

**South Carolina Residential Builders Commission
Board Meeting Minutes, Wednesday, March 14, 2007
Columbia, South Carolina**

MEMBERS PRESENT

**John Curl
Al Bailey
Frank Clark
Gale Crawford
Caleb Davis
Timothy Roberts
Derrick Williams**

OTHERS PRESENT

**Rick Wilson, Deputy General Counsel
Shirley Robinson, Hearing Advisor
Christa Bell, Staff Attorney
Charles McAlister, Administrator
Charles Ido, Chief of Investigations, OIE
Christine Driver, Administrative Assistant
Patrice Deas, Administrative Assistant
Faye Grainger, Court Reporter**

MEMBERS ABSENT

Public Notice of this meeting was properly posted at the Board office and provided to any requesting persons, organizations, or news media in compliance with Section 30-4-80 of the S. C. Freedom of Information Act. A quorum was present at all times.

Call to Order

Mr. John Curl, Chairman, called the meeting to order.

Approval of Minutes

Motion: Mr. Bailey moved to approve the minutes of January 10, 2007 meeting. Mr. Williams seconded the motion, and with all members present voting favorably, the motion carried.

Approve recommendations of the Investigative Review Committee

Motion: Mr. Williams moved to approve the recommendations of the Investigative Review Committee for January 4, 2007 and February 6, 2007. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Approval of Recommendations of the Administrative Hearing Officer, Douglas Green, for Citation Appeals

Motion: Mr. Williams moved to approve the recommendations of the Administrative Hearing Officer, Douglas Green, for Citation Appeals on behalf of Jeffrey B. Gray, Jimmie Mance, V. Scott Dills, and Michael L. Robinson. Mr. Roberts seconded the motion, and with all members present

voting favorably, the motion carried.

Approve Recommendation of Administrative Hearing Officer, Beau Tiller, for Bond Hearings

Eddie Ochrymowich – This matter was heard before Beau Tiller, Administrative Hearing Officer, on February 27, 2007.

Motion: Mr. Williams moved to approve the recommendations of the Administrative Hearing Officer, Beau Tiller, for Bond Hearing on behalf of Eddie Ochrymowich. Ms. Crawford seconded the motion, and with all members present voting favorably, the motion carried.

William Montgomery – This matter was heard before Beau Tiller, Administrative Hearing Officer, on February 27, 2007.

Motion: Mr. Williams moved to approve the recommendation of the Administrative Hearing Officer, Beau Tiller, for Bond Hearing on behalf of William Montgomery. Ms. Crawford seconded the motion, and with all members present voting favorably, the motion carried.

Gregory Kuykendall – This matter was heard before Beau Tiller, Administrative Hearing Officer, on February 27, 2007 (Massachusetts Bay Insurance Company).

Motion: Mr. Bailey moved to hold in abeyance the recommendation of the Administrative Hearing Officer, Beau Tiller, for Bond Hearing regarding of Gregory Kuykendall (Massachusetts Bay Insurance Company). Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried. This matter will be continued until April 11, 2007.

Gregory Kuykendall – This matter was heard before Beau Tiller, Administrative Hearing Officer, on February 27, 2007 (Platte River Insurance Company).

Motion: Mr. Williams moved to approve the recommendation of the Administrative Hearing Officer, Beau Tiller, for Bond Hearing regarding Gregory Kuykendall (Platte River Insurance Company). Ms. Crawford seconded the motion, and with all members present voting favorably, the motion carried.

William Bailey – This matter was heard before Beau Tiller, Administrative Hearing Officer, on February 27, 2007.

Motion: Mr. Williams moved to approve the recommendation of the Administrative Hearing Officer, Beau Tiller, for Bond Hearing on behalf of William Bailey. Ms. Crawford seconded the motion, and with all members present voting favorably, the motion carried.

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John Robinson – This matter was heard before Beau Tiller, Administrative Hearing Officer, on February 27, 2007.

Motion: Ms. Crawford moved to approve the recommendation of the Administrative Hearing Officer, Beau Tiller, for Bond Hearing on behalf of John Robinson. Mr. Williams seconded the motion, and with all members present voting favorably, the motion carried.

