



# Bulletin

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## Licensing Board Calendar

**Labor Day/Board Office Closed**  
September 2, 2002

**Regular Board Meeting**  
October 9, 2002

**Veteran's Day/Board Office Closed**  
November 11, 2002

**Thanksgiving Day/Board Office Closed**  
November 28-29, 2002

**Christmas/Board Office Closed**  
December 24-26, 2002

**General Contractors Licenses Expire**  
December 31, 2002

## Rules To Become Effective August 1, 2002

**R**ules previously published in the last edition of the *Bulletin* (Fall/Winter 2001) are scheduled to become effective August 1, 2002. 21 NCAC 12.0103 *Structure of the Board*, .0202 *Classification*, .0204 *Eligibility*, .0503 *Renewal of License*, and .0818 *Request for Hearing* were previously published in the North Carolina Register May 15, 2001. In response to an objection filed March 21, 2002, by North Carolina's Rules Review Commission, Rule 21 NCAC 12.0210, *Single-Prime Public Contracts* was withdrawn by the Board for further action or consideration by the Commission.

One of the more significant rules changes, .0204 *Eligibility*, increases both working capital requirements and surety bond amounts for limited, intermediate and unlimited license limitations. When the new rule becomes

effective, initial licensure applicants and renewal applicants will be required to demonstrate working capital minimums of \$17,000, \$75,000 and \$150,000 respectively for limited, intermediate and unlimited licenses; surety bond amounts for the three limitations are set at \$250,000, \$750,000 and \$1,500,000. Several other rules dealing with license requirements include new .0503 (*Renewal of License*), which includes provisions requiring corporate licensees to notify the Board in the event of dissolution or suspension of a corporate charter. .0202 (*Classification*) provides that applicants who pass the building, highway and public utilities examinations will be granted an "Unclassified" designation.

To read the full text of the proposed rules and amendments, visit the Board's web site ([ncibgc.org](http://ncibgc.org)) and see "Current News," Fall/Winter 2001.

## "Frequently Asked Questions" Concerning North Carolina's 2002 Building Codes

**N**ew 2002 building codes for North Carolina became effective December 31, 2001. The new Codes are based on the International Codes with amendments for North Carolina. Contractors, designers and building officials should understand the importance of the new Codes to the building industry. Information about the new Codes (as seen on the North Carolina Office of the State Fire Marshal's web site at [www.ncdoi.com](http://www.ncdoi.com)), in a "frequently asked" format, will explain the recent transition to the new North Carolina Building Codes.

**Q.** Can the previous codes still be used in North Carolina?

**A.** You may use the previous (old) codes for permits issued until the end of 2002, except the Fire Prevention, Electrical and Administration Codes. The 2002 Fire Prevention, Electrical and Administration Codes as well as the 2002 amendments of the 1999 NC Accessibility Codes went into effect December 31, 2001. Beginning January 1, 2003, all the new codes will

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**NCLBGC Bulletin**

Published semi-annually as a service to general contractor licensees to promote a better understanding of the General Contractors Law (N.C.G.S. §§87-1 to 87-15.9) and to provide information of interest to all construction professionals.

**NORTH CAROLINA  
LICENSING BOARD for  
GENERAL CONTRACTORS**

3739 National Drive, Suite 225  
P.O. Box 17187  
Raleigh, NC 27619  
Telephone: (919) 571-4183  
Fax: (919) 571-4703  
Michael F. Easley, Governor

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### Planning a Relocation or Move?

Please mail or fax your new address and telephone number to the Licensing Board (include your license number) at:

P.O. Box 17187  
Raleigh, NC 27619  
Fax: (919) 571-4703

## Violators of Licensing Statutes Could Face Sanctions, Legal Consequences

### General Contractors Licenses Are Not Transferable

North Carolina's general contractor licensing statutes (G.S. §87-1, *et seq.*) require that "any person or firm or corporation" engaging in the practice of general contracting must hold a valid general contractors license. This means that any individual, sole proprietorship, partnership, corporation or limited liability company (LLC) practicing general contracting must have a license issued in the exact name of the entity. For example, the statute does not allow the holder of a sole proprietorship license to allow a partnership or corporation to use that sole proprietorship license for any reason.

During the past three years, the Licensing Board has received and investigated an increasing number of complaints dealing with licensed contractors who have unlawfully allowed the use of their general contracting license by unlicensed persons and firms. In many complaints before the Board, the licensee has an ownership interest in the unlicensed entity; sometimes the licensee is paid to allow the unlicensed entity to use the license. This constitutes a violation of the general contractor licens-

ing laws and regulations. Final dispositions of complaints involving unlawful use or allowing unlicensed contractors the use of a license have resulted in the imposition of disciplinary action against licensees, including periods of active suspension of license and even permanent revocations. The Board may take legal action against unlicensed contractors found to be in violation of the licensing laws by seeking injunctions or restraining orders in North Carolina's Superior Courts.

In order to bid legally and undertake work costing \$30,000 or more, an individual, corporation, partnership or limited liability company, as required by State law, must possess a valid general contractors license issued in the name of the business. The license must be held at the time of bidding and throughout the performance of the construction project. With no license, or any lapse of license, your company may be unable to collect payment for work performed on projects costing \$30,000 or more.

### Well Construction Standards, Requirements Set by Well Contractors Certification Commission

A certified well contractor must be present at all times when *well contractor activities* are being conducted in North Carolina. Well contractor activities are defined as the construction, installation, repair, alteration or abandonment of any well.

The civil penalty that may be assessed for conducting well contractor activities without a certified well contractor present has been raised to \$1,000. This fine may also be assessed for *offering to perform* well contractor activities without being certified.

If your job site has a well that shouldn't be abandoned, please ensure the well is properly abandoned (in accordance with 15A NCAC 2C, Well Construction Standards) by a certified well contractor.

Applications for certification as a well contractor may be obtained at <http://GW.EHNR.STATE.NC.US>, under the Publications section. For further assistance with certification questions, you may contact the NC Department of Environment & Natural Resources at (919) 733-3221.

## "Frequently Asked Questions" Concerning North Carolina's 2002 Building Codes

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will be enforced and the overlap with the old codes will cease, with the exception of the Accessibility and the Existing Building Codes. Permits issued after December 31, 2002 must comply with the new 2002 Codes.

