

19498

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

ORIGINAL

The Honorable Marvin H. Dukes, III

Case No. 2007-CP-07-1547

Jorge V. Esguerra Appellant,

v.

Jamie V. Brown, individually and d/b/a Southeastern Services,
Robert Baroni, Boyd R. Laughlin and Associated Construction
Consultants, Inc., Defendants

Of whom Robert Baroni, Boyd R. Laughlin and Associated
Construction Consultants, Inc. are Respondents.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

JORGE V. ESGUERRA,)
Plaintiff,)

v.)

JAMIE V. BROWN, individually)
and d/b/a SOUTHEASTERN)
SERVICES, ROBERT BARONI,)
BOYD R. LAUGHLIN and)
ASSOCIATED CONSTRUCTION)
CONSULTANTS, INC.,)

Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO. 2007-CP-07-1547

ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION

10 AUG 25 AM 9:52
CLERK OF COURT
JAMES F. BERL

THIS MATTER came before the Court pursuant to the Plaintiff's Motion for Reconsideration dated June 4, 2010. In conjunction with said motion, both parties filed written briefs on the issues raised in Plaintiff's motion and submitted the same to the Court. Thereafter, this matter came before the Court for a hearing on July 20, 2010.

Present at the hearing was Sean M. Bolchoz, Esquire, attorney for the Plaintiff, and James F. Berl, Esquire, attorney for the Defendants, Robert Baroni, Boyd R. Laughlin and Associated Construction Consultants, Inc. The Defendant, Jamie V. Brown, was not

served with the Motion for Reconsideration, since the Plaintiff was not requesting the Court to alter or amend any portion of the Court's ruling applicable to Defendant Jamie V. Brown.

As such, the Defendant, Jamie V. Brown, did not participate in the hearing on Plaintiff's Motion for Reconsideration, nor did he submit any written matters for the Court's consideration.

Counsel for both the Plaintiff and Defendants, Robert Baroni, Boyd R. Laughlin and Associated Construction Consultants, Inc., presented oral arguments to the Court on the subject of Plaintiff's Motion for Reconsideration, in addition to the written briefs previously submitted.

BASED UPON the matters presented to the Court, the Court is of the opinion that its original ruling was correct in all respects and, therefore, denies the Plaintiff's Motion for Reconsideration.

AND IT IS SO ORDERED.



Hon. Marvin H. Dukes, III
Beaufort County Master in Equity

Beaufort County, South Carolina
this 22 day of August, 2010.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)
)
JORGE V. ESGUERRA,)
)
Plaintiff,)
)
v.)
)
JAMIE V. BROWN, individually)
and d/b/a SOUTHEASTERN)
SERVICES, ROBERT BARONI,)
BOYD R. LAUGHLIN and)
ASSOCIATED CONSTRUCTION)
CONSULTANTS, INC.,)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO. 2007-CP-07-1547

FINAL JUDGMENT ORDER

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RECEIVED
CLERK OF COURT

THIS MATTER came before the Court pursuant to a Complaint filed by the Plaintiff, Jorge V. Esguerra, against Jamie V. Brown (hereinafter "Brown"), individually, and d/b/a Southeastern Services, and Associated Construction Consultants, Inc. filed on June 11, 2007. The Defendant, Associated Construction Consultants, Inc. (hereinafter "ACCI"), filed its Answer, on or about July 18, 2007. The Defendant, Brown, did not file any pleadings in response to the Complaint. Subsequently, pursuant to the Plaintiff's motion, the Plaintiff filed an Amended Complaint, on January 25, 2008, in which he added Robert Baroni (hereinafter "Baroni") and Boyd R. Laughlin (hereinafter "Laughlin") as additional Defendants. Thereafter, the Defendants, Baroni, Laughlin and ACCI, filed their Answer to the Plaintiff's Amended Complaint, on March 26, 2008. Again, the Defendant, Brown, failed to file any pleadings in response to Plaintiff's Amended Complaint. Pursuant to motion by the Plaintiff, and based upon the Plaintiff's Affidavit of Default, a Default Judgment was entered against the Defendant,

Brown, individually, and d/b/a Southeastern Services, on February 5, 2009. Finally, pursuant to motion of the Defendants, Baroni, Laughlin and ACCI, said Defendants filed an Amended Answer to Plaintiff's Amended Complaint, on August 27, 2009, adding an additional defense of Comparative Negligence

THIS MATTER was set for a Bench Trial before this Court on November 4 and 5, 2009. All parties were fully noticed and all parties were present at the hearing of this matter. All parties were given the opportunity to present evidence at the hearing of this matter over the course of a two (2) day trial, and each was given the opportunity to argue the same both at the conclusion of the trial and by Post-Trial Memorandums/Brief. The parties were also given the opportunity to make such Motions as they desired both during the trial and at the conclusion thereof. Defendants, Baroni and Laughlin and ACCI made various Post-Trial Motions at the conclusion of the evidence, which Motions were taken under advisement pending receipt of the parties' Post-Trial Memorandum/Brief. The Plaintiff, by and through his counsel, made no motions to the Court at the conclusion of the case.

BASED UPON the evidence presented to the Court, I make the following Findings of Fact:

1. The Plaintiff is the owner of a condominium villa on Hilton Head Island known as Unit 147 Harborwood Villas, Hilton Head Island, South Carolina. Plaintiff, after observing Brown performing the replacement of a sliding glass door in an adjoining villa entered into a conversation with Brown regarding renovations to be performed on Plaintiff's unit. After discussing the scope of renovations desired with Brown, observing work Brown had done on one (1) other property which had been damaged by water, and speaking by telephone, briefly, to a

woman for whom Brown had done some work, who indicated that Brown had performed "okay," Plaintiff then entered into a contract with Brown for the performance of the renovations and additions to the Plaintiff's villa. Plaintiff did not inquire of Brown as to whether he had a proper license to perform the work or insurance relating to the same, and Brown did not divulge that he did not possess the requisite license.

As a result of Brown not having the requisite license, he approached Baroni, the principal shareholder of ACCI to request his assistance in getting a permit to do the work. According to Baroni and Brown's testimony, Baroni flatly refused Brown's initial request. Subsequently, after Brown spoke with the regime manager for Harborwood Villas and that individual called Baroni, Brown again met with Baroni, at which time, according to both parties' testimony, Baroni told Brown to contact Greg Beste, a licensed architect, and obtain from him proper plans and specifications for the work to be performed at Plaintiff's property, and to return with the same to Baroni for his review. Baroni further indicated that if the plans were in order, he would go with Brown to the Town of Hilton Head and pull a permit under ACCI's license, for them to do the work.

While Brown admitted getting the plans and specifications from Beste, he further admitted, and Baroni confirmed, that Brown never returned to Baroni with the plans and specifications for Baroni's review. Instead, Brown admitted that, without any knowledge on the part of Baroni, Brown, alone, went to the Town of Hilton Head and improperly obtained a permit under ACCI's name, which permit he paid for with a check from Brown's company, Southeastern Services, in violation of Town policy. The Town records admitted into evidence confirmed that the permit was paid for by a check drawn on Southeastern Services' account and

Nancy Heath, from the Town, testified that the Town policy is that a check being used to pull a permit must be drawn on the account of the legal owner of the property, or on the account of the company whose name actually appears on the permit. She also confirmed that the Town should not have accepted a check from Southeastern Services, and could not explain why that happened. Further, upon a review of the permit actually pulled, a copy of which was entered into evidence, it was evident from the testimony of Baroni, as well as other admitted evidence, that said permit contained multiple inaccuracies with regard to the address, phone number and other pertinent data relating to ACCI, as Brown was not privy to such information. According to both Brown and Baroni's testimony, Brown's actions were unilateral and without Baroni's permission.

According to the Plaintiff's testimony, the process of pulling a permit took nearly five (5) months between the date Plaintiff signed his Contract with Brown and the date the permit was issued. Plaintiff testified that, having learned from his Hilton Head friend, Son Hing, that the obtaining of a permit was a routine function and should not take long, the Plaintiff inquired of Brown as the reason for the hold up. Plaintiff testified in response to this inquiry Brown said something to the effect that Baroni was helping with the matter, but the Plaintiff did not inquire as to who Baroni was, or why Brown needed help in getting a permit. Ultimately, Brown informed the Plaintiff, in late April or early May, that a permit had been obtained and he was ready to commence work in May.

The Plaintiff testified that almost immediately after work was supposed to have commenced, he began receiving reports from his friend and neighbor, George Bombardiere, that Brown was only showing up a few days a month for work, and then only for a few hours at a time. Plaintiff testified that when he inquired of Brown regarding this, Brown indicated he had

other work that he had to be doing. Plaintiff testified that because he lived in Ohio, he could only visit the project periodically and that he was relying on his friend, George Bombardiere, to keep him informed as to the progress on the job. When Plaintiff finally was able to visit the site, he discovered that the addition was not being constructed to the dimensions which he desired. When he communicated this to Brown, he was shown the plans which Brown had obtained from Greg Beste, which plans he had never reviewed with Brown prior to the onset of construction. Although such plans and drawings did not reflect his desires, Plaintiff allowed the construction to proceed rather than having to re-permit the project. Plaintiff testified that despite Brown's assurances to him that Brown would proceed at a reasonable construction pace until completion of the project, he continued to experience problems with Brown's timeliness, such that he ultimately had to amend the Contract to specify a date of completion. Unfortunately, Brown did not adhere to the agreed upon amended completion date and the project dragged on and on till finally in March of 2006, Plaintiff terminated Brown's Contract. Plaintiff testified he visited the project from time to time over the course of construction/renovation, and that by the time he finally terminated Brown he had paid Brown Seventy-Nine Thousand Dollars (\$79,000.00), which represented more than ninety percent (90%) of the original contract price.

Subsequent to firing Brown, the Plaintiff hired Carl Partelow (hereinafter "Partelow") to complete the unfinished work and to repair some of Brown's defective work. Also subsequent to firing Brown, but prior to hiring Partelow, Plaintiff acknowledged that he learned that Brown had pulled the permit in the name of ACCI, an entity he had never heard of before. He further admitted that at no time did he have any conversations with Mr. Baroni or any other individual associated with ACCI in response to discovering ACCI's name on the permit. Instead, he filed a

complaint against Brown with the South Carolina Department of Labor, Licensing and Regulation (LLR). In response to said complaint, the LLR by letter dated July 26, 2006 subsequently sanctioned Brown for violations of South Carolina Code Annotated Sections 40-59-240(a) and 40-59-240(d).

Nearly a year later, pursuant to further complaints from the Plaintiff, the LLR opened an investigation as to the role of Baroni and ACCI in the matter of Brown's work for the Plaintiff. Baroni testified that pursuant to that investigation, he received a phone call from Frank Hodge, at the Town of Hilton Head's Building Department, regarding ACCI's license having been used on a job worked by Brown. Baroni further testified that this was the first he knew anything about Brown having used ACCI's license in conjunction with the renovations for the Plaintiff, since Brown had not returned to him with any plans to review in relation to the proposed project. Baroni testified that he assumed that Brown had not gone forward with the project since he had not returned to Baroni with a request for Baroni to pull a permit.

Upon being contacted by the LLR, Baroni wrote a letter to Charles Ido attempting to explain what has transpired, i.e., that he was prepared to assist Brown with pulling a permit provided he saw appropriate plans and specifications, but that he never reviewed any plans, never pulled the permit, never supervised the project or had anything to do with the matter. Baroni testified that subsequent to sending his letter to Mr. Ido, he discussed the matter with Mr. Ido and was given the option of entering into a Consent Agreement whereby ACCI would pay a One Thousand Dollar (\$1,000.00) fine and be placed on probation for one (1) year or he could hire an attorney and request a hearing before the Board in Columbia to contest the matter. (Both

Baroni's letter to Ido and the Consent Agreement, as well as the statute referenced in the Agreement, § 40-11-110(A)(9), were admitted into evidence.)

Baroni testified that having been informed by his previous attorney prior to Baroni writing the letter to Ido, that his attorney would charge him Five Hundred Dollars (\$500.00) to Six Hundred Dollars (\$600.00) just to write the letter of explanation, he knew that it would cost him many thousands of dollars to have his attorney travel from Hilton Head Island to Columbia for a contested hearing. Therefore, even though he felt he hadn't done anything wrong, Baroni chose to accept the proposed administrative resolution as opposed to incurring thousands of dollars of expense to contest the issue of any liability on the part of him or ACCI at a full hearing before the Board. Baroni testified he therefore signed the agreement with the LLR which was entered into evidence. Baroni further testified that with that, he felt the matter had been fully resolved by that administrative agreement and never imagined that the Plaintiff would subsequently sue him, ACCI or Laughlin.

Baroni also testified with regard to the role of himself as primary shareholder and employee of ACCI and the role of Laughlin as the qualifier for ACCI's general contractor's license. Baroni testified that he holds a residential builders license as well as several other smaller licenses and that most of the jobs which ACCI performs can be performed under the licenses which he holds. He acknowledged that there are projects from time to time which require a general contractor's license and that ACCI possesses a general contractor's license pursuant to its qualifier, Laughlin. Baroni testified that he met Laughlin when Laughlin was working for another company, doing some fire repair work at a condominium complex where Baroni was acting as a consultant for the regime. He further testified that sometime subsequent

to that initial encounter, Laughlin took up residence on Hilton Head Island and opened a company known as Task Services, which company sublet space from ACCI. Baroni testified this was the beginning of a longstanding relationship in which the parties have shared the same facility, have assisted one another on various projects and have referred work to one another on a regular basis. He further indicated that at one time he believes Laughlin was not only an employee of ACCI, but was also a shareholder.

Laughlin testified and basically corroborated the facts as testified to by Baroni. He indicated that while today he no longer owns an interest in ACCI, is not an everyday employee, and does not receive direct compensation therefrom, he considers the many contracts which are referred to him by ACCI to be a form of compensation for his role as the primary qualifier for ACCI's general contractor's license. In response to cross-examination by Plaintiff's counsel regarding his compliance with §§ 40-11-230 and 40-11-240, South Carolina Code of Laws, 1976, as amended, Laughlin, upon reviewing said statutes relating to primary qualifiers and licensure, testified that he believes he is in compliance with the same. He further testified that on projects in which the general contractor's license is being utilized, he and Baroni regularly communicate regarding matters requiring his expertise. Under similar questioning by Plaintiff's counsel, Baroni likewise testified that, as far as he knew, both he and ACCI were in compliance with the requirements for Laughlin to be the primary qualifier for ACCI's general contractor's license. (Copies of these statutes were admitted into evidence.)

Laughlin further testified that he had absolutely no knowledge of the two (2) meetings between Baroni and Brown. He believes the reason Baroni did not discuss the same with him is that nothing evolved therefrom, since Brown never came back to Baroni for the purpose of

pulling a permit. He knew nothing whatsoever with regard to the project at the Plaintiff's villa, the LLR proceedings with ACCI, or anything at all about the Plaintiff, until he was joined in this lawsuit pursuant to the Plaintiff's Amended Complaint. Laughlin confirmed the Plaintiff's testimony that they had never spoken to one another and knew nothing of one another prior to this lawsuit.

Laughlin also testified, *albeit* not as an expert witness, that the vast majority of the work performed by his company, Task Services, is of the exact same nature as the work performed at Plaintiff's villa. He further testified that, although he has not personally observed the condition of the villa, the repair costs to which Plaintiff's expert testified relating to the repair work needing to be performed at Plaintiff's villa were extremely inflated by at least two (2) to three (3) times the actual amount it should take to perform the described work.

The Defendant Brown testified and totally corroborated the facts as to his involvement with Baroni and that Baroni knew nothing about the fact that Brown unilaterally, after obtaining plans from Greg Beste, pulled a permit under the name of ACCI. Brown further testified that while he would admit that some of his work was not done as timely as it could have been, it was in no way done as badly as testified to by Plaintiff's expert, Michael Lacombe (Lacombe). Brown further noted that over Thirty-Seven Thousand Dollars (\$37,000.00) of what he was paid pertained to work in the Plaintiff's kitchen, for which approximately only \$400.00 was claimed to be defective by Lacombe. He also noted that over 80% of what he was paid was for material such that he cannot believe that Plaintiff is claiming damages basically equal to the entire amount of the parties' original Contract.