Approve Recommendations of Administrator, Charles McAlister, for Bond Claims

Mr. McAlister informed the Commission that a bond hearing was held on behalf of Judy Harrelson-Burns, and approved by the Commission in the amount of \$ 10,500.00. Mr. Lester has submitted additional estimates of repair to support their claim. Mr. McAlister is recommending that the bond claim be modified to \$15,000.00 to include the additional estimates of repair.

Motion: Mr. Bailey moved to approve the recommendations of the Administrator, Charles McAlister, for Bond Claims on behalf of Eddie Ochrymowich, William Montgomery, Gregory Kuykendall (Platte River Insurance Company), William Bailey, and Judy Harrelson-Burns with modifications. Ms. Crawford seconded the motion, and with all members present voting favorably, the motion carried.

Appeal recommendation of Administrative Hearing Officer, Beau Tiller, for Bond Hearing

Rick Wilhelmi – Mr. Wilhelmi informed the Commission that he is appealing the recommendation of the Administrative Hearing Officer, based on the fact, that the final inspection passed the building officials inspection and a certificate of occupancy was issued, on August 6, 2004, and the issues in the bond claim are outside the residential construction standards guidelines.

Mr. Mike Doles, Investigator, stated that six months after the final inspection there were problems with the hardwood floors and a roof leak. Mr. Wilhelmi contends that the hardwood floors are outside the residential construction standards guideline. Mr. Wilhelmi's license expired, on June 30, 2005, therefore the Investigative Review Committee recommended a bond claim on behalf of the homeowner. Mr. Doles further stated that the problems with the hardwood floors and the roof leak still exist.

Motion: Mr. Bailey moved to approve the recommendation of the Administrative Hearing Officer, Beau Tiller, for Bond Hearing regarding Rick Wilhelmi. Mr. Williams seconded the motion, and with all members present voting favorably, the motion carried.

Appeal recommendation of Administrative Hearing Officer, Douglas Green, for Bond Hearing

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Eddie White - Mr. White stated that he was not properly notified of the bond hearing until two days before the bond hearing was held on January 17, 2007. Mr. White stated that he was not aware of what was going on at the bond hearing, therefore, he appealed the decision of the hearing officer. Mr. Bernard Tompkins, Investigator, stated that he met with Mr. White at the homeowners' residence and Mr. White agreed to make the corrections outlined in the inspection report, and has already started making the repairs at this time. Mr. Tompkins recommended that this matter be continued until April 11, 2007, to allow Mr. White to complete the corrections outlined in his inspection report, dated November 17, 2005.

Mrs. Bradley confirmed that Mr. White is currently making the repairs on their home at this time, and they are willing to allow him to continue with the repairs in a timely manner.

Motion: Mr. Williams moved to continue this matter until April 11, 2007, to allow Mr. White time to complete the corrections outlined in Mr. Tompkins' inspection report, dated November 17, 2005. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Bond Hearing

Bobby Williams - Mr. Tompkins, Investigator, stated that Mr. Williams's license expired in 2004 and there was a bond in place at the time of construction. Mr. Tompkins stated that he made an inspection at the residence of Lidy Hartley on February 24, 2003, and in February 2007 and the code violations listed in his report still exist.

Mr. Drayton Hastie, III, Esquire, representative for Massachusetts Bay Insurance Company in this matter, stated that there is ongoing litigation between Mr. Williams and Ms. Hartley. Mr. Hastie submitted a copy of a dismissal and settlement of the ongoing litigation. Ms. Bell stated that the Stipulation of Dismissal does not have anything to do with this complaint or the bonding company. There was a bond in effect at the time of construction and the Stipulation of Dismissal does not reference the complaint or the code or standard violations. This Stipulation of Dismissal involves the business relationship between Mr. Williams and Ms. Hartley concerning H & W Hardware & Building Supply, LLC, and does not purport to the bonding company from its obligations.

Ms. Hartley stated that Mr. Williams had been paid \$ 250,000.00 to construct her home. Mr. Williams never returned to make any corrections, and placed a mechanics lien on her home. Ms. Hartley stated that she signed the Stipulation of Agreement to get Mr. Williams out of her life. The Agreement did not release Mr. Williams from his responsibility of the code violations listed in Mr. Tompkins' report.

Mr. Curl stated that the Stipulation of Agreement does not cover the home and the Commission cannot hold a builder harmless for code violation because of a separate business arrangement.

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The bond is to protect the consumer against builder neglect.

Motion: Ms. Crawford moved to approve the bond claim regarding Bobby Williams. Mr. Clark seconded the motion, and with all members present voting favorably, the motion carried.