- Q.** What parts of the new Fire Prevention Codes are now applicable?
- A.** If the new 2002 Codes are used for building design and construction purposes, then all the provisions of the new Fire Prevention Code are applicable. If the old Codes are used for building design and construction, then the applicable 1999 Building Code provisions apply, along with the maintenance provisions of the 2002 Fire Prevention Code.

For all other maintenance and fire prevention purposes, the requirements of the new 2002 Fire Prevention Code are in effect and enforceable beginning December 31, 2001.

- Q.** What are the new codes called and how much do they cost?
- A.** The new Codes are called the "North Carolina Building Code 2002 Edition" superseding the previous Volume I; the "North Carolina Plumbing Code 2002 Edition" superseding the previous Volume II; the "North Carolina Residential Code 2002 Edition" superseding the previous Volume VII, etc. Costs for the new Codes are listed on the order form posted on the web site at [www.ncdoi.com](http://www.ncdoi.com).
- Q.** Are the new codes available on-line?

**A.** Not at this time. However, the 1999 NC Residential Code may be viewed. All of the codes should be available on-line before the end of 2002 and soon you'll be able to order the codes on-line.

**Q.** How can I obtain the Codes?

**A.** You may order the Codes by mail or you may visit the Office of the State Fire Marshal at 410 N. Boylan Avenue in Raleigh and purchase them from the Code Books Section in person. You may also fax an order using a "Code Order form" available from the NC Department of Insurance, Code Council Section, (919) 733-3901. Code Order forms may also be downloaded from the Department of Insurance web site ([www.ncdoi.com](http://www.ncdoi.com)).

**Q.** Are there any classes or seminars being offered on the new Codes?

**A.** Yes, although the classes are generally tailored for Code Enforcement Officials, courses are offered through the NC Code Officials Qualification Board; anyone interested may register to attend. Seminars are also offered through the North Carolina Building Inspectors Association (NCBIA), NC Ellis Cannady Chapter of IAEE (International Association of Electrical Inspectors), North Carolina Fire Marshal's Association, North Carolina Plumbing Inspectors' Association and North Carolina Mechanical Inspectors' Association.

**Q.** What if I have questions about the new Codes?

**A.** As in the past, you may call the Office of the State Fire Marshal at (919) 733-3901 with questions about the previous or new Codes and how they may differ.

### Board Offices Expand

The Licensing Board recently renewed its lease for existing office premises at 3739 National Drive in Raleigh. This summer there are plans for refurbishing the existing space and an office expansion including public service areas and additional space for the Board's computer support areas and server. The work should be completed by September 2002.

Renovations and expansion upfit work will not affect the daily office business hours and the Licensing Board's mailing and physical address will not change.

### Need To Call Us?

Customer service is important to us, so please remember to have your license number available when calling or contacting the licensing board office. The staff can do a better job serving you if we have important license information, such as your license number. The Board's normal office hours are from 8:00 a.m. until 5:00 p.m. Monday through Friday.

## DEFINITIONS

**Consent Order:** An order of the Board resulting from an agreement between the Board and a licensee regarding the revocation or suspension of the license to practice general contracting, or the conditions, limitations or restrictions placed on that license. This is a method of resolving or settling disciplinary or contested cases in lieu of a disciplinary hearing.

**Revocation:** A Board action, which permanently terminates a license by effectively withdrawing that license to practice general contracting.

**Suspension:** A Board, action which inactivates a license to practice general contracting for a set period of time.

**Dismissal/Voluntary**

**Dismissal:** A Board action dismissing a contested case, resulting in no disciplinary action against the licensee or Respondent.

**Voluntary Surrender:**

A licensee's relinquishing or tendering of the license to practice general contracting, pending an investigation or other action by the Board.

**Admission of Violation:** A document signed by a licensee who admits to the stated violations, agrees not to repeat them, but acknowledges that the Board will use the document against the licensee prospectively should such action become necessary.

**Injunction:** A Superior Court order entered against an unlicensed contractor who is illegally practicing general contracting. Such an order stops the illegal practice and can be obtained by consent of a cooperating contractor or by default judgment; violation of the injunction is contempt of court.

**Code:** Provisions of the North Carolina State Building Code (Residential/Vol. VII and previous editions; General Construction/Vol. I).

# Disciplinary Action

(The following Board Orders and other Board disciplinary actions reported here are not a complete summary of all activity or a full representation of each case. Every effort is made for accuracy, but such is not guaranteed. Questions or requests for additional information about specific cases should be referred to the Board's Legal Section.)

## Final Decisions

**Joseph L. Blydenburgh, III and Joseph L. Blydenburgh, III, Qualifier** (Wake County; 00C342) License No. 34815.

A disciplinary hearing was noticed by publication and held on January 24, 2002. The Final Decision was entered by the Board on January 31, 2002 finding that Mr. Blydenburgh submitted a proposed contract for an addition to an existing residence, and the homeowner paid \$1,200, as required by the contract. Mr. Blydenburgh failed to produce any plans or drawings, obtain any permits or begin construction of the project. License No. 34815 was permanently revoked, as were Mr. Blydenburgh's exam credentials.

**Kasa Construction Co., Inc. and Glen McCullough, Qualifier** (Mecklenburg County; 01C204) License No. 47058. On January 24, 2002, a disciplinary hearing was held and the Final Decision entered on January 31, 2002 finding that Kasa Construction entered into an agreement for the reroofing of eight condominiums; Kasa subsequently submitted a building permit application for the project, and a complaint was filed with the Board. Based upon the record, testimony and exhibits, the Board dismissed all charges against Kasa and its qualifier, Glen McCullough.

**The Carpenter's Son Construction Company and Michael K. Johnston, Qualifier for The Carpenter's Son Construction Company** (Pitt County; 01C52) License No. 43412. A disciplinary hearing was noticed and con-

ducted on February 13, 2002, and the Final Decision was entered on February 22, 2002. The Board found that The Carpenter's Son contracted to convey real property with all improvements; an addendum was later signed providing for the house to be finished in "turn key" condition. The home was constructed but included several violations of the NC State Building Code. The Board permanently revoked License No. 43412 and Mr. Johnston's exam credentials.