The Plaintiff offered evidence regarding the extent of his damages in the form of

testimony from Lacombe, a licensed general contractor. The Plaintiff offered Lacombe as an expert witness in the field of construction and renovation of residential and commercial buildings, and sought to have this Court qualify Lacombe for such expert testimony. After conducting *voir dire*, counsel for the Defendants consented to Lacombe's qualification as an expert witness in this matter, and this Court qualified Lacombe as an expert in the field of construction and renovation of residential and commercial buildings, as well as standards and practices of the said industry, and his expert testimony was accepted accordingly.

Lacombe testified that he had personally inspected the Plaintiff's residence in early 2009 and, consequently, had generated an inspection report/damage assessment dated March 4, 2009¹.

Lacombe testified at length about the defective construction work performed by Defendant Brown on the Plaintiff's residence, utilizing a copy of his inspection report/damage assessment to refresh his recollections of his findings. Lacombe opined that he believed the bulk of the defects noted by him arose as a result of the work performed by him. However, he acknowledged that since he had not viewed the property at the time Brown was terminated, but instead only after Partelow had performed intervening work, he could not testify definitely as to whether any of the defective work observed by him had in fact been performed by Partelow as opposed to Brown. Lacombe testified as follows regarding the defects and the estimated cost of repair/replacement/remediation²:

A. Repair of the heating/AC grille in the ceiling of the sun room: \$200.00;

¹Earlier in the trial, Defendants' counsel had Lacombe's report marked for identification purposes so that counsel could examine Defendant Brown concerning the report; it was subsequently offered into evidence during Lacombe's testimony without objection.

²According to Plaintiff's expert witness, these estimated amounts include both labor and materials.

- B. Removal and replacement of the wood baseboards in the sun room:
\$1,100.00;
- C. Repair of window sill trim moldings in the sun room: \$1,700.00;
- D. Extensive repair and remediation of the roof system over the sun room,
which has leaked into the residence and caused damage to the
walls, beams and crown moldings: \$6,000.00;
- E. Total replacement of porcelain tile and grout in the dining, living, halls
and sun rooms; removal of the flooring, bedding and mastic; cleaning,
grinding and "floating" smooth the concrete slab surface; and removal of
shoe and base moldings: \$27,800.00;
- F. Removal of the carpet and pad and grinding of concrete floor in the
transition floor between the master bedroom and sitting room: \$1,400.00;
- G. Re-skimming, re-sanding and retexturing of all walls: \$7,200.00;
- H. Removal of the tile floor, cabinets and sinks and replace vanities in both
the master bathroom and guest bathroom: \$3,500.00;
- I. Obtaining matching cove pieces and grout and installation of new
transitions between the ceramic tile-lined showers in both bathrooms:
\$1,700.00;
- J. Attachment of necessary "filler strip" abutting the kitchen cabinets
properly with blind screws and blocking: \$200.00;
- K. Replacement of missing dead-bolt and installation of security strike plate
at kitchen door to match lockset and repaint jamb: \$200.00;

- L. Repair and renovation of transition flooring between the existing screened-in porch slab and the new slab: \$500.00;
- M. Removal and reinstallation of downspouts on the roof: \$200.00;
- N. Removal and replacement of interior door between the guest bedroom and bathroom was very poorly done: \$700.00; and
- O. Bringing the entry door wall even with the line of the wall of the adjacent sun room, which will require slab and foundation, framing, sheathing and siding, roof framing and finishing, insulation, drywall and door installation: \$27,000.00.

Lacombe further testified that it is standard practice in the industry for a contractor to charge eighteen (18%) percent of the total repair and remediation dollar amount for the contractor's overhead and profit; he also estimated that design, drawings, specifications, permitting and observation costs would be about \$7,000.00.

On cross-examination, Lacombe admitted that he could not state with certainty that the heating/AC grille (Item A) was the responsibility of Defendant Brown, nor that the baseboards in the sunroom (Item B) were necessarily the result of Brown's defective workmanship; however, Lacombe testified that it was his opinion that Defendant Brown was liable for the remaining defects, that such work was performed in a grossly negligent fashion, and that, as a direct and proximate result of Brown's construction work the Plaintiff suffered the damages as set forth by Lacombe in his report and testimony at trial. I find Lacombe's testimony to be credible in this regard, and I hereby adopt the foregoing as findings of fact. Therefore, the Plaintiff's actual damages are Eighty Six Thousand Four Hundred and 00/100 (\$86,400.00) Dollars.

BASED UPON my Findings of Fact I conclude as a matter of law:

1. That this Court has jurisdiction over the parties hereto and the subject matter hereof. Also, venue is proper in the Court of Common Pleas for Beaufort County.
2. Plaintiff in his Amended Complaint states six (6) causes of action, all of which have been brought against the Defendant Brown individually and d/b/a Southeastern Services. As noted above, Brown failed to file any pleadings in response to either Plaintiff's Complaint or Amended Complaint and therefore is in default. Default judgment having been entered by this Court against Brown on February 5, 2009, all that remains is for the Court to determine the damages to which Plaintiff is entitled to against Defendant Brown in relation to said judgment and to order the same, which matters are addressed more fully hereinbelow.
3. Plaintiff in his pleadings did not seek judgment against the Defendant, ACCI, Baroni or Laughlin, in relation to the First, Third and Sixth Causes of Action. Although Plaintiff did elicit evidence as to certain statutes which may have been breached by the Defendant, ACCI, Baroni and Laughlin, such statutes were totally separate and apart from the ones contained in Plaintiff's pleadings and had to do with working relationship between Baroni, ACCI and Laughlin as the primary qualifier of ACCI's license and did not in any way relate to the statutes identified in Plaintiff's pleadings under the First Cause of Action. Likewise, Plaintiff's submission of the Consent Agreement between the LLR and ACCI/Baroni, pertaining to a violation of § 40-11-110(A)(9), was not contained within the statutes identified in Plaintiff's pleadings under the First Cause of Action.
4. Even if the Court had conformed the pleadings to the evidence and concluded that there were statutory violations by Baroni, Laughlin and ACCI, as concerns their

relationship with Laughlin being the primary qualifier for ACCI, any such violation would not have been the proximate cause of Plaintiff's damages, as more fully addressed hereinbelow.

5. It is not enough for the Plaintiff to merely assert that a statute has been violated. The Plaintiff must show that the violation had a direct causal relationship to the damages suffered by the Plaintiff. "The finding of a statutory violation . . . does not automatically lead to the recovery of damages." *Trivelas v. South Carolina Department of Transportation*, 348 S.C. 125, 134, 558 S.E.2d 271 (Ct. App. 2001). "The plaintiff must prove the violation proximately caused the injury complained of by the injured party." *Id.* Citing *Rayfield v. South Carolina Department of Corrections*, 297 S.C. 95, 374 S.E.2d 910 (Ct. App. 1988), the Court in *Trivelas* stated "[n]egligence *per se* simply means the jury need not decide if the defendant acted as would a reasonable man in the circumstances. . . . The only issue then left for the jury to determine is the third element of negligence, viz., whether the defendant's conduct proximately caused damage to the plaintiff." Further, "[w]hile the violation of a statute is negligence *per se*, such violation is not actionable unless the specific violation is a proximate cause of the injury" *Id.*

6. "Negligence is not actionable unless it is a proximate cause of the injuries, and it may be deemed a proximate cause only when without such negligence the injury would not have occurred or could have been avoided. (Emphasis added). *Hanselmann v. McCardle*, 275 S.C. 46, 48, 267 S.E.2d 531, 533 (1980). "Proximate cause is the efficient or direct cause; the thing that brings about the complained of injuries." *Platt v. CSX Transportation, Inc.*, 665 S.E.2d 631, 640 (Ct. App. 2008).

7. In this case, the proximate cause of the Plaintiff's damages was the negligent work performed by the Defendant Brown. The alleged statutory violation by Baroni/ACCI and Laughlin, insofar as Laughlin not being a proper qualifier for ACCI's general contractor's license, had nothing to do with Brown's work on behalf of the Plaintiff, nor Brown's decision to unlawfully utilize ACCI's license information to pull a permit for the subject job without the knowledge or consent of ACCI/Baroni. As for Baroni/ACCI's alleged lending of ACCI's license to Brown, said allegation is not supported by the evidence, nor is non-mutual collateral estoppel appropriate, for the reasons set forth below.

8. The Third and Sixth Causes of Action pertaining to a breach of contract by Brown and negligent misrepresentation by Brown to the Plaintiff have nothing to do with Defendants, ACCI, Baroni or Laughlin such that they are entitled to a judgment as a matter of law on said causes of action. While counsel for the Plaintiff attempted to characterize Brown as an agent for ACCI, nothing contained within the evidence submitted in any way supports that Brown ever had anything to do with ACCI, other than being a competitor bidding on certain small projects. There being no agent/principal relationship, nothing contained within the First, Third or Sixth Causes of Action can be held applicable to the Defendants, ACCI, Baroni and Laughlin.

9. As for the remaining Causes of Action, in order to find for the Plaintiff as against the Defendant, ACCI, Baroni and Laughlin the elements for each must be proven by a preponderance of the evidence. As concerns the Second Cause of Action, negligence, the elements are a duty, the breach of that duty and the fact that the breach of said duty proximately caused the damages complained of by the Plaintiff. In this case neither ACCI, Baroni nor Laughlin were a party to the contract between the Plaintiff and Brown. Although not a party to

the contract, had ACCI/Baroni actually pulled the permit pertaining to this project, then arguably a duty would have arisen for ACCI/Baroni to supervise the project. See *Kennedy v. Columbia Lumber & Mfg. Co., Inc.*, 299 S.C. 335, 334, 384 S.E.2d, 736 (1989). However, the facts in this case unequivocally show that while ACCI/Baroni was prepared to pull a permit if Brown returned to Baroni with appropriate plans and specifications for Baroni to review, such never occurred and Brown unilaterally and unlawfully pulled a permit in ACCI's name without any knowledge on the part of ACCI/Baroni.

10. Even if the Plaintiff had produced sufficient evidence proving that some negligence on the part of the Defendants, Baroni, Laughlin and/or ACCI was the proximate cause of his damages, the negligence of the Plaintiff must not exceed that of said Defendants. See, *Estate of Haley Ex. Rel. Haley v. Brown*, 370 S.C. 240, 634 S.E.2d 62 (Ct. App. 2006), noting *Nelson v. Concrete Supply Co.*, 303 S.C. 243, 399 S.E.2d 783 (1991)(a plaintiff in a negligence action may recover damages if his or her negligence is not greater than that of the defendant); *Ott v. Pittman*, 320 S.C. 72, 463 S.E.2d 101 (Ct. App. 1995)(under the doctrine of comparative negligence, negligence by the plaintiff does not automatically bar recovery by the plaintiff unless his negligence is greater than that of the defendant); *Hopson v. Clary*, 321 S.C. 312, 468 S.E.2d 305 (Ct. App. 1996)(stating plaintiff's claim was barred under comparative negligence doctrine because plaintiff's own negligence was, as a matter of law, greater than any negligence attributable to defendant and the more determinative factor in causing the accident); *Hurd v. Williamsburg County*, 363 S.C. 421, 611 S.E.2d 488 (2005)(under the comparative negligence doctrine, a plaintiff may only recover damages if his own negligence is not greater than that of the defendant).

11. The evidence overwhelmingly indicates that the Plaintiff's damages do not stem from the pulling of the permit, but rather from the defective work of the individual performing that work. That individual, Brown, was hired solely by the Plaintiff without basically any inquiry into his qualifications and licensure. The Plaintiff candidly admitted on cross examination that had he checked on Brown's license and learned that he did not have the appropriate license, he would not have hired Brown to do the job. The Plaintiff did nothing to check on Brown's license even when Brown was having trouble pulling a permit for many months prior to the start of the project. Further, once the project started, it is plainly evident that the Plaintiff knew that there were problems with Brown's work (lack of showing up, plans not in accordance with what Plaintiff wanted constructed, and work not being completed in a timely fashion). Plaintiff allowed Brown to continue working and paid Brown over Ninety percent (90%) of the contract price before finally terminating him more than a year after the project was supposed to have been completed. Plaintiff had countless warnings which he ignored regarding Brown's ability to do the work, which warnings began prior to the commencement of work with Brown's inability to pull a permit and continued throughout the duration of Brown's employment, none of which warnings Plaintiff heeded. Plaintiff's negligence in proceeding with Brown far exceeded any negligence on the part of ACCI/Baroni/Laughlin who had no knowledge that Brown was proceeding to work on this project. Therefore, the Court must find for the Defendants, ACCI/Baroni/Laughlin, on the Plaintiff's Second Cause of Action.

12. Plaintiff's contention that the LLR agreement between ACCI/Baroni and the LLR is conclusive on the issue of ACCI/Baroni having loaned their license to Brown insofar as this matter is concerned is without merit. While non-mutual collateral estoppel can, under certain

circumstances, be conclusive as to an issue, such is not the case here. While the agreement states under its findings of fact that respondent "aided" a residential contractor in obtaining permits and documents to perform commercial work, there is absolutely no detail with regard to what actions ACCI/Baroni did in relation to such "aid."

13. In addition, while the agreement subsequently states that respondent admits that respondent's actions in this matter is in violation of South Carolina Code of Laws 40-11-110 (A)(9) and that the conduct in this matter constitutes sufficient grounds for disciplinary corrective action, the evidence is unequivocal that that disciplinary or corrective action was, by agreement, a one (1) year probationary period for ACCI's license and a One Thousand Dollar (\$1,000.00) fine. There is absolutely nothing in said agreement to suggest that the findings of that proceeding would in any way be utilized to attempt to hold ACCI/Baroni accountable for more than Eighty-Five Thousand Dollars (\$85,000.00) in damages sustained by the Plaintiff herein, who was not a party to that action. Further, no evidence was admitted which even remotely suggests that ACCI/Baroni had an incentive to obtain a full and fair adjudication in the initial action. Instead, the evidence suggests the exact opposite where Baroni testified his whole reason in agreeing to the proposed agreement from the LLR was to not have to incur the expenses which a full and fair adjudication in that initial action would have cost him in the form of attorney's fees.

14. While ACCI/Baroni may have had an opportunity to fully litigate the matter in the first hearing, there are circumstances here which justify providing them the opportunity to re-litigate this issue in full in this proceeding, as contemplated by the Court in *Wade v. Berkeley County*, 330 SC 311, 317, 498 SC 2d 684 (Ct. App. 1998). Further, the case of *Carrigg v.*

Cannon, 347 S.C. 75, 552 S.E.2d 767 (Ct. App. 2001) notes that the party asserting collateral estoppel must prove that the issue was actually litigated and directly determined in the prior action and that the matter or fact directly in issue was necessary to support the first judgment. The evidence unequivocally shows the matter was never actually litigated, but rather than an administrative agreement was entered into between ACCI/Baroni and the LLR in return for an administrative sanction only.

15. Even were this Court determine that, based upon the fact that ACCI/Baroni had the "opportunity" to fully litigate the issue of license lending such that non-mutual collateral estoppel should apply herein, which the Court does not so decide, this State has adopted the restatement (second) of judgments, which provides for various exceptions to the applications of the non-mutual collateral estoppel doctrine, which exceptions are applicable in this case. As noted by the Court of Appeals, in *Nelson v. OFG of South Carolina, Inc.*, 354 S.C. 290, 306, 580 S.E. 2d 171 (Ct. App. 2003), (Aff'd in part and rev'd in part of a different issue), Section 28 of the Restatement (Second) of Judgments provides "[a]lthough an issue is litigated and determined by a valid and final judgment, . . . , relitigation of the issue in a subsequent action between the parties is not precluded in the following circumstances: . . . (3) A new determination of the issue is warranted by differences in the quality or extensiveness of the procedures followed in the two courts (clearly such is the case here where one compares an informal administrative proceeding versus a trial in Circuit Court). . . (5) There is a clear and convincing need for a new determination of the issue . . . (b) because it was not sufficiently foreseeable at the time of the initial action that the issue would arise in a subsequent action, or (c) because the party sought to be precluded, . . . , did not have an adequate opportunity or incentive to

obtain a full and fair adjudication in the initial action." (Emphasis added) *Id.* at 307.