Request for Reinstatement of License

Allen Butts – Mr. McAlister informed the Commission that Mr. Butts has requested that this matter be continued. Therefore, no action was taken.

Anthony Parrish – Mr. McAlister informed the Commission that Mr. Parrish is here today to request reinstatement of his residential builder's license in accordance with a signed Consent Agreement, dated April 24, 2006. Mr. Parrish was given a public reprimand and a six months suspension of his license, which is stayed if all necessary repairs were made within thirty (30) days. On June 29, 2006 Investigator Doles talked with both complainant and respondent and confirmed from both parties that all repairs had not been corrected per the Consent Agreement. Therefore, Mr. Parrish's residential builder's license was suspended for six months beginning July 13, 2006.

Mr. Parrish informed the Commission that he constructed a single family dwelling at 1143 Alysheba Court, York, South Carolina. Mr. Parrish stated that there were code and standard issues identified in a report, dated February 1, 2006, by LLR Investigator Michael Doles. Mr. Parrish further stated that the six month suspension period ended on January 13, 2007. Mr. Parrish and his attorney have tried to gain access to the home to make the necessary corrections outlined in the Consent Agreement and never received a reply from the homeowner or his attorney.

Motion: Mr. Williams moved to hold in abeyance the reinstatement of Mr. Parrish's residential builder's license until the resolution of another complaint comes before the full Commission. Mr. Clark seconded the motion, and with all members present voting favorably, the motion carried.

Motion: Ms. Crawford made a motion to reopen this matter for further information. Mr. Clark seconded the motion, and with all members present voting favorably, the motion carried.

Ms. Christa Bell informed the Commission that Mr. Parrish has agreed to enter into a Consent Agreement. Mr. Parrish has admitted he was in violation of the Consent Agreement by engaging in construction while his license was under suspension.

Motion: Mr. Clark moved to reinstate Mr. Parrish's residential builder's license in accordance with the stipulations of the Consent Agreement. The Respondent's application for reinstatement of his residential builder's license is granted subject to the following conditions.

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Mr. Bailey seconded the motion, and with all members present voting favorably, the motion carried.

- a. Respondent shall pay a one thousand (\$1,000.00) dollar civil penalty within ten (10) days of receipt of this Consent Agreement. Payment to the Commission is not deemed effectuated until received by the Commission regardless of when it was mailed, if payment is sent by mail. If payment is not timely received, Respondent's license will remain suspended.
- b. Respondent shall be placed on probation with the Commission for a one year period which will commence at the time that the fully executed consent agreement is received by Respondent.

Benjamin Scipio – Mr. McAlister informed the Commission that Mr. Scipio is requesting reinstatement of his residential builder's license. Mr. Scipio was issued a Do Not Renew Order, on January 10, 2006 on Case # 2004-590 by Darlington County DSN, October 12, 2005 on Case # 2005-222 by Curley Samuel, October 12, 2005 on Case # 2004-270 by Annie B. Smith, August 10, 2005 on Case # 2004-271 by Annie B. Smith, and September 8, 2004 on Case # 970254 by Anita J. Johnson. The Do Not Renew Orders were issued to Mr. Scipio because of the complaints and the fact that his license had expired in 2004.

Mr. Scipio stated that he was aware of the complaints on file against him and that some of the issues have been satisfied by payment of judgments. Mr. Samuels is deceased and Ms. Johnson will not allow him access to the home to make the necessary repairs.

Motion: Mr. Bailey moved to reinstate Mr. Scipio's residential builders license provided he shows proof that all complaints have been satisfied to the satisfaction of the Commission, provide a surety bond in the amount of \$30,000.00, and be subject to a credit report. Ms. Crawford seconded the motion, and with all members present voting favorably, the motion carried.

Application Review

Eric J. Clark – Although the record shows that he was properly notified of this appearance he did not appear at the appointed time. No action was taken.

Reconsideration of Commission Order

H. Wayne Charpia – Mr. McAlister informed the Commission that Mr. Charpia's residential builder's license was revoked in October 2004 with a \$5,000.00 fine. Mr. Charpia is requesting that the Order that was issued in October 2004 be amended to allow him to obtain a residential specialty contractor's registration.