**Grace Construction Co., Inc.** (Wake County; 00C292 and 00C324) License No. 19658. On February 13, 2002, a disciplinary hearing was held and the Final Decision entered February 22, 2002 finding that Grace contracted for the construction of a single-family dwelling, but allowed an unlicensed contractor to use its name and license number in order to obtain the building permit for its construction. Grace did not act as the general contractor for the project. The Board suspended License No. 19658 for one year, but did allow Grace to complete any already-in-progress jobs. (The Board permanently enjoined the unlicensed contractor.)

**H.L. Prichard t/a H.L. Prichard Construction Co. and Henry L. Prichard, Qualifier** (Avery County; 00C356, 00C430, 00C433 and 00C437) License No. 40632. A disciplinary hearing was held on February 13, 2002, and the Final Decision entered February 22, 2002 finding that although Mr. Prichard obtained a building permit for the construction of an addi-

tion to a single-family dwelling, he did not actively oversee the project until the unlicensed contractor who was performing the job abandoned it. Thereafter, Mr. Prichard actively solicited and received funds from the homeowner, after which he too abandoned the project. Additionally, on two renewal applications with the Board, Mr. Prichard failed to fully disclose certain legal information which should have been reported. The Board revoked for one year the license of Mr. Prichard, as well as Henry L. Prichard's ability to act as a qualifying party for any other general contractors license. The Final Decision states that at the end of the one-year period, Mr. Prichard may reapply for a license and would be subject to the requirements for any other applicant for a new license.

**C & W Home Improvement Co., Inc.** (Forsyth County; 00C457) License No. 44731. On March 13, 2002, a disciplinary hearing was held and the Final Decision entered March 27, 2002 finding that C & W contracted for and constructed an addition to a single-family residence. The construction included violations of the NC State Building Code. The Board issued a public record reprimand for misconduct to C & W Home Improvement Co., Inc.

**Adam Lowell Rivenbark and Adam Lowell Rivenbark, Qualifier** (Pender County; 01C202) License No. 45117. A disciplinary hearing was held on March 13, 2002, and a Final Decision entered March 27, 2002 finding that Mr. Rivenbark obtained a

building permit for the construction of a single-family dwelling, but he did not perform or intend to perform as the general contractor for the project. All construction on the building was performed by or on behalf of the unlicensed homeowner. The Board revoked for one year the license of Mr. Rivenbark, as well as his ability to act as a qualifying party for any other general contractors license. At the end of the one-year period Mr. Rivenbark may reapply for a license, but he would be subject to the requirements for any other applicant for a new license. Mr. Rivenbark must also retake and pass another examination required of applicants for a general contractors license. (The Board permanently enjoined the unlicensed contractor.)

## Revocations or Surrenders of License

**D M & K Construction Services, Inc.** (Brunswick County; 00C492) License No. 43577. On December 3, 2001, David R. Ryloft, President of D M & K Construction Services, Inc., voluntarily surrendered the corporate license to the Board. The Board considers surrender of license as permanent revocation.

**S & L Construction of Lake Norman, Inc.** (Lincoln County; 02C95) License No. 47052. On May 15, 2002, Shawn R. Penwarden, President of S & L Construction of Lake Norman, Inc., surrendered the corporate license to the Board. The Board considers surrender of license as permanent revocation.

**James H. Lovin** (Lincoln County; 02C97) License No. 6788. On April 18, 2002, James H. Lovin voluntarily

surrendered his general contractors license to the Board. The Board considers surrender of license as permanent revocation.

**Russell Hall** (Watauga County; 01C499 and 02C71) License No. 41661. On May 15, 2002, Russell Hall voluntarily surrendered his general contractors license to the Board. The Board considers surrender of license as permanent revocation.

## Consent Order (Licensees)

**G.H. Ward Construction Company, Inc.** (Jones County; 01C93) License No. 44710. On December 27, 2001, the Board entered into a Consent Order in which Mr. Ward, on behalf of G.H. Ward Construction Company, Inc., agreed to a 3-month license suspension, conditionally restored for 12 months with no active suspension. A violation of the Consent Order would require a 3-month surrender of Ward Construction's license to the Board. Mr. Ward further agreed to allegations of entering into a contract, securing a building permit and beginning construction of a church for a contract price all in excess of his license limitation.

**Jimmy Lee Goss t/a Rowan Home Improvements and Jimmy Lee Goss, Qualifier** (Rowan County; 01C100) License No. 42409. The Board entered into a Consent Order on December 28, 2001 in which Mr. Goss agreed to a 12-month license suspension, immediately and conditionally restored for 15 months, restricted to undertaking no new projects in excess of \$30,000 for nine months; a violation of the Consent Order would necessitate a surrender of license to the

Board for 12 months. Mr. Goss further agreed to allegations of obtaining a building permit for the erection of a modular home, but did not in fact act as the general contractor on the job.

**Richard David Poole** (Wake County; 01C29) License No. 33671. On February 4, 2002, a Consent Order was filed in which Mr. Poole agreed to a 24-month license suspension, conditionally restored for 15 months following a 12-month active suspension. A Consent Order violation would necessitate an additional 12-month surrender of his license to the Board. Mr. Poole further agreed to allegations of entering into a contract to convey real property with all improvements, but allowing another to obtain a building permit using Mr. Poole's name and license number; Mr. Poole did not act as the general contractor for the construction.

**Baxley Construction Co., Inc.** (Cumberland County; 98C249) License No. 11115. A Consent Order was entered on February 6, 2002 by which Mr. Baxley, on behalf of Baxley Construction Co., Inc., agreed to a 12-month license suspension, conditionally restored for 18 months with no active suspension. A violation of the Consent Order would mean a 12-month additional surrender of Baxley Construction's license to the Board. Mr. Baxley additionally agreed to various allegations, including failing to report required information to the Board on renewal applications.

**Sandhills Building Systems, Inc.** (Moore County; 01C12) License No. 29456. On February 14, 2002, a Consent Order was entered in which Patrick E. Quick, Jr., as president and on behalf of Sandhills Building Systems,

Inc., agreed to a 12-month license suspension, immediately conditionally restored for 12 months with no active suspension. Mr. Quick also agreed to take and pass a Law and Administration course offered by the NC Department of Insurance/Code Officials Qualification Board within one year. A Consent Order violation would require an additional 12-month license surrender. Mr. Quick further agreed to allegations of obtaining a building permit in the name of Sandhills Building Systems, Inc. for the construction of a single-family dwelling which Sandhills did not construct.