16. No evidence was submitted to the Court indicating that Defendant Baroni expected to be sued when there was no relation between what he had agreed to do and what Defendant Brown actually did without his consent, and, further, there could be no nexus between what he had done and the damages suffered by the Plaintiff. Furthermore, as testified to by Defendant Baroni, his incentive for signing that agreement was that ACCI/Baroni was going to receive a minimal administrative reprimand in the form of a \$1,000.00 fine and a year's probation, as opposed to spending thousands of dollars to have a full blown hearing in which he would be represented by an attorney before the LLR. Based on both factors, the offensive use of non-mutual collateral estoppel to impose liability based on a cause of action for negligence *per se* upon the Defendants Baroni and ACCI would be ~~un~~supportable at law.

17. Further, as was also noted in *Nelson*, Section 29 of the Restatement (Second) of Judgments, provides for additional circumstances that should be taken into consideration before applying non-mutual collateral estoppel. Those circumstances, along with those identified in Restatement § 28, include . . . "(2) The forum in the second action affords a party against whom preclusion is asserted procedural opportunities in the presentation and determination of the issue that were not available in the first action and could likely result in the issue being differently determined; ... (8) Other compelling circumstances make it appropriate that the party be permitted to re-litigate the issue." "Even when the elements of res judicata and collateral estoppel have been met, they will not be rigidly or mechanically applied, and the application of the doctrines may be precluded where unfairness or injustice results." *Nelson* at 314.

18. Such is the case here, where Defendants Baroni, Laughlin and ACCI had the

ability to compel Defendant Brown to appear in Court, under oath, pursuant to Subpoena, and to cross-examine him in the presence of the judge regarding his unlawful use of ACCI's license. At the same time, they were able to Subpoena the records from the Town of Hilton Head and compel the testimony from the Town's business department regarding the Town's permitting procedures and how Defendant Brown got around the same.

19. Moreover, even if this Court were convinced by Plaintiff's argument that Defendants should be collaterally estopped in this matter, the determination of "license lending" would only give rise to a duty and a breach of that duty. It would still be incumbent upon the Plaintiff to prove that the breach of said duty was the proximate cause of his damages, and further, that, as asserted by the Defendants, the Plaintiff's negligence in this matter was not greater than that of the Defendants. *Estate of Haley, supra*. As more fully set out above, the evidence conclusively shows that the actions of the Plaintiff, or the lack thereof, had everything to do with the damages sustained by the Plaintiff while the actions of Baroni, Laughlin and ACCI had nothing to do with said damages.

20. As to Plaintiff's Fourth Cause of Action (Breach of Express and Implied Warranties) such warranties must derive either from Contracts or from involvement in the project. While the Court in *Kennedy v. Columbia Lumber & Mfg. Co., Inc.*, 299 S.C. 335, 344, 384 S.E.2d 630, 736 (1989), noted that the Courts have been "steadfast in holding that privity of contract as a defense to an implied warranty action is abolished in this State;" it went on to state that if there is not a contract, there has to be actual involvement between the parties giving rise to the implied warranty. The evidence herein from all parties was that the Plaintiff never, ever had any communications whatsoever with ACCI, Baroni or Laughlin. The contract only being

between Brown and the Plaintiff, then absent some interaction on the project between the Plaintiff and the other Defendants, there can be no cause of action for a breach of warranty. No such interaction having occurred, the Fourth Cause of Action cannot apply to the Defendants, ACCI, Baroni or Laughlin.

21. The Plaintiff asserted a Fifth Cause of Action, asserting a violation of the Unfair Trade Practices Act (UTPA). "To establish a cause of action under the UTPA, the Plaintiff must prove unfair or deceptive acts or practices in the conduct of any trade or commerce." *Hollman v. Woolfson*, S.C. Supreme Court No. 26725 (2009). "The unfair or deceptive act or practice must affect the public interest." *Singleton v. Stokes Motors, Inc.*, 358 S.C. 369, 595 S.E.2d 461 (2004). "An impact on the public interest may be shown if the acts or practices have the potential for repetition." *Id.* "The potential for repetition may be proven by showing: (1) the same kind of actions occurred in the past, thus making it likely they will continue to occur absent deterrence; or (2) the defendant's procedures created a potential for repetition of the unfair and deceptive acts." (Emphasis added) *Id.*

22. The Plaintiff has not provided any evidence that Defendants Baroni's or ACCI's actions were unfair or deceptive, or that Defendants Baroni and ACCI intended to deceive the Plaintiff. Neither Defendants Baroni nor ACCI benefitted from Defendant Brown's contract with the Plaintiff, and they had no incentive to deceive the Plaintiff. Nor has the Plaintiff shown that the Defendants' actions impacted the public interest. The Plaintiff has failed to prove that the allegations of license lending have occurred in the past, nor has he shown that the Defendants' actions have a potential for repetition. The mere act of possessing a contractor's license cannot possibly lead to the conclusion that some act of deception or unfairness will occur

in the future. Otherwise, every contractor holding a license would be subject to such punishment under UTPA. Lastly, Defendant Baroni has been disciplined by the State Contractors' Licensing Board by way of a fine and one year probation for his minimal discussions with Brown in this matter. Such disciplinary action is more than sufficient as a deterrent against future misconduct.

23. Turning to Plaintiff's claim for damages as to the Defendant Brown, to receive an award of punitive damages, the Plaintiff has the burden of proving by clear and convincing evidence that the defendant's misconduct was willful, wanton, or in reckless disregard of the plaintiff's rights. *Scott v. Porter*, 340 S.C. 158, 530 S.E.2d 389 (Ct.App. 2000); *Lister v. NationsBank of Delaware, N.A.*, 329 S.C. 133, 149, 494 S.E.2d 449, 458 (Ct.App.1997). Considering that Defendant Brown admitted to unlawfully using ACCI's license, without the knowledge or consent of ACCI or Baroni, to pull down the permit associated with renovating Plaintiff's residence, and that Brown might not have been able to perform the negligent work at all, but for his unlawful use of ACCI's license, I find that the Plaintiff has carried the burden of proof in this regard and that punitive damages are appropriate in this matter.

24. The Plaintiff also sued Defendant Brown for violation of the South Carolina unfair Trade Practices Act (the "UTPA")⁴. The Plaintiff has previously been granted judgment by default against Defendant Brown, and it is well settled that by defaulting, the defaulting party is deemed to have admitted the truth of the plaintiff's allegations and to have conceded liability. *Roche v. Young Bros., Inc., of Florence*, 332 S.C. 75, 504 S.E.2d 311 (1998). Thus, I find that Defendant Brown's actions in using another's (ACCI's) license, without the knowledge or consent of ACCI or Baroni, are in violation of the UTPA, as well.⁵

⁴S.C. Code Ann. Section 39-5-10, *et seq.*

⁵Of course, even though Defendant Brown's default in this matter results in an admission

25. As the Trial Judge, I am vested with considerable discretion over the amount of a punitive damage award. *Kuznick v. Bees Ferry Assocs.*, 342 S.C. 579 (Ct.App.2000). Under the UTPA, if the use or employment of unfair or deceptive acts is a wilful or knowing violation, a Court shall award three (3) times the actual damages sustained; upon a finding that the Act has been violated *at all*, the Court shall award to the person bringing such action reasonable attorney's fees and costs. S.C. Code Ann. Section 39-5-140.

26. I find that an appropriate award of punitive damages in this case to be three (3) times the Plaintiff's actual damages, for a total damages award of Two Hundred Fifty Nine Thousand Two Hundred and 00/100 (\$259,200.00) Dollars. This ratio of punitive to actual damages (a single-digit ratio) is, I find, reasonable and proportionate to the amount of actual harm to the Plaintiff caused by the Defendant Jamie V. Brown's actions. Moreover, the Plaintiff submitted evidence at trial of attorney's fees and costs in the amount of Forty Eight Thousand Three Hundred Twenty and 73/100 (\$48,320.73) Dollars, an amount I find to be reasonable, given the parties and issues at play in this case. Therefore, such amount shall be added to the total damages amount referenced above, for a total judgment for the Plaintiff of Three Hundred Seven Thousand Five Hundred Twenty and 73/100 (\$307,520.73) Dollars.

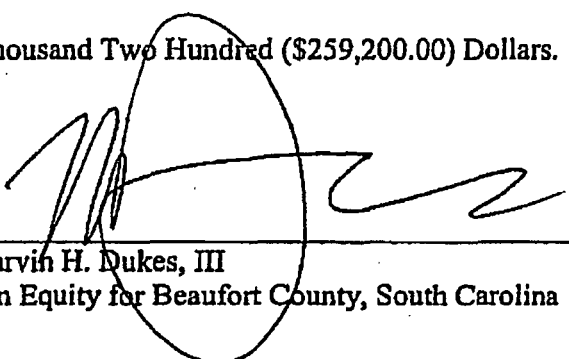
BASED UPON my Findings of Fact and Conclusions of Law, IT IS ORDERED, ADJUDGED AND DECREED that as to the Defendants, ACCI/Baroni/Laughlin, I find for said Defendants on all causes of action and, therefore, dismiss this action, with prejudice, as to them.

As to the Defendant, Jamie V. Brown, individually, and d/b/a Southeastern Services, I find for the Plaintiff on all causes of action and award judgment as follows:

of liability for both negligence and violation of the UTPA, given the overwhelming evidence offered at trial in this regard, this Court would likely have reached the same conclusion in the absence of such default.

- (a) As to the First Cause of Action, granting Plaintiff judgment in the amount of Two Hundred Fifty-Nine Thousand Two Hundred (\$259,200.00) Dollars.
- (b) As to the Second Cause of Action, granting judgment to the Plaintiff in the amount of Two Hundred Fifty-Nine Thousand Two Hundred (\$259,200.00) Dollars.
- (c) As to the Third Cause of Action, granting judgment to the Plaintiff in the amount of Eighty-Six Thousand Four Hundred (\$86,400.00) Dollars.
- (d) As to the Fourth Cause of Action, granting judgment to the Plaintiff in the amount of Eighty-Six Thousand Four Hundred (\$86,400.00) Dollars.
- (e) As to the Fifth Cause of Action, granting judgment to the Plaintiff in the amount of Eighty-Six Thousand Four Hundred (\$86,400.00) Dollars, which amount, according to statute, shall be tripled to Two Hundred Fifty-Nine Thousand Two Hundred (\$259,200.00) Dollars, together with costs and attorney's fees in the amount of Forty-Eight Thousand Three Hundred Twenty and 73/100 (\$48,320.73) Dollars, for a total judgment in the amount of Three Hundred Seven Thousand Five Hundred Twenty and 73/100 (\$307,520.73) Dollars.
- (f) As to the Sixth Cause of Action, granting judgment to the Plaintiff in the amount of Two Hundred Fifty-Nine Thousand Two Hundred (\$259,200.00) Dollars.

AND IT IS SO ORDERED.



Hon. Marvin H. Dukes, III
Master in Equity for Beaufort County, South Carolina

Beaufort County, South Carolina
May 21, 2010.

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

JORGE V. ESGUERRA,)

Plaintiff,)

v.)

JAMIE V. BROWN, individually and)
d/b/a SOUTHEASTERN SERVICES,)
ROBERT BARONI, BOYD R.)
LAUGHLIN and ASSOCIATED)
CONSTRUCTION CONSULTANTS,)
INC.,)

Defendants.)

IN THE COURT OF COMMON PLEAS
CASE NO. 2007-CP-07-1547

AMENDED COMPLAINT
(Jury Trial Demanded)

2008 JAN 25 AM 10:21
ELIZABETH H. SMITH
CLERK OF COURT
BEAUFORT COUNTY, S.C.

The Plaintiff, complaining of the acts and omissions of the Defendants herein, would respectfully show unto this Court the following:

1. The Plaintiff is a resident of Canton, Ohio, and is the owner of real property located in Beaufort County, South Carolina, briefly described as 147 Harborwood Villas, Hilton Head Island, South Carolina.
2. Defendant Jamie V. Brown is, upon information and belief, a resident of the State of South Carolina who operates and does business in Beaufort County, South Carolina as Southeastern Services.
3. Defendant Robert Baroni is, upon information and belief, a resident of the State of South Carolina who operates and does business with Defendant Associated Construction Services, Inc. in Beaufort County, South Carolina.
4. Defendant Boyd R. Laughlin is, upon information and belief, a resident of the State of South Carolina and a licensed general contractor, who supervises and/or is supervised by Defendant Associated Construction Services, Inc. in Beaufort County, South Carolina.
5. Defendant Associated Construction Consultants, Inc. (the "Corporate Defendant") is a corporation organized and existing under the laws of the State of Florida, which

operates and does business in Beaufort County, South Carolina.

6. The parties hereto, and all matters and things hereinafter alleged, are within the jurisdiction of this Court and venue of this action is proper.

GENERAL AVERMENTS

7. Each and every allegation contained in paragraphs 1 through 6 above is realleged as if fully repeated herein verbatim.
8. Defendant Brown was retained on or about November 11, 2004, to perform construction, renovation and interior finish work on the Plaintiff's residence at 147 Harborwood Villas on Hilton Head Island, South Carolina (the "Project"); the parties entered into an agreement on or about such date for the provision of said services (the "Agreement").
9. The Agreement reflected that Defendant Brown would provide all labor and materials for such construction, renovation and interior finish work for payment in the amount of \$86,500.00.
10. Unbeknownst to the Plaintiff, Defendant Brown, at the time of entering into the Agreement, did not have the requisite builder's license necessary to enter into the Agreement with the Plaintiff or commence the Project.
11. Unbeknownst to the Plaintiff, Defendant Brown entered into an agreement with the Corporate Defendant and Defendants Laughlin and Baroni whereby they would allow Defendant Brown to use the Corporate Defendant's general contractor's license in order to, upon information and belief, secure a building permit for the Project.
12. Defendant Laughlin and the Corporate Defendant, as the licensed general contractor, are each responsible for all work performed and materials provided by Defendant Brown, his agents, servants, subcontractors, suppliers and/or employees.
13. Although the project was to be commenced in January of 2005 and completed by the end of September of 2005, the Defendants did not commence construction on the Project until May of 2005, despite promises to the Plaintiff that construction would commence and progress in a timely fashion.
14. Upon information and belief, Defendant Laughlin and the Corporate Defendant never

- appeared on site during the course of the Project to supervise, inspect and/or direct Defendant Brown, his agents, servants, subcontractors, suppliers and/or employees.
15. Upon information and belief, the Defendants employed unlicensed and unqualified parties to perform much of the construction work.
 16. Despite repeated assurances from Defendant Brown that the Project would be finished by the agreed-upon completion deadline of September 30, 2005, the Defendants' construction on the Project continued through the end of 2005.
 17. In March of 2006, the Project was far from completion and the work already performed by the Defendants was substandard, shoddy and deficient.
 18. After having already paid the Defendants amounts in excess of \$79,000.00, and disturbed and frustrated by the Defendants' shoddy workmanship, continual delays and breach of the Agreement, the Plaintiff terminated the same in March of 2006.
 19. Soon after the Defendants left the Project, the Plaintiff observed numerous deficiencies in the construction performed by the Defendants in and around the residence, including but not limited to the following:
 - a. Building the front porch without footings and with generally poor construction;
 - b. Improper installation of the bathroom tile in the guest bathroom, causing 3- to 4-inch gaps between the flooring and walls;
 - c. Improper installation of the bathroom tile in the master bathroom, resulting in drainage problems;
 - d. Improper installation of living room tile, resulting in an uneven and dangerous floor surface;
 - e. Destroyed bathroom vanity;
 - f. Damaged, split and ill-fitting doors;
 - g. Roofing defects resulting in leaks and, ultimately, a cave-in of the roof;
 - h. Improper and faulty electrical wiring;
 - i. Improper and faulty installation of windows; and
 - j. Improper installation of bathroom showerheads.
 20. In late March of 2006, the Plaintiff was forced to hire another contractor, at great

expense, to complete the Project, and for remediation and repair of the work performed by the Defendants on the residence.