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Mr. Charpia informed the Commission that he paid the homeowner Mr. Swanson \$44,000.00 to satisfy the complaint. Mr. Charpia is requesting that the fine be reduced to \$1,000.00 and that his residential builder's license be reinstated.

Motion : Mr. Davis moved to reinstate Mr. Charpia's residential builder's license, reduce the fine to \$2,000.00. Ms. Crawford seconded the motion, and with all members present voting favorably, the motion carried.

New Business

Mr. McAlister asked the Commissioners to consider reducing fees to \$50.00 across the board for all licenses. Mr. McAlister will present further information and cost effectiveness at the next meeting for review and consideration.

Mr. McAlister presented changes to the Residential Construction Standards to designate chapters to the standards for easy reference, stucco guidelines, and manufacturer's installation instructions for review.

Motion: Mr. Davis moved to approve the recommendation of Mr. McAlister for changes to the Residential Construction Standards. Ms. Crawford seconded the motion, and with all members present voting favorably, the motion carried.

Mr. McAlister presented a copy of Bill S.553 to the Commission for review and comment relating to closed meetings of a public body to provide no chance meeting, social meeting, or electronic communication may be used in circumvention or to act upon or discuss a matter over which the public body has supervision, control, jurisdiction or advisory power.

Unfinished Business

None

Adjournment

There being no further business, the business meeting for March 14, 2007 concluded at 2:25 p.m.

The next scheduled board meeting will be held on April 11, 2007, at 10:00 a.m. Synergy Business Park, Kingstree Building, Room 108. (Note: Subject to Change)

Hearings

Ms. Crawford called the hearings to order. Ms. Shirley Robinson was the hearing advisor.

Approve Recommendations of Administrative Hearing Officers, John Curl for Administrative Hearing

David Sovde - This matter was heard before John Curl, Administrative Hearing Officer, on November 30, 2006. Mr. Curl's recommendation was as follows:

1. The Respondent shall pay a fine of One Thousand (\$1,000.00) Dollars; however, said fine shall be waived if the Respondent provides the Commission with proof that he has completed the four items listed in the November 17, 2005 inspection report. The work must be completed within forty-five (45) days of the Board's final order, and if the Respondent is refused access to the property in order to complete the work, upon the Respondent providing satisfactory proof of his inability to gain access to the property, the fine shall be waived.
2. Should the Respondent fail to abide by the terms set forth above, the fine shall become due 30 days from the date of Respondent's non-compliance, and shall not be deemed paid until received by the Commission. Respondent's failure to pay the fine within the time stated herein may result in the immediate temporary suspension of Respondent's license pending a hearing on the matter and further order from the Commission.
3. The order is to take effect immediately upon service of the order upon the Respondent or Respondent's counsel.

Mr. John Curl recused himself from participating because he was the hearing officer in this matter.

Ms. Bell stated that this matter came before Hearing Officer, John Curl, on November 30, 2006. This home was built in 2003 and at the time of the hearing the items in Mr. Tompkins report were not completed. The fine of \$1,000.00 would be waived if the items were corrected within forty-five (45) days.

Mr. Sovde informed the Commission that some items have been repaired at this time except for a drain problem. Mr. Sovde is requesting more time to resolve the issues, due to the fact, that the homeowner has some health issues. Mr. Tompkins stated that he spoke with the homeowner Mr. Sher Khan, and he is willing to allow Mr. Sovde more time to make the repairs.

Motion: Mr. Bailey moved to approve the Administrative Hearing Officer's Recommendation for David Sovde. Mr. Clark seconded the motion, and with all members present voting favorably, the

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motion carried.

Tommy Wilson – This matter was heard before John Curl, Administrative Hearing Officer, on January 16, 2006. Mr. Curl's recommendation was as follows:

1. The Respondent's license shall be suspended for a period of thirty (30) days, and the Respondent shall be assessed a fine in the amount of One Thousand and No/100 (\$1000.00) Dollars. Said suspension may be stayed and the fine may be reduced to \$500.00, provided that within thirty (30) days of the date the Commission issues a final order, the Respondent shall have remedied the code and/or construction standards violations identified in the inspection report, this shall include repairing the cracks in the stone veneer of the exterior fireplace chase.
2. If the Respondent does not remedy the deficiencies within the allowed 30 day period, the Respondent's license shall be immediately suspended for a period of 30 days, and the Respondent shall be required to pay the \$1,000.00 fine prior to the license being reinstated, and the Harts shall be authorized to call upon the Respondent's bond to cover the costs of repairing the deficiencies.
3. The Respondent will need access to the property to make the repairs and if he is denied access, upon providing proof that the homeowners have refused to allow him onto the property for purposes of making the repairs, the Respondent will be entitled to a \$500.00 reduction in the fine, however, the 30 day suspension will be stayed.
4. It will be the responsibility of the Respondent to initiate contact with the Harts to arrange accessing the home to make the repairs. The Respondent is also responsible for notifying the Commission when the repairs are completed and ready for a follow-up inspection.
5. This order is to take effect immediately upon service of the order upon the Respondent or Respondent's counsel.

Mr. John Curl recused himself from participating because he was the hearing officer in this matter.

This matter was continued upon request of Respondent's attorney, Barry L. Thompson, II. Therefore, no action was taken.

Sang Lee – This matter was heard before John Curl, Administrative Hearing Officer, on January 16, 2006. Mr. Curl's recommendation was as follows:

1. The Respondent's registration as a residential specialty contractor shall be, and hereby is, revoked. The Respondent is directed to return his pocket card to the

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- Commission's office with seven (7) days of the service of this final order.
2. The Respondent shall be, and hereby is, assessed a fine in the amount of One
 3. Thousand and No/100 (\$1,000.00) Dollars. This fine is due within sixty (60) days of the date of the Commission's final order, and shall not be deemed paid until received by the Commission. Failure to pay the fine shall prevent the Respondent from being re-registered or licensed.
 4. If the Respondent reapplies in the future for licensure, he must appear before the Commission and answer to the Commission for his incompetence and misconduct in this matter. At that time, the Respondent shall appear before the Commission and present, among other matters, evidence satisfactory to the Commission, in its discretion, regarding the Respondent's fitness and qualifications to be registered as a residential specialty contractor in this State. Following the Respondent's appearance, the Commission, in its discretion, may deny licensure, require passage of an examination, among other requirements, or impose such additional terms and conditions upon the Respondent's registration as it may deem appropriate.
 5. A Cease and Desist Order is hereby issued to the Respondent, pursuant to S.C. Code Ann 40-59-100, requiring the Respondent to cease and desist from engaging in the practice of residential home building and residential specialty contracting.
 6. This order is to take effect immediately upon service of the order upon the Respondent or Respondent's counsel.

Mr. John Curl recused himself from participating because he was the hearing officer in this matter.

Motion: Mr. Roberts moved to the Administrative Hearing Officer's Recommendation for Sang Lee. Mr. Clark seconded the motion, and with all members present voting favorably, the motion carried.

Donald W. Marchant – This matter was heard before John Curl, Administrative Hearing Officer, on February 7, 2007. Mr. Curl's recommendation was as follows:

1. The Respondent shall pay a fine of Twenty-Five Hundred (\$2,500.00) Dollars. This fine shall not be deemed paid until received by the Commission. Failure to pay the fine shall prevent the Respondent from being re-registered or licensed.
2. The Respondent's registration as a residential specialty contractor be, and it hereby is, revoked. The Respondent is directed to return his pocket card to the Commission's office within seven (7) days of the service of this order upon him.
3. If the Respondent reapplied in the future for licensure, he must appear before the Commission, and answer to the Commission for his incompetence and

misconduct in this matter. At that time, the Respondent shall appear before the Commission and present, among other matters, evidence satisfactory to the Commission, in its discretion, regarding the Respondent's fitness and qualifications to be registered as a residential specialty contractor in this State. At that time, the Commission, in its discretion, may deny licensure, require passage of an examination, among other requirements, or impose such additional terms and conditions upon the Respondent's registration as it may deem appropriate.

4. A Cease and Desist Order is hereby issued to the Respondent, pursuant to S.C. Code Ann 40-59-100, requiring the Respondent to cease and desist from engaging in the practice of residential home building and residential specialty contracting.
5. This order is to take effect t immediately.

Mr. John Curl recused himself from participating because he was the hearing officer in this matter.

Motion: Mr. Roberts moved to approve the Administrative Hearing Officer's Recommendation for Donald W. Marchant. Mr. Clark seconded the motion, and with all members present voting favorably, the motion carried.

Transcripts of these hearings may be obtained from Faye Grainger, Certified Court Reporter, Grainger Reporting Services.