**Alan C. Walters t/a Walters Construction** (Moore County; 01C13) License No. 28570. A Consent Order was entered on February 25, 2002 in which Mr. Walters agreed to a 12-month license suspension, immediately conditionally restored for 12 months, with no active suspension. Mr. Walters also agreed to take and pass a Level I Building Code course offered by the NC Department of Insurance/Code Officials Qualification Board within one year and to surrender his license to the Board for 12 months should he violate his Consent Order. Additionally, Mr. Walters agreed with allegations of entering into a contract and attempting to obtain a building permit for the construction of a single-family dwelling for a cost in excess of his license limitation.

**Mallard Construction of North Carolina, Inc.** (Cumberland County; 01C24) License No. 42626. On March 12, 2002, a Consent Order was entered in which a representative, on behalf of Mallard Construction of North Carolina, Inc., agreed to a six-month license suspension, conditionally re-

stored for 18 months following a three-month active suspension. A Consent Order violation would require an additional three-month license surrender. Mallard Construction also agreed with allegations of failing to report required information to the Board on renewal applications and for incorrectly describing the employment status of its qualifier.

**Rosewood Investments, L.L.C.** (Cumberland County; 98C231) License No. 40068. A Consent Order was entered on March 12, 2002 in which Timothy O. Jackson, as responsible managing member of Rosewood Investments, L.L.C., agreed to a 12-month license suspension, conditionally restored for 18 months with no active suspension. A violation of the Consent Order would require Rosewood to surrender its license for a 12-month period. Mr. Jackson also agreed with allegations of entering into a contract and obtaining a building permit for a single-family dwelling prior to becoming licensed and showing the name and license number of another construction company with whom he contends he had an oral contract for the construction of the home.

**The Home Place, Inc. t/a America's Home Place, Inc.** (Georgia; Transylvania County; 00C378) License No. 36341. On April 18, 2002, a Consent Order was entered in which James F. Schumer, Executive Vice President of America's Home Place, Inc., agreed to a 12-month license suspension, immediately conditionally restored for 12 months subject to several conditions. Mr. Schumer agreed with allegations that America's Home Place secured building permits and called for inspections at a number of sites within the

same western NC county where the inspections either failed or projects were not ready for inspection causing repeated and excessive re-inspections by the inspections department.

**Timothy J. Thompson and Timothy J. Thompson, Qualifier** (Vance County; 01C347) License No. 41192. A Consent Order was entered on May 2, 2002 in which Mr. Thompson agreed to a 12-month license suspension, conditionally restored for 12 months following a 60-day active suspension. A Consent Order violation would result in a 12-month license surrender to the Board. Mr. Thompson further agreed with allegations that he continued to work on two single-family dwelling projects and called for inspections of those projects during a year in which his general contractors license had become invalid due to non-renewal.

**Hebco, Inc.** (Gaston County; 01C250) License No. 46592. On May 9, 2002, a Consent Order was entered in which Scott W. Huber, on behalf of Hebco, Inc., agreed to a 12-month license suspension, immediately conditionally restored for 15 months. Mr. Huber also agreed that within ten days he would send to the Board a complete list of all current unfinished projects in which the cost of the undertaking was \$30,000 or more; except for those unfinished projects, for nine months Hebco was not to bid upon, construct, or undertake to superintend, manage, or enter into contracts on his own behalf or for any unlicensed person, unlicensed firm, or unlicensed corporation, for projects enumerated in Chapter 87 Article 1, where the cost of the undertaking was \$30,000 or more. A violation would be followed by an additional 12-

month surrender of his license to the Board. Mr. Huber also agreed with allegations that Hebco obtained a building permit for a commercial project in which it did not act or intend to act as the general contractor.

**Kluttz Building & Service Company, Incorporated and Qualifier, Howard A. Kluttz** (Cabarrus County; 01C299) License No. 42412. A Consent Order was entered on June 10, 2002 in which Howard A. Kluttz agreed to a 3-month license suspension immediately conditionally restored for 12 months with no active suspension. A Consent Order violation would mean a 12-month license surrender to the Board. Mr. Kluttz further agreed with allegations of obtaining a building permit for the construction of a duplex when he did not act as the general contractor for the project.

**Tangent Builders, Inc. and Joseph C. Ghidorzi, as Qualifier** (Orange County; 02C16, 02C40 and 02C68) License No. 40711. On June 12, 2002, a Consent Order was entered in which Mr. Ghidorzi, as President and Qualifier of Tangent Builders, Inc., agreed to a 12-month license suspension, immediately conditionally restored for 12 months. Mr. Ghidorzi also agreed that within ten days, Tangent would submit to the Board a list of all current unfinished projects in which the cost of the undertaking was \$30,000 or more; except for those unfinished projects, for 90 days Tangent was not to bid upon, construct, or undertake to superintend, manage, or enter into contracts on his own behalf or for any unlicensed person, unlicensed firm, or unlicensed corporation, for projects enumerated in Chapter 87 Article 1,

where the cost of the undertaking was \$30,000 or more. A violation would be followed by an additional 12-month surrender of its license to the Board. Mr. Ghidorzi also agreed with allegations that Tangent obtained three building permits for three residential buildings, the individual cost of which each exceeded Tangent's license limitation. Tangent listed the properties for sale at prices each far in excess of what was shown on each building permit.

**Alderman Brothers Construction, Inc.** (Brunswick County; 98C183) License No. 34455. A Consent Order was entered on June 17, 2002 in which J. Kevin Alderman, on behalf of Alderman Brothers Construction, Inc., agreed to a 12-month probation. A violation of the Consent Order during the probationary period would result in a 6-month license suspension. Mr. Alderman also agreed with allegations of violations of the NC State Building Code in the construction of an addition to a steel frame building.

## Admissions of Violation (Licensees)

**Nancy K. Isaac t/a Isaac & Co.** (Avery County; 01C126) License No. 23808. On February 25, 2002, an Admission of Violation was filed in which Ms. Isaac admitted entering into a contract to construct a single-family dwelling without first obtaining the required building permits and calling for the proper inspections. Several violations of the NC State Building Code were found in the structure.