21. As a direct and proximate result of the Defendants' faulty and shoddy workmanship and construction practices, the Plaintiff has suffered actual, consequential and incidental damages in the form of the extraordinary costs of remediation and repair of the residence and for completion of the Project.

FOR A FIRST CAUSE OF ACTION

(Negligence Per Se)

22. Each and every allegation contained in paragraphs 1 through 21 above is realleged as if fully repeated herein verbatim.
23. South Carolina Code Ann. Section 40-59-30 makes it unlawful for a person to engage or offer to engage in the business of residential building without first having procured a license from the S.C. Home Builders Residential Commission.
24. South Carolina Code Ann. Section 40-59-240(D) requires that when a project cost will exceed \$5,000.00, the residential specialty contractor must first obtain an executed surety bond.
25. Defendant Brown was not and is not qualified to undertake the Project, as provided hereinabove.
26. The aforesaid statutes created a duty to the Plaintiff, which duty the Defendants breached by violating the aforesaid statutes.
27. As a direct and proximate result and consequence of the Defendants' violation of the aforesaid statutes, the Plaintiff has suffered injury to his residence and property, and has suffered actual, consequential and incidental damages in the form of the extraordinary costs of remediation and repair for the residence, and is further entitled to punitive damages in an amount to be determined at trial.

FOR A SECOND CAUSE OF ACTION

(Negligence)

28. Each and every allegation contained in paragraphs 1 through 27 above is realleged

as if fully repeated herein verbatim.

29. The above-referenced construction defects and deficiencies are the proximate and direct result of the negligence, gross negligence and/or recklessness of the Defendants in one or more of the following particulars:
- a. In failing to perform construction and/or remedial, repair and renovation work on the residence in conformity with accepted industry standards;
 - b. In failing to properly supervise and/or oversee the construction at the residence in order to insure that all work proceeded in conformity with the customary and ordinary standards of the construction industry;
 - c. In allowing and/or accepting non-conforming or defective work;
 - d. In allowing the Plaintiff's property to be damaged and injured by the shoddy and faulty workmanship of the Defendants' and their agents, servants and/or employees; and
 - e. Upon information and belief, in allowing non-licensed and/or unqualified individuals to perform electrical and plumbing work at the residence.
30. As a direct and proximate result and consequence of the Defendants' negligence, gross negligence and/or recklessness, the Plaintiff has suffered injury to his residence and property, and has suffered actual, consequential and incidental damages in the form of the extraordinary costs of remediation and repair of the residence and for completion of the Project, and is further entitled to punitive damages in an amount to be determined at trial.

FOR A THIRD CAUSE OF ACTION

(Breach of Contract as to Defendant Brown)

31. Each and every response and allegation contained in paragraphs 1 through 30 above is reaffirmed and realleged as if fully repeated herein verbatim.
32. The Plaintiff and Defendant Brown entered into an Agreement for Brown to perform construction, renovation and interior finish work on the Project.
33. Defendant Brown has breached the Agreement with the Plaintiff by, among other things, failing to adhere to the agreed-upon schedule for work completion, failing to

complete the work performed in a timely fashion, and failing to properly perform all of the Project items reflected in the parties' Agreement.

34. As a direct and proximate result of Defendant Brown's breach of the aforesaid Agreement, the Plaintiff has suffered actual, incidental and consequential damages.

FOR A FOURTH CAUSE OF ACTION

(Breach of Express and Implied Warranties)

35. Each and every allegation contained in paragraphs 1 through 34 above is realleged as if fully repeated herein verbatim.
36. The Defendants represented and warranted that construction performed on the residence would be of a high quality and/or in accordance with generally accepted residential construction standards.
37. Additionally, in contracting with the Plaintiff to provide remediation, construction and repair work on his residence, warranted that the same would be, upon completion of the work, fit for habitability and for the intended use of the residence.
38. The Defendants have breached their express and implied warranties by providing faulty workmanship and defective construction, resulting in the residence being plagued with extensive construction defects.
39. As a direct and proximate result and consequence of the Defendants' breach of their express and implied warranties, the Plaintiff has suffered injury to his residence and property, and has suffered actual, consequential and incidental damages in the form of the extraordinary costs of remediation and repair for the residence.

FOR A FIFTH CAUSE OF ACTION

(Unfair Trade Practices)

40. Each and every allegation contained in paragraphs 1 through 39 above is realleged as if fully repeated herein verbatim.
41. The Defendants' actions and omissions, as outlined herein, constitute and constituted the utilization of unfair and/or deceptive methods, acts or practices within the meaning of the South Carolina Unfair Trade Practices Act.

42. Upon information and belief, the Defendants' acts and omissions, including but not limited to Defendant Brown engaging or offering to engage in the business of residential building without having first procured a license, and Defendants Laughlin and the Corporate Defendant using the general contractor's license to acquire the residential construction projects while using unlicensed workers that they each failed to supervise, have occurred with other parties in the past and/or are subject to repetition in the future.
43. As a direct and proximate result of the aforesaid actions of the Defendants, the Plaintiff has suffered the damages outlined hereinabove.
44. The Plaintiff is entitled to recover damages from the Defendants, in accordance with S.C. Code Ann. Section 39-5-140, in the amount of three (3) times his actual damages, together with the recovery of attorney fees and costs associated with this action.

FOR A SIXTH CAUSE OF ACTION

(Negligent Misrepresentation as to Defendant Brown)

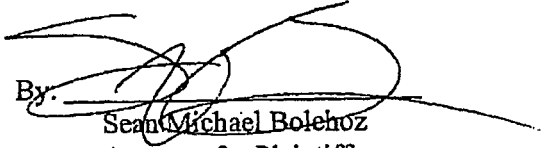
45. Each and every allegation contained in paragraphs 1 through 44 above is realleged as if fully repeated herein verbatim.
46. Defendant Brown falsely represented to the Plaintiff that he had the requisite licensure to commence the Project.
47. Defendant Brown had a pecuniary interest in making such representation, in that the Plaintiff would not have hired him otherwise.
48. Defendant Brown owed a duty of care to the Plaintiff to communicate truthful information to him.
49. Defendant Brown breached that duty by failing to communicate truthful information to the Plaintiff.
50. The Plaintiff justifiably relied on Defendant Brown's representation.
51. The Plaintiff suffered a pecuniary loss as a direct and proximate result of his reliance on the representation.

WHEREFORE, the Plaintiff, having alleged a Complaint against the Defendants herein, would request from this Court an Order as follows:

- A. As to the First Cause of Action: Granting the Plaintiff judgment against Defendant Brown, in an amount equal to of his actual, incidental and consequential damages, as well as an award of punitive damages in an amount to be determined at trial;
- B. As to the Second Cause of Action: Granting the Plaintiff judgment against the Defendants, jointly and severally, in an amount equal to of his actual, incidental and consequential damages, as well as an award of punitive damages in an amount to be determined at trial;
- C. As to the Third Cause of Action: Granting the Plaintiff judgment against Defendant Brown in an amount equal to of his actual, incidental and consequential damages
- D. As to the Fourth Cause of Action: Granting the Plaintiff judgment against the Defendants, jointly and severally, in an amount equal to of his actual, incidental and consequential damages;
- E. As to the Fifth Cause of Action: Granting the Plaintiff judgment against the Defendants, jointly and severally, for treble his actual damages, plus his attorney's fees and the costs of this action;
- F. As to the Sixth Cause of Action: Granting the Plaintiff judgment against Defendant Brown, in an amount equal to of his actual, incidental and consequential damages, as well as an award of punitive damages in an amount to be determined at trial; and
- G. For any such other and further relief as this Court may deem just and proper.

(Signature on next page following.)

HALE & BOLCHOZ, L.L.C.

By. 

Sean Michael Bolchoz

Attorney for Plaintiff

1533 Fording Island Road, Suite 294

P. O. Box 22561

Hilton Head Island, SC 29925

(843) 837-3000

Hilton Head Island, SC

January 24, 2008

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STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

JORGE V. ESGUERRA,)

Plaintiff,)

v.)

JAMIE V. BROWN, individually and)
d/b/a SOUTHEASTERN SERVICES and)
ASSOCIATED CONSTRUCTION)
CONSULTANTS, INC.,)

Defendants.)

IN THE COURT OF COMMON PLEAS

CASE NO. 2007 CP 0701547

COMPLAINT

(Jury Trial Demanded)

07 JUN 11 PM 2:35
BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

The Plaintiff, complaining of the acts and omissions of the Defendants herein, would respectfully show unto this Court the following:

1. The Plaintiff is a resident of Canton, Ohio, and is the owner of real property located in Beaufort County, South Carolina, briefly described as 147 Harborwood Villas, Hilton Head Island, South Carolina.
2. Defendant Jamie V. Brown is, upon information and belief, a resident of the State of South Carolina who operates and does business in Beaufort County, South Carolina as Southeastern Services.
3. Defendant Associated Construction Services, Inc. (the "Corporate Defendant") is a corporation organized and existing under the laws of the State of Florida, which operates and does business in Beaufort County, South Carolina.
4. The parties hereto, and all matters and things hereinafter alleged, are within the jurisdiction of this Court and venue of this action is proper.

GENERAL AVERMENTS

5. Each and every allegation contained in paragraphs 1 through 4 above is realleged as if fully repeated herein verbatim.
6. Defendant Brown was retained on or about November 11, 2004, to perform

construction, renovation and interior finish work on the Plaintiff's residence at 147 Harborwood Villas on Hilton Head Island, South Carolina (the "Project"); the parties entered into an agreement on or about such date for the provision of said services (the "Agreement").

7. The Agreement reflected that Defendant Brown would provide all labor and materials for such construction, renovation and interior finish work for payment in the amount of \$86,500.00.
8. Unbeknownst to the Plaintiff, Defendant Brown, at the time of entering into the Agreement, did not have the requisite builder's license necessary to enter into the Agreement with the Plaintiff or commence the Project.
9. Unbeknownst to the Plaintiff, Defendant Brown entered into an agreement with the Corporate Defendant whereby it would allow Defendant Brown to use its general contractor's license in order to, upon information and belief, pull down the building permit for the Project.
10. The Corporate Defendant, as the licensed general contractor for this project, is responsible for all work performed and materials provided by Defendant Brown, his agents, servants, subcontractors, suppliers and/or employees.
11. Although the project was to be commenced in January of 2005 and completed by the end of September of 2005, the Defendants did not commence construction on the Project until May of 2005, despite promises to the Plaintiff that construction would commence and progress in a timely fashion.
12. The Plaintiff, despite numerous, regular visits to the Project site, was never introduced to any employees or representatives of the Corporate Defendant.
13. Upon information and belief, the Corporate Defendant never appeared on site during the course of the Project to supervise, inspect and/or direct Defendant Brown, his agents, servants, subcontractors, suppliers and/or employees.
14. Upon information and belief, the Defendants employed unlicensed and unqualified parties to perform much of the construction work.
15. Despite repeated assurances from Defendant Brown that the Project would be finished by the agreed-upon completion deadline of September 30, 2005, the

Defendants' construction on the Project continued through the end of 2005.

16. Upon information and belief, the Defendants continued working on the Project even after
17. In March of 2006, the Project was far from completion and the work already performed by the Defendants was substandard, shoddy and deficient.
18. After having already paid the Defendants amounts in excess of \$79,000.00, and disturbed and frustrated by the Defendants' shoddy workmanship, continual delays and breach of the Agreement, the Plaintiff terminated the same in March of 2006.
19. Soon after the Defendants left the Project, the Plaintiff observed numerous construction deficiencies in and around the residence, including but not limited to the following:
 - a. Building the front porch without footings and with generally poor construction;
 - b. Improper installation of the bathroom tile in the guest bathroom, causing 3- to 4-inch gaps between the flooring and walls;
 - c. Improper installation of the bathroom tile in the master bathroom, resulting in drainage problems;
 - d. Improper installation of living room tile, resulting in an uneven and dangerous floor surface;
 - e. Destroyed bathroom vanity;
 - f. Damaged, split and ill-fitting doors;
 - g. Roofing defects resulting in leaks and, ultimately, a cave-in of the roof;
 - h. Improper and faulty electrical wiring;
 - i. Improper and faulty installation of windows; and
 - j. Improper installation of bathroom showerheads.
20. In late March of 2006, the Plaintiff was forced to hire another contractor, at great expense, to complete the Project, and for remediation and repair of the work performed by the Defendants on the residence.
21. As a direct and proximate result of the Defendants' faulty and shoddy workmanship and construction practices, the Plaintiff has suffered actual, consequential and

incidental damages in the form of the extraordinary costs of remediation and repair of the residence and for completion of the Project.

FOR A FIRST CAUSE OF ACTION

(Negligence *Per Se* as to Defendant Brown)

22. Each and every allegation contained in paragraphs 1 through 21 above is realleged as if fully repeated herein verbatim.
23. South Carolina Code Ann. Section 40-59-30 makes it unlawful for a person to engage or offer to engage in the business of residential building without first having procured a license from the S.C. Home Builders Residential Commission.
24. South Carolina Code Ann. Section 40-59-240(D) requires that when a project cost will exceed \$5,000.00, the residential specialty contractor must first obtain an executed surety bond.
25. The aforesaid statutes created a duty to the Plaintiff, which duty Defendant Brown breached by violating the aforesaid statutes.
26. As a direct and proximate result and consequence of Defendant Brown's violation of the aforesaid statutes, the Plaintiff has suffered injury to his residence and property, and has suffered actual, consequential and incidental damages in the form of the extraordinary costs of remediation and repair for the residence, and is further entitled to punitive damages in an amount to be determined at trial.

FOR A SECOND CAUSE OF ACTION

(Negligence as to Defendants Brown and Associated Construction Services, Inc.)

27. Each and every allegation contained in paragraphs 1 through 26 above is realleged as if fully repeated herein verbatim.
28. The above-referenced construction defects and deficiencies are the proximate and direct result of the negligence, gross negligence and/or recklessness of the Defendants in one or more of the following particulars:
 - a. In failing to perform construction and/or remedial, repair and renovation work on the residence in conformity with accepted industry standards;

- b. In failing to properly supervise and/or oversee the construction at the residence in order to insure that all work proceeded in conformity with the customary and ordinary standards of the construction industry;
 - c. In allowing and/or accepting non-conforming or defective work;
 - d. In allowing the Plaintiff's property to be damaged and injured by the shoddy and faulty workmanship of the Defendants' and their agents, servants and/or employees; and
 - e. Upon information and belief, in allowing non-licensed and/or unqualified individuals to perform electrical and plumbing work at the residence.
29. As a direct and proximate result and consequence of the Defendants' negligence, gross negligence and/or recklessness, the Plaintiff has suffered injury to his residence and property, and has suffered actual, consequential and incidental damages in the form of the extraordinary costs of remediation and repair of the residence and for completion of the Project, and is further entitled to punitive damages in an amount to be determined at trial.

FOR A THIRD CAUSE OF ACTION

(Breach of Contract as to Defendant Brown)

30. Each and every response and allegation contained in paragraphs 1 through 29 above is reaffirmed and realleged as if fully repeated herein verbatim.
31. The Plaintiff and Defendant Brown entered into an Agreement for Brown to perform construction, renovation and interior finish work on the Project.
32. Defendant Brown has breached the Agreement with the Plaintiff by, among other things, failing to adhere to the agreed-upon schedule for work completion, failing to complete the work performed in a timely fashion, and failing to properly perform all of the Project items reflected in the parties' Agreement.
33. As a direct and proximate result of Defendant Brown's breach of the aforesaid Agreement, the Plaintiff has suffered actual, incidental and consequential damages.

FOR A FOURTH CAUSE OF ACTION

(Breach of Express and Implied Warranties as to Defendants Brown and Associated Construction Services, Inc.)

34. Each and every allegation contained in paragraphs 1 through 33 above is realleged as if fully repeated herein verbatim.
35. The Defendants represented and warranted that construction performed on the residence would be of a high quality and/or in accordance with generally accepted residential construction standards.
36. Additionally, in contracting with the Plaintiff to provide remediation, construction and repair work on his residence, warranted that the same would be, upon completion of the work, fit for habitability and for the intended use of the residence.
37. The Defendants have breached their express and implied warranties by providing faulty workmanship and defective construction, resulting in the residence being plagued with extensive construction defects.
38. As a direct and proximate result and consequence of the Defendants' breach of their express and implied warranties, the Plaintiff has suffered injury to his residence and property, and has suffered actual, consequential and incidental damages in the form of the extraordinary costs of remediation and repair for the residence.

