification based on a Reviewed Financial Statement; if Mr. Tosky's want to apply for a Group 5 Classification he must have provided an Audited Financial Statement showing a net worth of Two Hundred Fifty Thousand Dollars (\$250,000); and pay a fine of Seven Hundred Fifty (\$750.00) Dollars. Mr. Walker 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.)*

**Hearing Officer's Report and Recommendations for Final Orders:**

Jamie Saxon and Daniel Grigg, were the Hearing Advisors. Mrs. Christa Bell represented the State.

*A+ Security Vision, Lexington, South Carolina OIE Case #: 2008-66*  
Respondent was not present and proper notice was sent by regular and certified mail.

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**MOTION:**

Mr. Lehman made a motion to amend the Hearing Officer Recommendations Item #2 the fine be increased to Fifteen Hundred (\$1,500.00) Dollars; and Item #3 be modified to read the Respondent shall bear late fees as to renewal application fees that may have accrued through the date of this hearing. Mr. Neely seconded the motion, which carried unanimously.

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

*Atlas Mechanical and Michael Staggs OIE Case #2008-59*

Jamie Saxon and Daniel Grigg, were the Hearing Advisors. Mrs. Christa Bell represented the State.

**MOTION:**

Mr. Walker made a motion to approve the Hearing Officers Recommendation that the Respondent Atlas and Staggs be jointly and severally liable for payment of a fine to Two-Thousand (\$2,000) Dollars, payable within ninety (90) days of the effective date of the Final Order. Mr. Lehman seconded the motion, which carried unanimously.

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

**Public Comments:**

*Doug Greer*

Mr. Greer reported that he attended a Senate Meeting concerning Unemployment Insurance. He reported according to the testimony giving the State of South Carolina borrowed money in January 2009 and January 2010 and if the State borrows money in 2011, the Federal Government can take over the unemployment insurance. They discuss raising the Seventy-Five Hundred Dollars (\$7,500) amount to an unknown amount. Therefore, employers must look at increasing unemployment insurance either by percentage by keeping the same number; increasing the number from Seventy-Five Hundred Dollars (\$7,500) charge; or a combination of both in order to get South Carolina Unemployment Insurance in sync with what is being spent.

**Date of Next Meeting**

*Thursday, July 15, 2010, Meeting Room 202-02*

The next meeting of the Board is scheduled for Thursday, July 15, 2010, in conference room 202-02.

**Adjournment**

Mr. Greer moved for the meeting to be adjourned. Mr. Neely seconded the motion, which carried unanimously.

The April 15, 2010, meeting of the South Carolina Contractor's Licensing Board was adjourned at 12:45 p.m.