**BO of North Carolina, Incorporated** (Cabarrus County; 01C122) License No. 46114. An Admission of Violation was entered on April 2, 2002 in which Michael M. Quickel, Jr., President of BO of North Carolina, Incorporated, admitted entering into a contract to construct a single-family dwelling at a cost in excess of \$30,000 prior to becoming licensed. Several violations of the NC State Building Code were also evident in the structure.

**Don Galloway Homes, Inc.** (Mecklenburg County; 01C157) License No. 5789. On April 11, 2002, an Admission of Violation was filed in which Respondent admitted constructing a single-family dwelling with two violations of the NC State Building Code found.

**Rajeev D. Bhavé** (Mecklenburg County; 01C198) License No. 45166. An Admission of Violation was entered on April 16, 2002 in which Mr. Bhavé admitted obtaining a building permit to construct a single-family dwelling in excess of his license limitation.

**Keith Andrews Builders, Inc.** (New Hanover County; 01C59) License No. 34954. On April 18, 2002, an Admission of Violation was entered in which Respondent admitted violating several sections of the NC State Building Code in the renovation and construction of a single-family dwelling.

**Environmental Quality Resources, Inc.** (Maryland; 02C14) License No. 43683. An Admission of Violation was entered on May 2, 2002 in which Carter McCamy, President, admitted providing an estimate for clearing, grading, and other related work that was in excess of Respondent's license limitation.

**Fox Properties, Inc. t/a Fox Construction Company** (Avery County; 01C185) License No. 27185. On May 9, 2002, an Admission of Violation was entered in which Edward R. Turbyfill, President, admitted that Fox Construction had submitted a proposal for an addition to an existing home, but had listed the homeowner as owner/builder on the building permit application. Additionally, there was a violation of the NC State Building Code noted in the column footings.

**William R. Schmidt** (Brunswick County; 01C402) License No. 42252. An Admission of Violation was entered on June 17, 2002 in which Mr. Schmidt admitted allowing W. R. Schmidt, L.L.C., a related but unlicensed entity, to use his individual license number to submit a proposal in excess of \$30,000.

**M.T. Bell Builders, LLC** (Wilson County; 01C452) License No. 46252. An Admission of Violation was entered on June 17, 2002 in which Michael T. Bell, on behalf of M.T. Bell Builders, LLC, admitted constructing three projects, each in excess of \$30,000, using an expired license.

**Landmasters Builders and Developers, Inc. t/a Landmasters, Inc.** (Pennsylvania; 01C462) License No. 36003. On June 17, 2002, an Admission of Violation was entered in which Respondent admitted violating Section 3902 of the NC State Building Code in the construction of a single-family dwelling in that multiple areas were not insulated with R-15 wall insulation.

**Craig William Gurgew** (Gaston County; 01C399) License No. 29862. An

Admission of Violation was entered on June 20, 2002 in which Mr. Gurgew admitted violating Section 401.3 of the NC State Building Code in that the grade away from the foundation walls of a single-family dwelling did not fall a minimum of six inches within the first ten feet of adjacent surface area.

**William Thomas Huckabee, III** (Moore County; 01C144) License No. 48094. On June 21, 2002, an Admission of Violation was entered in which Mr. Huckabee admitted that prior to becoming licensed, he secured building permits and performed as a general contractor for the construction of three single-family dwellings, each at a cost of \$30,000 or more.

**Mark A. Cook** (Watauga County; 01C130) License No. 28625. An Admission of Violation was entered on June 25, 2002 in which Mr. Cook admitted violating two sections of the NC State Building Code in the construction of a single-family dwelling.

**Robert L. Williams** (Onslow County; 01C419) License No. 33348. On June 25, 2002, an Admission of Violation was entered in which Mr. Williams admitted providing false information and failing to report several liens on his 2001 renewal application to the Board.

## Correction

The following case was incorrectly reported in the Board's last newsletter listing the name of the complainant as "bidder."

The Board regrets this error; every effort is made to ensure accuracy.

**Anthony J. Richards** (New Hanover County; 01C60) License No. 37145. An Admission of Violation was entered on October 29, 2001 in which Mr. Richards admitted bidding on a project in excess of

his license limitation and using the name of A.J. Richards Construction Co., Inc., an unlicensed entity.

## Unlicensed Contractor Cases—Injunctions

**Default Judgment:** Permanent Injunctions were obtained by entry of a Default Judgment in Wake County Superior Court against each of the unlicensed contractors listed below for practicing general contracting in an amount of \$30,000 or more, in violation of N.C.G.S. §87-13. In some instances, the Sheriff was unable to locate the contractors and/or Certified Mail was not delivered, but the Board effected service either by newspaper publication or through the Secretary of State; nevertheless, the contractors were enjoined from further practice of general contracting (including bidding) in an amount of \$30,000 or more until such time as he/she becomes licensed by the Board.

**Jermaine Robinson d/b/a Blessed Handyman Services** (Pitt County; 01C181). Mr. Robinson entered into a contract to renovate a home for a price of \$47,000. Default Judgment was entered February 21, 2002.

**Don Cooper and Eric Morrison d/b/a Cooper Home Improvement and Superior Home Improvement** (Cumberland County; 01C75 and 01C76). Defendants entered into a contract to renovate and build an addition to an existing home for an amount in excess of \$30,000. They also contracted to renovate and build an addition to another home at a price of \$75,000. Default Judgment was entered February 21, 2002.

**North Shore Pools & Spas, Inc.** (Dare County; 01C153). North Shore Pools & Spas, Inc. entered into a contract to construct a concrete pool and deck for a price of

\$30,160. Default judgment was entered February 21, 2002.

**Pinnacle Steel Building Services, Inc.** (Virginia; 01C158). Pinnacle Steel Building Service, Inc. contracted to construct a 30' x 50' steel building for a price of \$40,000. Default Judgment was entered February 21, 2002.

**Southeastern Systems, Inc.** (Florida; 01C227). Southeastern Systems, Inc. entered into a contract to re-roof eight condominium buildings for a price of \$425,432. Default Judgment was entered February 21, 2002.

**Charles Randolph Roy d/b/a Roy Construction Services** (Franklin County; 00C326 and 00C266). Defendant entered into a contract to construct a home for a price of \$85,000. Default Judgment was entered March 20, 2002.