FOR A FIFTH CAUSE OF ACTION

(Unfair Trade Practices as to Defendants Brown and Associated Construction Services, Inc.)

39. Each and every allegation contained in paragraphs 1 through 38 above is realleged as if fully repeated herein verbatim.
40. The Defendants' actions and omissions, as outlined herein, constitute and constituted the utilization of unfair and/or deceptive methods, acts or practices within the meaning of the South Carolina Unfair Trade Practices Act.
41. Upon information and belief, the Defendants' acts and omissions, including but not limited to Defendant Brown engaging or offering to engage in the business of residential building without having first procured a license, and the Corporate

Defendant using its general contractor license to acquire the residential construction projects while using unlicensed workers that it failed to supervise, have occurred with other parties in the past and/or are subject to repetition in the future.

42. As a direct and proximate result of the aforesaid actions of the Defendants, the Plaintiff has suffered the damages outlined hereinabove.
43. The Plaintiff is entitled to recover damages from the Defendants, in accordance with S.C. Code Ann. Section 39-5-140, in the amount of three (3) times his actual damages, together with the recovery of attorney fees and costs associated with this action.

FOR A SIXTH CAUSE OF ACTION

(Negligent Misrepresentation as to Defendant Brown)

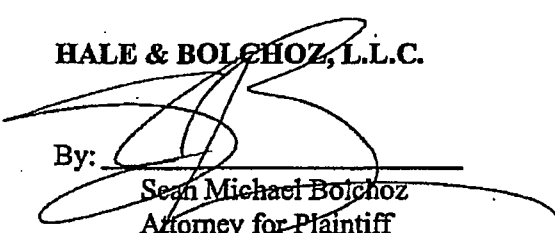
44. Each and every allegation contained in paragraphs 1 through 43 above is realleged as if fully repeated herein verbatim.
45. Defendant Brown falsely represented to the Plaintiff that he had the requisite licensure to commence the Project.
46. Defendant Brown had a pecuniary interest in making such representation, in that the Plaintiff would not have hired him otherwise.
47. Defendant Brown owed a duty of care to the Plaintiff to communicate truthful information to him.
48. Defendant Brown breached that duty by failing to communicate truthful information to the Plaintiff.
49. The Plaintiff justifiably relied on Defendant Brown's representation.
50. The Plaintiff suffered a pecuniary loss as a direct and proximate result of his reliance on the representation.

WHEREFORE, the Plaintiff, having alleged a Complaint against the Defendants herein, would request from this Court an Order as follows:

- A. As to the First Cause of Action: Granting the Plaintiff judgment against Defendant Brown, in an amount equal to of his actual, incidental and consequential damages, as well as an award of punitive damages in an amount to be determined at trial;

- B. As to the Second Cause of Action: Granting the Plaintiff judgment against the Defendants, jointly and severally, in an amount equal to of his actual, incidental and consequential damages, as well as an award of punitive damages in an amount to be determined at trial;
- C. As to the Third Cause of Action: Granting the Plaintiff judgment against Defendant Brown in an amount equal to of his actual, incidental and consequential damages
- D. As to the Fourth Cause of Action: Granting the Plaintiff judgment against the Defendants, jointly and severally, in an amount equal to of his actual, incidental and consequential damages;
- E. As to the Fifth Cause of Action: Granting the Plaintiff judgment against the Defendants, jointly and severally, for treble his actual damages, plus his attorney's fees and the costs of this action;
- F. As to the Sixth Cause of Action: Granting the Plaintiff judgment against Defendant Brown, in an amount equal to of his actual, incidental and consequential damages, as well as an award of punitive damages in an amount to be determined at trial; and
- G. For any such other and further relief as this Court may deem just and proper.

HALE & BOLCHOZ, L.L.C.

By: 

Sean Michael Bolchoz
Attorney for Plaintiff
1533 Fording Island Road, Suite 294
P. O. Box 22561
Hilton Head Island, SC 29925
(843) 837-3000

Hilton Head Island, SC

June 6, 2007

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STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)
)
JORGE V. ESGUERRA,)
)
Plaintiff,)
)
v.)
)
JAMIE V. BROWN, individually)
and d/b/a SOUTHEASTERN)
SERVICES, ROBERT BARONI,)
BOYD R. LAUGHLIN and)
ASSOCIATED CONSTRUCTION)
CONSULTANTS, INC.,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO. 2007-CP-07-1547

ANSWER OF DEFENDANTS ROBERT BARONI
BOYD R. LAUGHLIN, AND ASSOCIATED
CONSTRUCTION CONSULTANTS, INC.
TO AMENDED COMPLAINT

CLERK OF COURT
JAN 26 PM 1:01
ELIZABETH SMITH
CLERK OF COURT

COME NOW the Defendants, Robert Baroni, Boyd R. Laughlin and Associated Construction Consultants, Inc., and in response to the Plaintiff's Amended Complaint, would respectfully show unto the Court the following:

BY WAY OF FIRST DEFENSE

1. That each and every allegation in the Amended Complaint not hereinafter expressly admitted, qualified or explained is denied and strict proof demanded thereof.

BY WAY OF SECOND DEFENSE

2. That they lack sufficient information upon which to either admit or deny the allegations of paragraph 1 of the Amended Complaint, and, therefore, they deny said allegations and demand strict proof thereof from the Plaintiff.

3. That they admit the allegations of paragraph 2 of the Amended Complaint.

4. That they admit the allegations of paragraph 3 of the Amended Complaint, save and except the reference to Baroni, which contends that "Baroni does business with Defendant Associated Construction Services, Inc. in Beaufort County, South Carolina," which is an inaccurate statement.

5. That they admit the allegations of paragraphs 4 and 5 of the Amended Complaint.

6. That the allegations contained in paragraph 6 of the Amended Complaint state a legal conclusion and, therefore, no response is required by these Defendants. To the extent a response is required, these Defendants deny the same and reserve further action pending future events and/or receipt of information not yet available.

7. That in response to the allegations contained in paragraph 7 of the Amended Complaint these Defendants reallege each and every allegation contained in paragraphs 1 through 6 above.

8. That they lack information upon which to either admit or deny the allegations contained in paragraphs 8 through 10 of the Amended Complaint, and therefore deny the same and demand strict proof thereof.

9. That the allegations contained in paragraphs 11 and 12 are denied. Further, these Defendants would affirmatively state the following:

- (a) that they never finalized any business relationship with Brown on the Plaintiff's project;
- (b) that they never took any action towards obtaining a Town of Hilton Head Island Building permit;

- QFB
- (c) that they never had any contact, on any level, with the Plaintiff on this project;
 - (d) that they never had or exercised any job-site responsibility; and
 - (e) that they never participated in any distribution from Brown of funds paid by the Plaintiff;
 - (f) that they did not authorize or agree that Brown could use their names or contractor's license number in Brown's dealings with the Plaintiff; and
 - (g) that they did not sign or consent to any application that either Brown or the Plaintiff prepared and/or submitted.

10. That these Defendants lack sufficient information upon which to either admit or deny the allegation contained in paragraph 13 through 21 of the Amended Complaint, and therefore deny the same and demand strict proof thereof.

11. That in response to the allegations contained in paragraph 22 of the Amended Complaint, these Defendants reallege each and every allegation contained in paragraphs 1 through 10 above.

12. That in response to the allegations contained in paragraphs 23 and 24 of the Amended Complaint, these Defendants would crave reference to the statutes cited therein and deny any allegation inconsistent therewith.

13. That these Defendants lack sufficient information upon which to either admit or deny the allegations of paragraphs 26 and 27 of the Amended Complaint and therefore deny the same and demand strict proof thereof.

14. That in response to the allegations contained in paragraph 28 of the Amended Complaint, these Defendants would reallege each and every allegation contained in paragraphs 1 through 13 above.

15. That these Defendants lack sufficient information upon which to either admit or deny the allegations of paragraphs 29 and 30 of the Amended Complaint and therefore deny the same and demand strict proof thereof.

16. That in response to the allegations contained in paragraph 31 of the Amended Complaint, these Defendants would reallege each and every allegation contained in paragraphs 1 through 15 above.

17. That these Defendants lack sufficient information upon which to either admit or deny the allegations of paragraphs 32 through 34 of the Amended Complaint and therefore deny the same and demand strict proof thereof.

18. That in response to the allegations contained in paragraph 35 of the Amended Complaint, these Defendants would reallege each and every allegation contained in paragraphs 1 through 17 above.

19. That these Defendants lack sufficient information upon which to either admit or deny the allegations of paragraphs 36 through 39 of the Amended Complaint and therefore deny the same and demand strict proof thereof.

20. That in response to the allegations contained in paragraph 40 of the Amended Complaint, these Defendants would reallege each and every allegation contained in paragraphs 1 through 19 above.

21. That these Defendants lack sufficient information upon which to either admit or deny the allegations of paragraph 41 of the Amended Complaint and therefore deny the same and demand strict proof thereof.

22. That so much of the allegations set forth in paragraph 42 of the Amended Complaint as purport to assert that the Defendants, Laughlin and the corporate Defendant, were

in any way whatsoever involved with this project or violated any standards applicable to them is specifically denied. That as for the remaining allegations regarding the Defendant, Brown, these Defendants lack sufficient information upon which to either admit or deny the allegations of paragraph 42, and therefore deny the same and demand strict proof thereof.

23. That insofar as the allegations contained in paragraphs 43 and 44 of the Amended Complaint are directed to these Defendants, they are specifically denied. That to the extent those allegations are directed toward the Defendant, Brown, these Defendants lack sufficient information upon which to either admit or deny the allegations of paragraphs 43 and 44, and therefore deny the same and demand strict proof thereof.

24. That in response to the allegations contained in paragraph 45 of the Amended Complaint, these Defendants would reallege each and every allegation contained in paragraphs 1 through 23 above.

25. That these Defendants lack sufficient information upon which to either admit or deny the allegations of paragraphs 46 through 51 of the Amended Complaint and therefore deny the same and demand strict proof thereof.

FOR A THIRD DEFENSE BY WAY OF GENERAL DENIAL

26. That these Defendants reallege each and every allegation contained in paragraphs 1 through 25 above.

27. That these Defendants deny that there was any agreement between them and the Defendant, Jamie V. Brown, allowing Brown to use the license of Associated Construction Consultants, Inc.'s and/or to secure a building permit or for Brown to actually perform work for the Plaintiff.

28. That they affirmatively state that while there were preliminary discussions

between Defendant Baroni and Brown regarding a sharing of activities and responsibility for the Plaintiffs project, subject to review by these Defendants of the project documents including plans, drawings, specifications and scope of work descriptions, that after that initial conceptual discussion, which was subject to further consideration before the agreement with Brown was to be finalized, there was no further contact with Brown.

29. That these Defendants first learned that Mr. Brown may have used their contractor's license or there credentials on the Plaintiffs project until after the fact, at a time which, upon information and belief, was long after Brown had cased being involved in Plaintiff's project.

30. That, under these circumstances, these Defendants have not committed any act that entitles the Plaintiff to assert any claim against them or any theory.

31. That all of the above averments have been communicated to the Plaintiff and his counsel and, further, that these Defendants are informed and believe the Plaintiff's continued claim against them is frivolous and unfounded.

BY WAY OF FIFTH DEFENSE
(Statute of Frauds)

32. That these Defendants reallege each and every allegation contained in paragraphs 1 through 31 above.

33. That they are informed and believe that the claims of the Plaintiff against them are barred by the applicable section of the Statute of Frauds, S.C. Code § 32-3-10.

BY WAY OF SIXTH DEFENSE

(Sole Acts of Others)

34. That these Defendants reallege each and every allegation contained in paragraphs 1 through 33 above.

35. That wrongs, if any, visited on the Plaintiff are the sole responsibility of the Defendant, Jamie V. Brown, d/b/a Southeastern Services, and that the Plaintiff's recourse is limited to recovery of any charges due Plaintiff from Defendant, Brown, d/b/a Southeastern Services.

BY WAY OF SEVENTH DEFENSE

(No Privity/No Contract)

36. That these Defendants reallege each and every allegation contained in paragraphs 1 through 35 above.

37. That they affirmatively allege that there was no business or personal relationship between the Plaintiff and them so as to create either a contractual or tort exposure for them to the Plaintiff and that he lacks standing, at law or in equity, to implement any recovery against them.

BY WAY OF EIGHTH DEFENSE

(As to Unfair Trade Claim)

38. That these Defendants reallege each and every allegation contained in paragraphs 1 through 37 above.

39. That they specifically deny that any element of their limited and innocent involvement with Jamie V. Brown, as he dealt with the Plaintiff, rises to the level or circumstances characterized as "the utilization of unfair or on deceptive methods, acts or practices within the meaning of the South Carolina Uniform Trade Practices Act.

BY WAY OF EIGHTH DEFENSE
(As to Frivolous Proceedings Claim)

40. That these Defendants reallege each and every allegation contained in paragraphs 1 through 39 above.

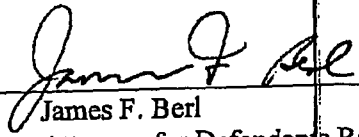
41. That they believe that the prosecution of the Plaintiff's claim against these Defendants, with his full knowledge of the total lack of involvement by these Defendants in the acts and/or misdeeds of the Defendant, Brown, entitles them to invoke the benefits contained in South Carolina Code §15-36-10, and that they will so do.

WHEREFORE, the Defendants, Robert Baroni, Boyd R. Laughlin and Associated Construction Consultants, Inc., having fully answered Plaintiff's Amended Complaint filed herein against them, pray that the Court inquire into the matters herein, and issue its order, as follows:

- (a) dismissing the Amended Complaint filed herein against them with prejudice;
- (b) awarding them their costs, expenses and attorney's fees expended in this action; and
- c) for such other and further relief as the Court may deem just and proper.

Respectfully submitted:

LAW OFFICES OF JAMES F. BERL, P.C.

By: 
James F. Berl
Attorney for Defendants Robert Baroni,
Boyd R. Laughlin and Associated
Construction Consultants, Inc.
70 Main Street, Suite 400
P. O. Box 22626
Hilton Head Island, SC 29925
(843) 689-5771

Hilton Head Island, SC
This 25th day of March, 2008.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
C/A NO.: 2007-CP-07-01547

JORGE V. ESQUERRA,)
PLAINTIFF,)
VS.)
JAMIE V. BROWN, individually and)
d/b/a SOUTHEASTERN SERVICES)
and ASSOCIATED CONSTRUCTION)
CONSULTANTS, INC.)
DEFENDANTS.)

ANSWER OF ASSOCIATED
CONSTRUCTION CONSULTANTS,
INC.

ORIGINAL

JUL 19 PM 2:15
CLERK OF COURT
BEAUFORT S.C.

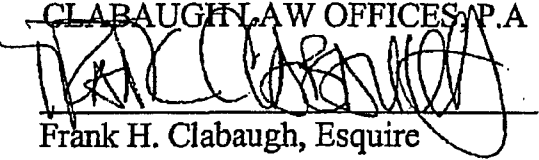
Defendant, Associated Construction Consultants, Inc. (hereinafter "ACC"),
answering the complaint herein, hereby admits, denies and avers as follows:

1. Except as hereinafter specifically admitted ACC denies all material allegations of the complaint and demands strict proof thereof.
2. Admits the allegations of paragraphs 2 & 3 of the complaint.
3. Admits so much of the allegations of paragraph 9 of the complaint as alleges that ACC agreed, preliminarily, to let Defendant Brown use ACC's license but that Defendant Brown never got back in touch with ACC to work out the details concerning what work ACC would be doing. The remaining allegations of paragraph 9 are denied.
4. Admits so much of paragraph 13 as alleges that ACC never appeared on the jobsite and that it had no workers, agents, servants, subcontractors, or employees that appeared or worked on the jobsite.

WHEREFORE, having answered the allegations of Plaintiff's complaint,
insofar as it relates to ACC, Defendant ACC prays that the Court inquire into

the allegations contained in Plaintiff's Complaint, and that Defendant ACC
be dismissed as a party Defendant.

CLABAUGH LAW OFFICES, P.A.


Frank H. Clabaugh, Esquire

Counsel for ACC

P.O. Box 6131

Hilton Head Island, S.C. 29938

(843) 785-8866

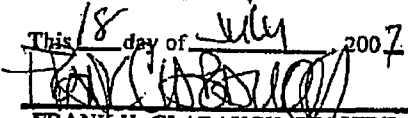
July 18, 2007

Hilton Head Island, S.C.

CERTIFICATE OF SERVICE

I certify that on this date a copy of the foregoing was served on
each party or counsel of record by mailing or hand delivery in
the manner prescribed by the applicable Rule of Civil
Procedure.

This 18 day of July, 2007


FRANK H. CLABAUGH, ESQUIRE

BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

07 JUL 19 PM 2:15

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	CASE NO. 2007-CP-07-1547
COUNTY OF BEAUFORT	)	
	)	
JORGE V. ESGUERRA,	)	
	)	
Plaintiff,	)	
v.	)	SECOND SUPPLEMENTAL RESPONSES
	)	OF DEFENDANTS ROBERT BARONI,
JAMIE V. BROWN, et al.	)	BOYD R. LAUGHLIN AND ASSOCIATED
	)	CONSTRUCTION CONSULTANTS, INC.
Defendants.	)	TO PLAINTIFF'S FIRST REQUEST
	)	FOR PRODUCTION

TO: THE PLAINTIFF ABOVE-NAMED, JORGE V. ESGUERRA, AND HIS ATTORNEY,
SEAN M. BOLCHOZ, ESQUIRE

COME NOW the Defendants, Robert Baroni, Boyd R. Laughlin and Associated
Construction Consultants, Inc., by and through their undersigned attorney, and supplement their
previously filed responses to Plaintiff's First Request for Production, to include the following:

RESPONSE: (a) April 7, 2008 correspondence with enclosures from the South Carolina
Department of Labor, Licensing and Regulation; and

(b) April 8, 2008 facsimile transmittal with enclosures from the Town of Hilton
Head Island; and

(c) April 17, 2008 facsimile transmittal with enclosures from the Town of Hilton
Head Island.

(d) April 18, 2008 facsimile transmittal with enclosures from the Town of Hilton
Head Island.

THESE DEFENDANTS RESERVE THE RIGHT TO SUPPLEMENT ANY AND ALL OF
THEIR ABOVE RESPONSES AS FURTHER AND/OR ADDITIONAL INFORMATION
BECOMES AVAILABLE TO IT, THROUGH DISCOVERY OR OTHERWISE, UP UNTIL
THE TIME OF TRIAL.

LAW OFFICES OF JAMES F. BERL, P.C.

By: 

James F. Berl
Attorney for Defendants Robert Baroni,
Boyd R. Laughlin and Associated
Construction Consultants, Inc.
70 Main Street, Suite 400
P. O. Box 22626
Hilton Head Island, SC 29925
(843) 689-5771

Hilton Head Island, South Carolina.
This 15th day of May, 2008.

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

JORGE V. ESGUERRA,)

Plaintiff,)

v.)

JAMIE V. BROWN, individually and)
d/b/a SOUTHEASTERN SERVICES and)
ASSOCIATED CONSTRUCTION)
CONSULTANTS, INC.,)

Defendants.)

IN THE COURT OF COMMON PLEAS
CASE NO. 2007-CP-07-1547

**PLAINTIFF'S FIRST REQUEST
FOR PRODUCTION TO DEFENDANT
ASSOCIATED CONSTRUCTION
CONSULTANTS, INC.**

TO: DEFENDANT ASSOCIATED CONSTRUCTION CONSULTANTS, INC., AND
ATTORNEY:

The Plaintiff herein, by and through his undersigned attorney, hereby requires Defendant Associated Construction Consultants, Inc. to answer under oath the Request for Production hereinafter set forth, and to serve a copy of said answers thereto upon the undersigned at the offices of Hale & Bolchoz, L.L.C., at 1533 Fording Island Road, P. O. Box 22561, Hilton Head Island, South Carolina, 29925, within thirty (30) days after the service thereof, in accordance with Rule 34 of the South Carolina Rules of Civil Procedure.

DEFINITIONS AND INSTRUCTIONS

- A. This request for Production requests all documents in the possession, custody or control of Defendant(s) or its employees, agents, servants, representatives, past and present, and unless privilege is granted, each and every attorney, past and present, of each such individual or entity.
- B. "Document" shall mean any and all material and non-identical copies thereof in your possession, custody or control, regardless of where it is located and includes, but is not limited to, material that is written, printed, types, photographed, filmed, videotaped, recorded (electrically, electronically, magnetically, graphically or

otherwise), or which is capable of being recorded in any form and is subject to production. The term "documents" is intended to include papers, books, records, letters, phonographs, tangible things, correspondence, notes, notations, work papers, transcripts, minutes, reports and recordings of telephone and other conversations, or interviews or of conferences or of other meeting, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, advertisements, instructions, charts, manuals, brochures, publications, schedules, price lists, client lists, journals, statistical records, desk calendars, appointment books, diaries, lists, tabulations, sound recordings, computer printouts, data processing program library, data processing input and output, microfilm, books of accounts, records of invoices reflecting business operations, all records kept by electronic photographic or mechanical means, any notes or drafts relating to the foregoing, however denominated, videotapes, films and recordings.

DOCUMENTS SOUGHT TO BE PRODUCED

1. Copies of any and all documents you were requested to identify in the Plaintiff's First Interrogatories to Defendant Associated Construction Consultants, Inc., and any and all documents referred to in your answers to the Plaintiff's First Interrogatories to Defendants.
2. Copies of all statements or correspondence, whether written or recorded, on a tape recorder or otherwise, between the Plaintiff and any among the Defendants.
3. A copy or copies of any and all insurance policies, general liability policies, errors and omissions policies, bonds, and/or performance bonds held on behalf of the Defendants and/or any subcontractors, or any other policy which provided coverage for any alleged injury or damage to Plaintiff's project, specifically including any termite bonds or warranties from the date of construction to the present.
4. Copies of all statements given by Defendant Associated Construction Consultants, Inc., and/or agents of same, which are in possession of or reasonably available to

Defendant Associated Construction Consultants, Inc., attorneys or insurance carriers, whether written or recorded, or on a tape recorder or otherwise, relating to the claims in the Plaintiff's Complaint.

5. Copies of any and all statements given by any other witness to the incidents and matter complained of in the Complaint which are in the possession of or reasonably available to Defendant Associated Construction Consultants, Inc. or attorneys, whether written or recorded or on a tape recorder or otherwise.
6. Copies of all photographs, plats, diagrams, or documents that the Defendants or attorneys may have which relate to the matter alleged in the Complaint.
7. Copies of any reports, summaries, correspondence, memoranda, to or from any liability insurance company, bonding company and/or surety, its adjusters, agents or field representatives, regarding any claims made or facts reported by the Defendants relating to construction problems at the Plaintiffs' residence.
8. Copies of any expert reports prepared for this litigation.
9. Copies of all contracts, subcontractors, agreements, or other documents pertaining to any work performed by the Defendants or its subcontractors, suppliers, agents or employees on the Plaintiffs' residence.
10. Copies of any and all written contracts or agreements between Defendant Associated Construction Consultants, Inc. and Defendant Jamie Brown, and/or any notes or memoranda reflecting the same.
11. Copies of all internal memoranda, correspondence or other documents prepared by or for the Defendants for use in scheduling, monitoring, reviewing or in any other manner relating to the performance of work at issue.
12. Copies of all work schedules, progress schedule, time logs, bar charts, projects, time tables, revisions, amendments or update or any other similar documents, including summaries thereof, developed or utilized, or both, by the Defendants, or any person with connection with the Plaintiff's residence.
13. Copies of all memoranda, reports, minutes or other documents pertaining to preconstruction meetings, construction meetings, or other meetings among any of the

parties performing the work on the Plaintiff's residence.

14. Copies of all photographs or videotapes of the Plaintiff's residence, including but not limited to copies of work in progress during the construction of the project at issue.
15. Copies of all contents of change orders, field orders, work orders, and proposals for changes in the work on the Plaintiff's residence, whether or not work was actually approved or performed.
16. Copies of all construction plans and documents including, but not limited to, building plans containing governing agency stamps, project manuals, building permits and building inspections.
17. Copies of all daily reports, field reports, logs, records, diaries, or other documents reflecting the progress, conditions, and activities on the Plaintiff's residence.
18. Copies of all submittals, shop drawing, product descriptions or literature, and samples submitted by the Defendants, and all logs, records and documents relating thereto.
19. Copies of all design documents including project concept descriptions, preliminary and schematic drawings, diagrammatic drawings, work drawings, design calculations and related documents.
20. Copies of all requests for information, interpretations and clarifications of the contract documents, plans and specifications and all logs, files, and responses thereto.
21. Copies of all correspondence or any writing of any kind or description between and among the contractor, subcontractors, material and equipment suppliers, field representatives, bonding and surety companies, consultants, or any other person, firm, or entity concerning or affecting the Plaintiff's residence.
22. Copies of all documents concerning quality control procedures, supervision, coordination, orders, opinions of the Defendants and their personnel relating to the Plaintiff's residence.
23. Copies of all protests or objections filed by the Defendants with the owner detailing any objections to instructions, rulings, decisions, or changes of the owner on any matters related to the Plaintiff's residence, and all responses to them.

24. Copies of all documents which describe or refer to repair, correction, or otherwise respond to complaints, problems, requested repairs or notices of deficiency concerning the Plaintiff's residence.
25. Copies of all documents that describe or refer to complaints, requests repairs or notices of deficiency received from any person.
26. Copies of any and all documents in your possession related to the construction of the project at issue in this case.
27. Copies of any and all soil and engineering reports generated by the Defendants or on behalf of same for the project at issue.
28. Copies of any and all contracts with any consulting engineers and other consulting professionals for the project at issue.
29. Copies of any red-lined plans.
30. Copies of any documents (as defined in Rule 34(a), SCRCPP), and tangible things of whatever nature and description that you intend to introduce into evidence or to use as impeachment or evidence at the trial of this case.
31. Copies of any and all documents or materials relating in any way to any warranties or guarantees between any persons or entities with regard to the adequacy of condition of any materials of services relating to the design and/or construction of the subject premises.
32. A copy of all correspondence, invoices, canceled checks, and any other documents to or from Plaintiff.

This Request for Production shall be deemed continuing until the time of the trial of this case, pursuant Rule 34, SCRCPP.

PRIVILEGE

If any document is withheld under claim of privilege, furnish a list identifying each document for which the privilege is claimed, together with the following information: date, sender, recipient, subject matter of the documents, the basis on which the privilege is claimed, and the paragraph on

paragraphs of this request to which the documents responds.

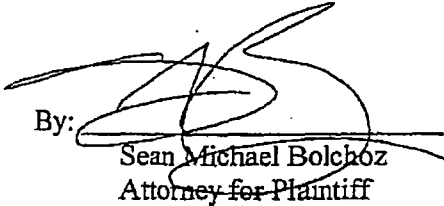
DOCUMENTS NO LONGER IN POSSESSION, CUSTODY OR CONTROL

If any document described in the request was, but no longer is, in your possession, or subject to your custody or control, or existence, state whether:

- a. It is missing or lost;
- b. It has been destroyed;
- c. It has been transferred, voluntarily or involuntarily to another, or;
- d. It has been otherwise disposed of.

In each instance, explain the circumstance surrounding such disposition and identify the person(s) directly or authorizing same, and the date(s) thereof. Identify each document by listing its author, his address, type (e.g., letter, memorandum, telegram, chart, photograph, etc.), date, subject matter, present location(s) and custodian(s) and state whether the document (or copies) are still in existence.

HALE & BOLCHOZ, L.L.C.

By: 

Sean Michael Bolchoz
Attorney for Plaintiff
1533 Fording Island Road, Suite 294
P. O. Box 22561
Hilton Head Island, SC 29925
(843) 837-3000

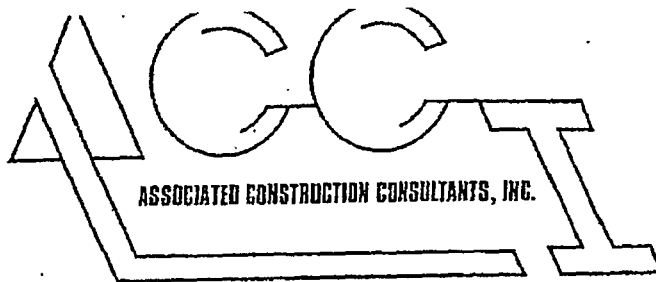
Hilton Head Island, SC

August 10, 2007

Z:\Client Files\D to G Clients\Esguerra, Jorge - 3463\w. Jamie V. Brown & Associated Construction Consultants - 01\request for production - Associated.wpd

CORPORATE HEADQUARTERS

306 Clemons Road
Brandon, Florida 33510
(813) 653-3236
1-800-828-0009
Fax (813) 689-7623



SOUTH CAROLINA BRANCH

21 Dillon Rd., Ste. J
Hilton Head Island
South Carolina 29926
(843) 342-9984/9985
Fax (843) 342-9983
Cell # (843) 384-2440
E-Mail Bmmmmmb@aol.com

October 2, 2007

Hale & Bolchoz, L.L.C.
1533 Fording Island Road
P. O. Box 22561
Hilton Head Island, SC 29925

Re: State of South Carolina County of Beaufort Jorge V. Esguerra vs.
Jamie V. Brown, individually and d/b/a Southeastern Services and Associated Construction
Consultants, Inc., response to

Dear Hale & Bolchoz:

The following are the answers to your request to referenced first request.

Definitions and Instructions

A. ACCI has no record.

Documents sought to be produced.

1. No record or conversation.
3. No insurance this job was never assigned by customer to ACCI. No contact with client at all.
4. No contact with customer.
5. None
6. ACCI was never on site or to job.
7. No record.
8. None
9. No record.
10. No record.
11. No record. Never on site or contact with customer.
12. No record.
13. No record.
15. Never talked to Owner.
16. No contact ever given.
17. None.
18. None given or ever seen.
19. None.

- 20. None.
- 21. No copy.
- 22. ACCI has no record of job going on.
- 23. Only letter sent by defendant was six months after job complete.
- 24. No copy.
- 25. None. Never talked to Owner.
- 26. None.
- 27. None.
- 28. None.
- 29. None.
- 30. None.
- 31. None.
- 32. None.

Other than a conversation from Jamie Brown and D&M asking if I would be interested, ACCI had no contact with Owner or sub until four to six months after job, I received first a letter from Defendant and a call from Frank Hodge.

Sincerely,



Robert J. Baroni
President

RJB/jpk

Jorge Esguerra - Direct Examination by Mr. Bolchoz

1 A. Yes.

2 Q. Okay. What was the cost of Mr. Brown's services?

3 A. Approximately \$85,500 plus add-ons.

4 Q. Did you say \$85,000?

5 A. \$86,000.

6 Q. Oh, I am sorry. When was he required to have the
7 project completed?

8 A. He had a problem obtaining permits and we amended
9 the contract on 2/15/05 when the finished date would be
10 fifteen weeks following obtaining the building permit.

11 Q. Okay. And when was he supposed to have the
12 building permit by?

13 A. Two weeks after this date of 2/15/05.

14 Q. Okay, and you testified that he was having trouble
15 getting the permit?

16 A. Yes.

17 Q. What was he doing about it?

18 A. He at one point called me about the permits and
19 mentioned Bob Baroni.

20 MR. BERL: Objection, that's

21 hearsay.