**Ulrich Construction, Inc.** (Mecklenburg County; 01C133). Ulrich Construction, Inc. entered into a contract to remodel a home for a price of \$320,000. In addition, Defendant forged homeowner's signature on the application for building permit and misrepresented the total cost of the project as \$100,000. Default Judgment was entered March 21, 2002.

**Archie Brown a/k/a Lawrence Jeffries d/b/a Archie Brown Carpentry** (Wake County; 01C209). Defendant demonstrated a repeated practice of leaving a construction project in an incomplete state after receiving large draws or initial payment from homeowners. In some instances, he failed to pay subcontractors or tradesmen who had performed

work at the sites, resulting in the filing of liens against the properties. Some of Defendant's work was substandard to a significant degree. Four homeowners suffered losses ranging from \$4,000 to \$48,000. Default Judgment was entered May 22, 2002.

**Consent Orders of Unlicensed Contractors:** Permanent Injunctions were obtained by entry of a Consent Order in Wake County Superior Court concerning each of the following unlicensed contractors who practiced general contracting in an amount of \$30,000 or more, in violation of N.C.G.S. §87-13, but who admitted to their wrongdoing, paid court costs and service fees and cooperated with the Board in the matter.

**Don Gray d/b/a Restor Pro** (Wake County; 01C131). Mr. Gray verbally contracted to repair a fire-damaged home for an estimated cost of \$104,955. A permanent injunction was obtained by entry of a Consent Order on January 17, 2002.

**William Smith d/b/a Smith Contractor Home Improvement** (Edgecombe County; 00C456). Mr. Smith contracted to construct a home for \$75,000 and was paid over \$100,000. A permanent injunction was obtained by entry of a Consent Order on January 17, 2002.

**Mitchell W. Coalson** (Yadkin County; 01C346 and 01C431). Mr. Coalson obtained a building permit as owner/builder to construct a personal residence for an estimated cost of \$56,160. Nine months after being granted a Certificate of Completion he sold the home. Three years later Defendant obtained another building permit as owner/builder in the same county to construct a personal residence for an estimated cost of \$55,000. Five months after being granted a Certificate of

Completion, he sold the second home. A permanent injunction was obtained by entry of a Consent Order on March 12, 2002.

**Empire Dismantlement Corp.** (New York; 01C357). Defendant submitted a bid to demolish and remove hazardous material from an apartment complex where the bid price exceeded \$30,000. A spokesman for Empire Dismantlement explained that the bid documents should have been submitted in an affiliate's name; however, the company's secretary made a clerical error and submitted documents listing Empire Dismantlement Corp.'s name. A permanent injunction was obtained by entry of a Consent Order on March 12, 2002.

**Vernon Carter d/b/a Oak Ridge Renovations** (Guilford County; 01C410). Mr. Carter provided an estimate to construct a kitchen addition to a home for a cost of \$49,005, believing he was acting in compliance with North Carolina law because he associated a licensed general contractor to perform the work. A permanent injunction was obtained by entry of a Consent Order on March 12, 2002.

**W.R. Schmidt, LLC** (Brunswick County; 01C401). Mr. Schmidt contracted to construct a home for a price in excess of \$30,000. At the time of entering into the contract, Schmidt believed he was in compliance with North Carolina law as he held a general contractors license individually. A permanent injunction was obtained by entry of a Consent Order on March 12, 2002.

**Central Carolina Contracting, Inc.** (Lee County; 01C245). Defendant contracted to construct a single-family dwelling for a cost in excess of \$30,000. Defendant's owner, Tommy Knight, is individually licensed as a general contractor but mistakenly used the name of Central Carolina Contracting, Inc. on the contract instead of his own. A permanent injunction was obtained by entry of a Consent Order on March 18, 2002.

**Michael J. Fox and Associates, LLC** (Iredell County; 01C244 and 01C274). Michael J. Fox and Associates, LLC contracted to construct four homes where the cost of each home exceeded \$30,000. A permanent injunction was obtained by entry of a Consent Order on March 18, 2002.

**Merendino Construction Co., Inc.** (Johnston County; 01C285). Defendant contracted to remodel a home for a price of \$150,000. A permanent injunction was obtained by entry of a Consent Order on March 18, 2002.

**William Poff** (Brunswick County; 01C360). Mr. Poff obtained a building permit as owner/builder to construct a personal residence for an estimated cost of \$85,500. Less than one month later, he listed the house for sale with a realty company. A permanent injunction was obtained by entry of a Consent Order on March 18, 2002.

**Southern Home Builders of Cary, Inc.** (Wake County; 01C362). Defendant contracted to construct a single-family dwelling for a cost in excess of \$30,000. A permanent injunction was obtained



by entry of a Consent Order on March 18, 2002.

**Robert B. Benner** (Ashe County; 01C265). Gregory Todd Benner dba Advance Homes is a licensed general contractor in North Carolina, but his father, Robert B. Benner, was neither a salaried employee of Advance Homes nor a NC licensed general contractor. On behalf of Advance Homes, Robert B. Benner contracted to construct a single-family dwelling where the cost exceeded \$30,000, and he undertook to superintend and manage the project. Mr. Benner subsequently became a salaried employee of Gregory Todd Benner dba Advance Homes; a permanent injunction was obtained against Robert B. Benner, individually, by entry of a Consent Order on March 25, 2002.

**Brad K. Coalson** (Surry County; 01C348). Mr. Coalson obtained a building permit as owner/builder to construct a personal residence for an estimated cost of \$51,840. Less than one month after a Certificate of Completion was issued, Mr. Coalson sold the home. Defendant claimed he was unaware that his actions violated North Carolina law. A permanent injunction was obtained by entry of a Consent Order on March 25, 2002.

**Jerry Marlowe** (Alleghany County; 01C327 and 01C328). Mr. Marlowe obtained a building permit to construct a home for an estimated cost of \$30,000. He also obtained a building permit to construct a carport at another residence for an estimated cost of \$30,000. A permanent injunction was obtained by entry of a Consent Order on April 1, 2002.