22 A. He called me by phone.

1 MR. BOLCHOZ: Admission by party
2 opponent, Judge, and Mr. Brown is
3 already in default.
4 COURT: I will allow it, go ahead.
5 MR. BOLCHOZ: Wait until the Judge
6 finishes and rules.
7 COURT: You may testify, go ahead, sir.
8 A. He called my phone and said Bob Baroni is helping me
9 obtain the permit and I forget the time he called me simply
10 because I know a gentleman in the community where I live
11 with almost the same or identical name as Mr. Baroni except
12 his name ends with an E rather than I. So I never forgot
13 that phone call.
14 Q. And that was before Mr. Brown commenced construction?
15 A. Yes.
16 Q. This was in early 2005?
17 A. February or January.
18 Q. Did you know that Jamie Brown did not have the
19 necessary license to do the renovation at the time you
20 entered into the contract with him?
21 A. No.
22 Q. And did you know who Bob Baroni was at the time he
23 wrote that name?
24 A. No.
25

1 Q. Did you ever see Bob Baroni at the project site when
2 you went there?
3 A. No.
4 Q. Did you know who Boyd Laughlin was at the time you
5 entered into the contract with Jamie Brown?
6 A. No.
7 Q. Do you know who he is now?
8 A. Yes.
9 Q. Did you ever see Boyd Laughlin at the project site?
10 A. No.
11 Q. As far as you know did either of these individuals
12 appear at the project site?
13 A. No.
14 Q. When did Brown actually start working on the project?
15 A. About May -- the first week of May. Mother's Day week
16 of 2005.
17 Q. And how did the project proceed generally?
18 A. It was very slow. Every time I would come down to see
19 the project he would work for two or three hours and then
20 leave the site with his two guys.
21 Q. His two workers?
22 A. Yes, his two workers.
23 Q. Was he still working on the project in October?
24 A. Yes.

1 Q. Dr. Esguerra, let's get one thing out in the open right
2 off the bat. Have you ever met this gentleman before, Mr.
3 Baroni, the one seated next to you?

4 A. Outside of the deposition, no.

5 Q. The deposition of Mr. Baroni was approximately earlier
6 this year?

7 A. Yes.

8 Q. Ever have any conversations with Mr. Baroni?

9 A. No.

10 Q. Never signed a contract with Mr. Baroni?

11 A. No.

12 Q. Ever know anything about Mr. Baroni other than the one
13 reference to his name that Jamie Brown made to you in a
14 phone call sometime in February of '05 or March of '05?

15 A. No.

16 Q. So aside from his deposition, you don't have a clue who
17 this gentleman is?

18 A. No.

19 Q. Let me ask you about this gentleman seated next to me,
20 Mr. Boyd Laughlin. Do you know him?

21 A. Outside of his deposition meeting, no.

22 Q. And his deposition was sometime earlier this year as
23 well, is that correct?

24 A. Yes.

1 Q. Never have a phone conversation with him?
2 A. No.
3 Q. Never signed a contract with him?
4 A. No.
5 Q. Never met in person with him?
6 A. No.
7 Q. And as you have already testified to, neither of these
8 gentlemen were ever on your job site, is that correct?
9 A. That is correct.
10 Q. ACCI - Associated Construction Consultants, Inc. did
11 you ever hear of them before the spring of 2006?
12 Specifically March, 2006 when you indicated you contacted the
13 LLR and found out that Jamie Brown did not have a license?
14 A. No.
15 Q. Ever have any dealings with anybody from ACCI?
16 A. No.
17 Q. Did you even know that ACCI's name was on the permit?
18
19 MR. BOLCHOZ: I am going to object to
20 the form of that. Did you ever know ACCI's
21 -- I mean I think - I mean I think he can
22 correct it by getting a time frame.
23
24 MR. BERL: Sure, I will be happy to
25 correct it, Your Honor.

BY MR. BERL:

1 Q. Dr. Esguerra, during the time that Jamie Brown was
2 working for you, did you ever ask him who ACCI was?
3 A. No.
4 Q. Did you even know during that time frame that ACCI's
5 name appeared on the permit?
6 A. I found the name ACCI on the building permit in the
7 summer of 2006.
8 Q. Okay, so prior to 2006 you had no idea who ACCI was or
9 that they had anything to do with your building project?
10 A. That is correct.
11 Q. Okay, all right. Now you are assessing blame or
12 liability against Mr. Baroni and Mr. Laughlin and ACCI for
13 the work done by Jamie Brown is that right?
14 A. That is correct.
15 Q. Did they have anything to do with you signing a
16 contract with Jamie Brown?
17 A. It has nothing to do with the -- providing the building
18 permit.
19 Q. All right, let's go back sir and I want you to listen
20 carefully to my question. Did they have anything to do with
21 you entering into a contract with Jamie Brown to perform
22 renovations or repairs that you had at your location?
23 A. No.
24
25

1 Q. Excuse me, sir, answer the question what I said. What
2 did you say there?
3 A. No.
4 Q. Okay. Line 24 did you check on whether any of your
5 individual people plumbers, electricians, bathroom people
6 kitchen people have any kinds of licensing?
7 A. Yes, they were licensed.
8 Q. And you indicated your wife did that, is that a check
9 on the licenses?
10 A. Yes.
11 Q. You don't know why your wife's not a part of this
12 lawsuit. She owns this property with you, doesn't she?
13 A. It was my idea to renovate this place.
14 Q. It was your idea and you hired Jamie Brown, is that
15 correct?
16 A. That is correct.
17 Q. All right, sir. Tell me what you did, how did you find
18 Jamie Brown?
19 A. Jamie was working in the complex in the condo complex
20 with two of his workers and I asked him if he was interested
21 in doing some renovation at my condo.
22 Q. And he was replacing a sliding glass door at the
23 neighbors, isn't that true?
24 A. That is correct.
25

1 Q. You asked him to do a whole lot more than replace a
2 sliding glass door, didn't you?
3 A. I said, can you do some renovations and he said yes.
4 Q. Okay. What did you do to check on his qualifications?
5 A. First of all, I went to the unit that I wanted to copy
6 and it was the condo of Mr. and Mrs. Blumenstine and they
7 were kind enough to let Jamie and I in and we looked at the
8 place. We looked at the porch on the outside. We looked at
9 the living room. We looked at the bathroom and kitchen and
10 it looked very nice to me and then I turned around to Jamie
11 and I said Jamie can you do something like this. He said
12 sure.
13 Q. Again my question to you, what did you do to check on
14 his qualifications to be able to do that which you were
15 requesting of him?
16 A. I checked references by home, Kimball One. We looked
17 at two of his previous job sites, which he said he did and I
18 believed him. He showed me a binder of photographs of other
19 job sites.
20 Q. Isn't it true that the only person you spoke to, you
21 spoke to an old woman and her daughter who he had done
22 living room, kitchen window and bath and she said, "Okay".
23 That's all she said. Isn't that true?
24 A. Yes.

1 Q. That's all she told you about his work, that it was
2 okay?
3 A. That's all I can remember. But what I saw was very
4 nice.
5 Q. And the second place you saw was a place that the
6 ceiling had come in with water damage, right? And he
7 repaired the ceiling? Isn't that the second place you went
8 to?
9 A. It was the ceiling, plus other things.
10 Q. And you didn't get to speak to anybody there? All you
11 saw was pictures of what it looked like when he started and
12 then the finished project?
13 A. Correct because the house was unoccupied.
14 Q. Okay, and you spoke with some other guy by phone and
15 you can't remember what the questions were, but he basically
16 said yeah, he was okay, he was satisfied.
17 A. That is correct.
18 Q. You never asked him any questions about his license or
19 his qualifications, did you?
20 A. No, I did not but his van said licensed and bonded.
21 Q. Okay, did you ask him what degree of license he held?
22 A. No.
23 Q. Okay, did you ever ask any of these people about how
24 timely he was in getting a job done?
25

1 A. An amendment to our contract that says 16 weeks
2 following the permit.
3 Q. So what good is that if you don't know whether he is
4 going to live up to his contract?
5 A. That was good enough for me.
6 Q. That was good enough for you?
7 A. Yes.
8 Q. So you think you adequately researched his
9 qualifications before doing this job?
10 A. After I was comfortable with Jamie. He was very
11 convincing.
12 Q. All right, so you on your own without anybody's input,
13 no input from Mr. Baroni, no input from Mr. Laughlin and
14 certainly no input from ACCI made a decision on your own to
15 hire Jamie Brown?
16 A. Sure, I did.
17 Q. You could have checked his license at that time?
18 A. I could have; I could have, but I didn't.
19 Q. All right, and isn't it true that if you had checked
20 his license at that time and seen that he could only do work
21 up to \$5,000 you would not have hired him?
22 A. No, I would not hire him.
23 Q. Okay, so if you would not have hired him had you done
24 that check, then in reality, but for your failure to check
25

1 his license, none of this could have ever happened, could
2 it?

3 MR. BOLCHOZ: Object to the form. It is
4 argumentative.

5 COURT: I will allow it.

6 A. You are probably right, it would not have happened.

7 Q. Okay, thank you. All right, now you signed this
8 contract with Mr. Brown, which I believe is already been
9 admitted as Plaintiff's Exhibit 1. Do you have a copy of
10 that, sir? Do you have that sir?

11 A. Yes.

12 Q. All right, at the time you signed that contract, did
13 you think this was the way a contract should look for an
14 \$86,000 proposal?

15 A. It is signed, dated. As I said, I felt comfortable
16 with Jamie.

17 Q. But I mean look at this. You have got some handwritten
18 notes on the back. You have no plans, no specifications
19 really. Do you think this is the way you do an \$86,000
20 contract?

21 A. We did go through the -- we went through the Lowe's
22 improvement place and he showed me some of the appliances
23 and stuff that matches the description here.
24
25

1 Q. Okay, so you did look at a few of the little things in
2 the back, but I mean you --
3 A. Well the major appliances we looked at. We went to
4 Lowe's and he showed me some of the things that he will
5 install. It's not like I was looking at a piece -- just a
6 piece of paper. I was comfortable with Jamie. He was very
7 convincing.
8 Q. And is that the fault of Mr. Baroni, or Mr. Laughlin
9 that Mr. Brown was convincing? Did they have anything to do
10 with him being convincing.
11 A. I didn't know them then. I just spoke with Jamie.
12 Q. All right did they have anything to do with the fact
13 that he was convincing to you?
14 A. I don't know.
15 Q. You don't know?
16 A. No. It was only Jamie at that time that I talked with.
17 Q. All right. Now you had a situation arise in about
18 February of 2005 in which you added on to this contract.
19 You did a little hand note addendum that said we are
20 extending this contract and we are putting a timeline on it
21 of sixteen weeks to finish and you have indicated that was
22 to start whenever he got the permit. Is that correct?
23 A. That is correct.
24
25

1 Q. Now, you signed a contract on November 15th, correct,
2 2004?

3 A. That is correct.

4 Q. So we are already three months since you signed a
5 contract and you don't have a permit yet, is that correct?

6 A. That is correct.

7 Q. And did that cause you to be concerned?

8 A. I was.

9 Q. And did you ask Jamie about the difficulty of obtaining
10 permits?

11 A. He said he was having difficulty getting the permit,
12 yes.

13 Q. And did you speak to a friend a Larry Sunig about the
14 same issue?
15

16 A. It was I think January when I spoke with him.

17 Q. Okay, and what did Larry tell you about that?

18 A. Larry said it is relatively easy to get a building
19 permit if you have the necessary credentials.
20

21 Q. Okay and so here you got a friend, someone you know and
22 you trust telling you it is easy to get a permit and here
23 you have got someone that you didn't know from Adam before
24 the day you met him and he is three months into what should
25 have been construction and he hasn't been able to pull a
permit and he can't tell you why he is having trouble?

1 A. He didn't tell me anything. He said he was having
2 difficulty.
3 Q. That didn't send up a huge red flag to you?
4 A. No, no it didn't.
5 Q. And you indicated that he pulled a permit finally in
6 the early part of May, 2005, is that correct?
7 A. April of 2005.
8 Q. I thought you testified construction started sometime
9 in May, 2005.
10 A. I think the building permit was dated April.
11 Q. Okay, all right. Now at the time you finally got a
12 permit -- or excuse me, strike that. Between February and
13 April this is when he told you about Baroni helping with a
14 permit or was it before February?
15 A. It was I think before February.
16 Q. Weren't you concerned that he couldn't pull a permit on
17 his own, that he was having to get help from someone to pull
18 a permit?
19 A. I really am not sure about the permit and practice on
20 the island.
21 Q. Well you had a friend who told you it was easy.
22 A. Yeah, but you know, he did not tell me the step by step
23 process of doing it.
24
25

1 Q. Did you go down to the Town and ask them about what the
2 problem was with your permit?
3 A. I did not. I don't live here.
4 Q. Well, but you could have done that. You called the
5 Town; didn't you?
6 A. Yes.
7 Q. Okay, so you could have just as easily picked up the
8 phone and called the Town and said I can't understand this.
9 I have hired a guy to get a building permit for me and he
10 hasn't been able to get it. What is the problem?
11 A. I could have done a lot of things at that time, but it
12 didn't come to mind.
13 Q. And if you had done any of those things, we wouldn't
14 have had this problem here today?
15 A. That is true. You think I like to be here. You know -
16 -
17
18 Q. I understand.
19 A. It was not my choice.
20
21 Q. All right, now in the summer of '05 Jamie has only been
22 working on this project now for a couple of months and you
23 get a report from a friend of yours Mr. Bombadere, is that
24 right George Bombadere?
25 A. Yes.

1 Q. And he lived nearby your house down there on Hilton
2 Head --
3 A. Yes.
4 Q. -- or condo and he tells you Jamie is not showing up,
5 right?
6 A. That is true.
7 Q. Tells you he is coming up a few hours a week only,
8 maybe a couple of weeks a month only?
9 A. That is true.
10 Q. Okay. And did you contact Jamie about that problem?
11 A. Yes.
12 Q. And his response to you was what? You just have to be
13 patient because he is busy, right?
14 A. He is busy and be patient, he will be done.
15 Q. Is that not another red flag to you, sir? You've got a
16 contract that says it is supposed to be done in sixteen
17 weeks from the date of start and you are now the middle of
18 summer. You are almost at sixteen weeks. You have gone
19 June, you have gone July, you are in July-August timeframe.
20 You are almost over halfway there and he hasn't gotten any
21 work done. He is showing up once a week for a couple of
22 hours. Isn't that a problem to you?
23 A. He said he was busy.
24 Q. And you accepted that?
25

1 A. I did. Not too many contractors on the island
2 unfortunately finish on time.
3 Q. What action, if any, did you take with Jamie to try to
4 move this project along to completion?
5 A. Pardon me.
6 Q. What action, if any, did you take with Jamie to try to
7 move this project along to completion?
8 A. Actually I took Jamie's promises. He was convincing.
9 My payment was actually ahead of his progress in working at
10 the condo, so I really had very little choice but to stick
11 with him at that time.
12 Q. But it was your choice again?
13 A. Yes, sir.
14 Q. Now, did you ever see any building plans relating to
15 the work that was going to be done?
16 A. Yes.
17 Q. You did? When did you see those, sir?
18 A. I think it was the summer of '05.
19 Q. Was that -- had Jamie done the extension yet on your
20 plans?
21 A. I think it was done, yes.
22 Q. Okay. Let me show you what was previously Defendant's
23 Deposition Exhibit 2 and I am going to ask that it become an
24
25

1 Q. Now you have indicated that your intention was to have
2 it extended all the way out to the far line even with the
3 existing screen porch, is that correct?

4 A. We didn't enclose the porch but that's what Jamie and I
5 looked at. That's how Mr. and Mrs. Blumenstine's unit
6 looked like.

7 Q. Okay, would you do me a favor and put where the big
8 area is in the middle there where the screen porch actually
9 is and was going to become the enclosed porch, would you put
10 on there porch so we know where we are talking about. And I
11 will hand you a pen so you can --

12 A. Enclosed porch?

13 Q. Yeah, just put porch is all we need to have there.
14 Thank you. That is that whole area, is that correct?

15 A. That is correct.

16 Q. No, I will leave this pen with you for right now so you
17 can have it if you need it. All right, now you say that's
18 what your friends' property looked like that the extension
19 on the right side went all the way out to the end of where
20 the porch extended?