**D. Bruce King** (Rutherford County; 01C336). Mr. King submitted a proposed contract to replace 102 decks at a condominium community for a total price of \$418,200. Prior to submitting the contract, Mr. King was advised that he could undertake the project by entering into individual contracts for each deck. Mr. King claimed he was unaware that his actions violated North Carolina law. A permanent injunction was obtained by entry of a Consent Order on April 9, 2002.

**Professional Contracting Services, LLC** (Mecklenburg County; 01C383). Defendant entered into three contracts to remodel commercial space where the cost per job exceeded \$30,000; Defendant was not a NC licensed general contractor. A permanent injunction was obtained by entry of a Consent Order on April 9, 2002.

**Warren Poole d/b/a Warren's New Life Construction Co.** (Wake County; 01C295). Mr. Poole contracted with a homeowners association to construct a pool house for a price in excess of \$30,000. A permanent injunction was obtained by the entry of a Consent Order on April 9, 2002.

**Hubert Richard Ridenhour** (Rowan County; 01C251). Mr. Ridenhour obtained a building permit as owner/builder to construct a personal residence. He undertook construction of the home and completed it with the assistance of a licensed general contractor; instead of occupying the house after its completion, he placed a "For Sale by Owner" on the building lot. A permanent injunction was obtained by entry of a Consent Order on April 12, 2002.

**Jimmy Floyd d/b/a Floyd's Construction** (South Carolina; 01C319). Mr. Floyd contracted with a church to construct a metal structure for \$96,600. Mr. Floyd claimed he was unaware that his actions violated North Carolina law. A permanent injunction was obtained by entry of a Consent Order on April 17, 2002.

**Larry W. Brown d/b/a Larry W. Brown Construction Company** (Brunswick County; 01C276). Mr. Brown contracted with another unlicensed contractor to provide labor for a home being constructed by the other unlicensed contractor for total labor costs of \$25,350. The unlicensed contractor obtained a building permit listing himself as the owner/contractor, with construction costs as \$85,500. A permanent injunction was obtained by entry of a Consent Order on April 29, 2002 and the Board also obtained a permanent injunction against the second unlicensed contractor.

**Jack K. Elrod Company, Inc.** (Indiana; 01C335). Defendant mistakenly submitted a bid to construct grandstand seating for a soccer park where the bid price exceeded \$30,000. Jack K. Elrod Company, Inc. believed it was submitting its bid as a subcontractor because the bid documents identified an overall general contractor for the project. A permanent injunction was obtained by entry of a Consent Order on April 29, 2002.

**Ronald S. Bryant** (Pender County; 01C367). Mr. Bryant obtained a building permit as owner/builder to construct a personal residence for an estimated cost of \$310,000. He received a Certificate of Occupancy and subsequently

occupied the home. Six months later Bryant listed the home for sale with a real estate agency. A permanent injunction was obtained by entry of a Consent Order on April 30, 2002.

**Winston Craig Walker** (Duplin County; 01C203). Mr. Walker paid material suppliers and subcontractors and undertook to manage and supervise the construction of a single-family dwelling on his own property. The building permit for the Walker home, however, had been obtained by a licensed NC general contractor; the licensee did not perform or intend to perform as the general contractor of the project. Less than nine months after the start of the project, Mr. Walker sold the completed home to another. A permanent injunction was obtained against Mr. Walker by entry of a Consent Order on April 30, 2002. (The Board issued a Final Decision revoking the licensee's license and his ability to act as a qualifying party for one year.)

**Roger Harshbarger** (Virginia; 01C495). Mr. Harshbarger obtained a building permit as owner/builder to construct a personal residence for an estimated cost of \$125,500. Less than nine months later and after the home was completed, Mr. Harshbarger listed the property for sale. Mr. Harshbarger then executed an Offer to Purchase and Contract and sold the home for \$500,000. A permanent injunction was obtained by entry of a Consent Order on June 3, 2002.

**MBSIHomes of Western North Carolina, Inc.** (Mecklenburg County; 01C396). Defendant did not represent itself as a licensed general contractor, but it did enter

into a new home sales contract whereby it intended that plans and specifications would be developed for purchasers and a specific construction company within a targeted budgeted price in excess of \$30,000. When the contract was executed, however, the specific construction company had not been formed. In the contract, Defendant promised that the contract was contingent upon purchaser's and builder's approval of the plans and specs. If the final plans and specs received approval from both the specific contractor and the purchasers, then Defendant intended that the contract would convert to a Build Contract between the parties. Neither the specific contractor nor its principle ever executed a contract with purchasers. At all times, Defendant believed that the specific construction company had been properly formed and that it was a licensed general contractor. A permanent injunction was obtained against MBSIHomes of Western North Carolina, Inc. by entry of a Consent Order on June 3, 2002.

**Ray A. Myers d/b/a Myers/Israel Const. Co.** (Wake County; 01C470). Defendant provided an estimate to repair a dwelling for a cost of \$198,009.90; Defendant claimed he was unaware that providing an estimate (bid) costing \$30,000 or more was a violation of North Carolina law. A permanent injunction was obtained by entry of a Consent Order on June 3, 2002.

**J. Satterwhite Bldr., Inc.** (Wake County; 01C497). Defendant contracted to construct a home for a cost in excess of \$30,000. Mr. Jack Satterwhite, who is individu-

ally licensed, mistakenly drafted the contract in the name of "J. Satterwhite Bldr., Inc.," an unlicensed company. A permanent injunction was obtained by entry of a Consent Order on June 3, 2002.

**Tony Hodges d/b/a Vinyl Guard Exteriors** (Cumberland County; 02C46). Mr. Hodges provided an estimate to a church for the repair of their fire-damaged parsonage for a price of \$99,431. A permanent injunction was obtained by entry of a Consent Order on June 3, 2002.

**Carrington Painting and Contracting, Inc.** (Durham County; 01C449, 01C454 and 01C463). Defendant submitted a proposal to replace siding, trim boards and soffits at a townhome community for a sum exceeding \$30,000; Defendant later withdrew his proposal. A permanent injunction was obtained by entry of a Consent Order on June 10, 2002.

**Central Carolina Home Improvements, Inc.** (Guilford County; 02C37). Defendant contracted with an owner to dig the foundation, pour the footings and lay block and brick for an addition to a single-family dwelling for a price of \$6,000. One month later, Defendant contracted with the same homeowner to frame and complete the addition for \$32,300. A permanent injunction was obtained by entry of a Consent Order on June 17, 2002.

**Gerrol Delmar d/b/a Professional Builders** (Mecklenburg County; 01C387). Mr. Delmar contracted to complete construction of a church for \$216,000. A permanent injunction was obtained by entry of a Consent Order on June 17, 2002.

**Other:** The unlicensed contractor cases below were resolved with the Board by other means:

**Charles Lewis d/b/a C Home Improvements** (Onslow County; 00C355). The Board's motion for Summary Judgment was allowed, and Charles Lewis d/b/a C Home Improvements was enjoined "from further practice of general contracting in North Carolina until such time, if ever, that he is properly licensed" by a Superior Court Order entered March 21, 2002.

**Rossie M. Manning** (Craven County; 01C168). Mr. Manning signed an Affidavit of Admission, which was filed with the Board on January 17, 2002. Manning admitted that he had been a licensed general contractor in North Carolina, and upon his retirement failed to renew his license. He also admitted involvement with an acquaintance in constructing a project costing \$30,000 or more. Although Manning believed he was acting as a subcontractor, the Board viewed Mr. Manning's involvement as superintending or managing the construction of the project. Mr. Manning's Affidavit assures the Board that he will not engage in the practice of general contracting unless properly licensed.

**T.O.W., Inc.** (Durham County; 00C389). Mr. Merrill Wiese signed an Affidavit of Admission, in his capacity as President of T.O.W., Inc., filed in the Board offices on January 24, 2002 and stated the following: Mr. Wiese was asked to assist in the completion of an addition to a commercial building by acting as a paid consultant to review plans, to advise on the performance of the current gen-

eral contractor, and to help locate a new licensed general contractor to complete the addition. Wiese requested that a preprinted contract be prepared for the new contractor and the names of the parties to the contract were listed incorrectly, giving the appearance that T.O.W., Inc. was practicing general contracting. Mr. Wiese assures the Board that T.O.W., Inc. will not engage in the practice of general contracting until such time as it is properly licensed.

**Deborah Jamieson** (New Hanover County; 01C314). Ms. Jamieson signed an Affidavit of Admission, which was filed with the Board on February 5, 2002. Ms. Jamieson stated that she signed a contract for the remodeling and decoration of a home at a contract price of \$54,447 and that the scope of work involved general construction, construction finishes and installation of fixtures. Ms. Jamieson assures the Board that she will not engage in the practice of general contracting without first being properly licensed.

**Harold Sidbury** (New Hanover County; 01C95). Mr. Sidbury signed an Affidavit of Admission, filed in the Board offices on April 15, 2002, in which he admitted that an acquaintance had contacted him for help in completing construction work at his home. In signing his Affidavit of Admission, Mr. Sidbury assures the Board that he will not engage in the practice of general contracting without first being properly licensed.

## Building Permits: Your Responsibility And Your Liability

Getting ready to break ground on a new project? Before the first crew shows up at the job site, as a general contractor, you need to make sure that you have secured all necessary permits for the job. Relying on others, especially owners or subs, can be risky if the proper permits are not obtained. As a general contractor, you can be caught holding the bag for failure to get proper permits before starting work. Thus, the failure of someone else to secure a permit for particular work could be crippling to your business, as you potentially face serious legal, administrative, and financial consequences.

The North Carolina State Building Code requires any “owner, authorized agent, or contractor” who is working on a project to secure the proper permits or face the consequences. A quick glance at the disciplinary actions in the North Carolina Licensing Board’s *Bulletin* will provide you with examples of contractors who have run afoul of permit requirements. One can pay a heavy price for failure to obtain the proper permits. Penalties range from a reprimand to the loss or suspension of a general contractor’s license or even a criminal or civil action.

For example, last year a North Carolina contractor had his license suspended (stayed for 18 months with no active suspension) because he failed to obtain a building permit and call for the required inspections. Another contractor doing renovation work on a single-family dwelling failed to obtain the required permit and was placed on 12-months probation which carried with it a 120-day active license suspension for any violations. Yet

another contractor voluntarily surrendered his license due to extensive allegations that arose out of, among other things, failure to secure building permits. As you may know, the Licensing Board considers the surrender of a license a permanent revocation. Unfortunately, this list could go on and on but the main focus of this article is to make sure that you keep your name off that list.

The North Carolina State Building Code mandates that just about anything you do as a contractor requires a permit before you can do the work. Specifically, the relevant section states that any contractor who desires to “construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the technical codes, or to cause any such work to be done, shall make application to the building official and obtain the required permit for the work.” The North Carolina General Statutes regulate that if a permit is required and not obtained, there has been a violation of the permit requirements governed by statute and a Class 1 misdemeanor may be incurred as a result. Class 1 misdemeanors carry with them a discretionary fine and probably some community service time. The North Carolina General Statutes further provide civil penalties for permit requirement violations. More importantly, the state licensing board may suspend your general contractor’s license which may bring your business to an abrupt and grinding halt.

Waiting until after you have started the job to get your permits is not a

good idea either. That decision carries with it a heavy price as well. According to the State Building Code, a commencement of work prior to getting the proper permits subjects the guilty party to a penalty of 100% of the usual permit fee in addition to the required permit fees.

In order to not fall into this trap, a contractor should simply secure from the local inspection department with jurisdiction over the site, each permit required by the North Carolina State Building Code and any other state or local law BEFORE starting the job. The price for failing to do so is way too high to depend on someone else.

The old saying that if you want something done right you have to do it yourself, definitely applies here. Make sure the proper permits are obtained prior to any work being done by you. Otherwise, you may find yourself paying dearly for someone else’s incompetence or laziness.

For more information on this and other related issues, please see the North Carolina Licensing Board for General Contractor’s home page at [www.nclbgc.net](http://www.nclbgc.net).

*Contributed by Safran Law Offices, Raleigh*

**NOTE:** North Carolina General Statute §87-14, “Regulations as to Issue of Building Permits,” applies to the issuance of building permits in North Carolina. North Carolina law provides that applicants seeking building permits in North Carolina, where the project cost is \$30,000 or more, may be required to show satisfactory proof to the city or county issuing authority or building inspector that the applicant is either duly licensed or exempt from applicable law.



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