21 A. I believe so.

22 Q. Okay, you believe so or you are sure it did?

23 A. Well, on the living room side, I am very sure. On the
24 bedroom side, mine is a little different, I think.

1 Q. Now, nowhere on that contract document does it say to
2 be the same as the porch or anything else does it?

3 MR. BOLCHOZ: Your Honor, I am going to
4 object here. He is asking questions about my
5 client's contract with Jamie Brown. Jamie
6 Brown is in default. We sued him for breach
7 of contract. He has in effect admitted the
8 allegations in the Plaintiff's Complaint and
9 while I understand that counsel wants to ask
10 questions in relation to how it impacts his
11 client, I don't see how this is relevant to
12 his client's defense in this case. I mean it
13 looks like basically he is just kind of back
14 door defense for Jamie Brown who is already
15 in default.
16

17 COURT: I am assuming it has to do with
18 damages, but I don't know.

19 MR. BERL: Well, Your Honor, it's not
20 only damages, it is comparative negligence
21 again. Here is a situation in which we have
22 got a contract that says construction
23 addition on right side. Where are the plans,
24 where are the specs, where are the things
25 that the normally prudent person would expect

1 as part of a construction contract in order
2 to do a project of \$86,500.00?

3 COURT: I will allow it.

4 BY MR. BERL:

5 Q. Is that correct, sir, all it states in there is,
6 "Construct addition on right side?"

7 A. That's what it says.

8 Q. It doesn't say per plans to be approved or anything
9 like that, does it?

10 A. Well when this was drafted there was no architectural
11 plan drawing. But my instruction to Jamie is to copy Mrs.
12 Bowenstine's unit and he understood that.

13 Q. Well obviously he must not have understood it because
14 he didn't built it to the same level or specifications.

15 A. He didn't --

16 MR. BOLCHOZ: I am going to object to
17 the form of the question.

18 MR. BERL: He said he understood it so -
19 -

20 BY MR. BERL:

21 Q. He did not construct it per what your neighbor's or
22 friend's place looked like, did he?

23 A. That is correct.
24
25

1 Q. And did you ever see the plans that were pertaining to
2 this particular addition?

3 A. Yes, it was actually the same time, early in August I
4 believe.

5 Q. After the work had already been done?

6 A. Yes.

7 Q. And at the time you saw the plans what did the plans
8 reflect? Did they not reflect what he built?

9 A. It reflected what he built.

10 Q. So had you been taking responsibility for your project
11 and had asked to see the plans before construction started,
12 you would have been able to know there was an error on the
13 plans that it wasn't going to be built the way you wanted
14 it, isn't that true?

15 A. If Jamie gave me the plan, I may have discovered it,
16 but I didn't have the plan until the renovation was in
17 progress.

18 Q. And whose fault is that, sir? You are the owner. You
19 have the right to request the plans, do you not?

20 A. But he was the -- supposedly the general contractor who
21 is supposedly knowledgeable at the time.

22 Q. Well, sir, you are the one who chose to sign this
23 contract with an unlicensed individual, is that correct?

24 A. I did not know he was unlicensed at the time.
25

1 MR. BOLCHOZ: Object, as to form.
2 COURT: What's the form being?
3 MR. BOLCHOZ: I mean it assumes facts
4 not in evidence and when he asked him well
5 you signed this contract with an unlicensed
6 contractor. I mean I think it has been
7 established what he knew at the time he
8 entered into the contract.
9 COURT: Okay, sustained.
10 BY MR. BERL:
11 Q. At the time you signed this contract, sir, you had the
12 opportunity to put as much detail into the contract as you
13 wanted, didn't you? A simple yes or no, sir.
14 A. That's true.
15 Q. And you did not put anything in here about per plans to
16 be obtained or to be approved by the owner, did you?
17 A. I think a knowledgeable --- bonafide general contractor
18 should know and help me in planning.
19 Q. Sir, are you your own protector when it comes to doing
20 a contract?
21 MR. BOLCHOZ: Object to the form. I am
22 not sure what he means by that actually,
23 Judge.
24 MR. BERL: I will rephrase Your Honor.
25

1 that the reason you terminated him was because you did ask
2 him to come over to address the defect in the shower floor
3 that it was not draining properly -- the water was pooling
4 on it and he said he would not come over, it should drain.
5 Is that correct?
6 A. That is correct.
7 Q. And at that point in time you terminated him. Did you
8 tell him you were firing him?
9 A. Yes.
10 Q. Did he attempt to ask you to keep him on?
11 A. I think Jamie tried to call me back, but I did not
12 return his call.
13 Q. Okay, so you made the unilateral decision at that time
14 to --
15 A. I was fed up, Mr. Berl.
16 Q. All right. And that was literally one year and three
17 months after this whole thing was supposed to have started.
18 Well after the date of the contract, isn't that correct?
19 A. November to November is -- that is correct, okay.
20 Q. And in your contract when you modified it, the job was
21 supposed to take sixteen weeks?
22 A. That is correct.
23 Q. And yet you kept extending it and extending it giving
24 Jamie additional time to try to do this work?
25

1 A. Yes, I did. My wife said, "Let's give him the
2 opportunity."
3 Q. Right.
4 A. And Jamie -- he was nice to me.
5 Q. And you indicated that in November of '05 you received
6 a letter or your wife did from the Town informing you of the
7 permit expiring, correct?
8 A. That is correct.
9 Q. And yet you didn't do anything at that particular time
10 to terminate Jamie's services even though the permit was
11 expiring?
12 A. I did call Jamie about the expiration and he said I
13 will take care of it.
14 Q. In this particular case, the roofer that Jamie Brown
15 hired, was he licensed?
16 A. You are referring to Star Roofing?
17 Q. Yes, sir.
18 A. I believe so.
19 Q. And you had some problems with the roof, is that
20 correct?
21 A. Jamie did and eventually I was affected, yes.
22 Q. Sure, well it is your home, right?
23 A. Yes.

1 Q. You didn't see this at all during the time you were on
2 the job site with Jamie Brown, did you?
3 A. I saw this nailed on one of the trees but I did not
4 read the --
5 Q. You did not read it?
6 A. I did not read the contents.
7 Q. So up until the time of your complaint to the LLR, you
8 didn't even know Associated Construction Consultants existed
9 in this world, did you?
10 A. That is correct.
11 Q. Okay, and you noticed there it says Jamie Brown's name
12 at 5 Churchill Lane. Do you know whether Jamie Brown lives
13 at 5 Churchill Lane?
14 A. I don't think he lived there.
15 Q. Okay, and do you know where that 1-800 number is?
16 A. No.
17 Q. So, had you looked at the building permit at any time
18 during the course of your visits to the island, you could
19 have seen this and asked him about these things, couldn't
20 you?
21 A. That's true.
22 Q. But you never checked it when you were here, did you?
23 A. No.

1 for the work at your condominium, is that correct? Is that
2 what it appears to be?
3 A. Yes.
4 Q. I will ask you to turn to the second page of each of
5 those documents which appears to be a receipt, is that
6 correct?
7 A. I have already seen that.
8 Q. All right and will you look at the other one as well,
9 number 6?
10 A. Yes.
11 Q. Okay, and who does it say paid those?
12 A. These are inspections --
13 Q. No, these are receipts for money for the building
14 permits. And you see who made the payments on those?
15 A. Southeastern Services.
16 Q. And that is Jamie Brown, isn't it?
17 A. Yes.
18 Q. That's his company?
19 A. Yes.
20 Q. All right, now if the Town is supposed to make sure
21 that the check they get for a building permit is the same as
22 the company that is listed on the building permit, they
23 would have failed in their job on this matter, wouldn't
24 they?
25

1 A. That is true.

2 Q. And had they done their job, Mr. Brown could never have
3 pulled these permits, could he?

4 A. That is true.

5 Q. Have you filed suit against the Town for their failure
6 to do their job in this matter, which might have prevented
7 this from happening to you?

8 A. No, I did not file suit.

9 Q. Can you tell the Court why you didn't?

10 MR. BOLCHOZ: I am going to object, Your
11 Honor. I mean, and the same reason I am
12 going to object to the admission of these
13 documents, I mean there is no foundation. He
14 has already indicated he has not seen these
15 before. He doesn't even -- he is kind of
16 puzzling through what they are and counsel is
17 kind of instructing him on what it is he is
18 looking at and now he is asking him on the
19 basis of documents he hasn't seen before,
20 does the Town owe him some duty or have some
21 liability here. I just -- I don't think he
22 has laid a foundation for these documents for
23 either admission into evidence or to ask him
24 questions that he is asking considering Dr.
25

BY MR. BERL:

1 Q. Dr. Esquerro, do you have knowledge or any
2 documentation whatsoever that shows Mr. Laughlin had
3 anything to do with Jamie Brown or this matter?
4

5 A. No.

6 Q. And yet you sued Mr. Laughlin individually and
7 personally in this matter, is that correct?

8 A. Yes.

9 Q. Can you explain to me -- strike that. And you have
10 testified that had you gone to the Town and checked Brown's
11 license and found out he only had a limit of \$5,000, you
12 would not have hired him to do this job, is that correct?
13

14 A. That is true.

15 Q. So, but for your failure to do that none of this could
16 have happened, is that true?

17 MR. BOLCHOZ: I am going to object to
18 the form. It is argumentative.

19 COURT: Sustained.

20 MR. BERL: It is cross-examination.

21 MR. BOLCHOZ: Well actually you've
22 already asked it and he has answered it a
23 couple of times, so --
24
25

1 COURT: All right. So noted. Go
2 ahead, sir.

3 BY MR. BOLCHOZ:

4 Q. Mr. Brown, what is the date of this letter?

5 A. July 15, 2006.

6 Q. Okay, and who was Charles Ido?

7 A. As far as I knew, the Chief of Investigations at
8 LLR.

9 Q. Okay, and this letter that has been marked as
10 Number 6 is your response to Mr. Ido at the LLR
11 relating to their investigation of the project?

12 A. Yes.

13 Q. Look at the second paragraph for me -- the
14 paragraph begins "We were hired" -- you see that?

15 A. Yes.

16 Q. Okay, look at the last sentence in that paragraph.

17 A. Okay.

18 Q. Can you read that out loud for me?

19 A. "At that time I approached Mr. Robert J. Baroni
20 from ACCI who was the property manager's construction
21 consultant who obliged to help me."

22 Q. And is that obviously the Defendant, Robert
23 Baroni?

24 A. It is.

1 Q. And he obliged to help you by allowing you to use
2 ACCI's license, correct?

3 A. Yes.

4 Q. I am going to show you a document and ask if you
5 recognize that?

6 MR. BOLCHOZ: I am actually going
7 to -- if you have a copy of that, I am
8 going to give it to the Judge because I
9 know I have copies of each. You can
10 have it, Judge. This is the one that I
11 tried to -- that I offered.

12 MR. BOLCHOZ: I think this is the
13 one that I tried to -- that I offered --
14 yes, it is the one that you objected to
15 -- you want to look at this one?

16 MR. BERL: Yes. That'll be fine;
17 thank you.

18 BY MR. BOLCHOZ:

19 Q. Mr. Brown you recognize the document I just handed
20 you?

21 A. Yes, I do.

22 Q. Okay, and is that a letter to you from the LLR?

23 A. It is.

24 Q. And what's the date of that letter?

1 A. I think so, yes.

2 Q. Take a look at the second paragraph for me where
3 it begins "as far as".

4 A. Yes.

5 Q. Look at the sentence beginning with "Getting Mr.
6 Baroni".

7 A. Yes.

8 Q. Read it out loud for the Court.

9 A. "Getting Mr. Baroni involved was a decision made
10 by me after Richard Maddox of the Town of Hilton Head
11 suggested doing so. It is with deep regret and many
12 sleepless nights that I had ever asked for that favor."

13 Q. And the favor was Mr. Baroni allowing you to use
14 ACCI's contractor's license, correct?

15 A. Correct.

16 Q. Do you recognize what I just handed to you?

17 A. I do.

18 Q. And what is that?

19 A. This is a rough draft of a letter, the Plaintiff's
20 Exhibit No. 5.

21 Q. And it is your rough draft, correct?

22 A. It is my rough draft, yes.

23 Q. I would like to get this marked Your Honor and
24 offer it as Plaintiff's next exhibit.

25

1 A. Nor did the others that I scratched out.
2 Q. What others are you referring to?
3 A. Page 1.
4 Q. What does that say, describe that one.
5 A. Without going into specifics, we both -- I can't
6 really read it too well.
7 Q. Okay. So you don't know what it says?
8 A. Something on the lines, without going into
9 specifics, we both had the same concerns. I guess I
10 was trying to say regarding what was wrong with the
11 villa.
12 Q. And what else is crossed out?
13 A. The last page.
14 Q. And what was that?
15 A. The only legal counsel that I sought was the one
16 and that's all I can read.
17 Q. Go back to your final draft of the letter for me.
18 Are you not with this letter the final draft that you
19 sent to Dr. Esquerra, are you not apologizing for
20 engaging in license lending with Mr. Baroni in this
21 letter?
22 A. I am apologizing for everything, not license
23 lending in particular, no.
24
25

1 Q. Well not in particular, but was that a part of
2 what you were apologizing for?
3 A. Not specifically, no.
4 Q. Okay, now Mr. Baroni knew that you were using
5 ACCI's license to pull down the permit, correct?
6 A. When?
7 Q. Before you pulled the permit down?
8 A. He was aware of my intentions to do that.
9 Q. Okay, so the answer to my question is yes?
10 A. Yes.
11 Q. And you used ACCI's license with his
12 authorization, correct?
13 A. As far as I was concerned, yes.
14 Q. Now Mr. Baroni never appeared on the job site, is
15 that correct?
16 A. Correct.
17 Q. And Mr. Laughlin here never appeared on the job
18 site, correct?
19 A. Never.
20 Q. In fact no one from ACCI appeared on the job site,
21 isn't that true?
22 A. That's true.
23 Q. And so Mr. Baroni never inspected your work?
24 A. No.

1 Q. Okay, now you actually did mention Mr. Baroni by
2 name to Dr. Esquerra at the beginning of the contract,
3 did you not?
4 A. I think I did.
5 Q. And you told him that Mr. Baroni was helping you
6 secure the permit?
7 A. I don't remember the extent of the conversation.
8 Q. And that permit expired during your work on that
9 project, right?
10 A. It did.
11 Q. And you called Mr. Baroni to ask him to renew the
12 permit, correct?
13 A. I did.
14 Q. Because the renewal request had to be on his
15 letterhead, correct?
16 A. Correct.
17 Q. And when you called him you reminded him of the
18 permit he originally helped you out with getting the
19 previous April, correct?
20 A. We never spoke. I just left a message saying the
21 permit for Harborwood needed to be renewed.
22 Q. And you called him because you naturally assumed
23 that once you mentioned that to him he was going to
24 renew the permit for you, correct?
25

MR. BOLCHOZ: Okay. I got it, it's

March.

A. What page?

Q. 45. Okay, page 45 -- excuse me, go back to page 44 for me. Line 16 I asked you about your meeting with Mr. Baroni. "At that meeting what did you talk about." Read your answer there beginning with line 18 for me.

A. "What's going on? What happened, why are we being fined. I am getting charged with license lending, you know the facts that were on the thing from the LLR."

Q. I said okay and read your answer.

A. "What's the best thing to do." You wanted to know what happened.

Q. And my question was "Who was he" and you answered?

A. Bob wanted to know what happened between Mr. Esquerria and myself. I explained to him to the best of my knowledge or to the best of my ability what I thought had happened. At that point I thought that Mr. Esquerria was just tired of me and moved on. That was that.

Q. And I said okay and you said?

A. "Because he broke down all communication Mr. Esquerria did. Wouldn't return phone calls, sent me an email saying that we were no longer the contractor. We

1 A. "He was pretty angry so he was going to pay the
2 fine. Said I am going to make you -- you know I will
3 give you a job or you will pay it back. So that was
4 the extent of our conversation."

5 Q. Okay, good so he was going to -- he was going to
6 give you a job in order to allow you to pay back to him
7 what he had lost in this case, correct?

8 A. Correct.

9 Q. You asked Dr. Esquerra some questions about his
10 damages and of course you have heard his testimony here
11 today about his damages regarding the roof, the
12 subcontractor was hired by you, correct?

13 A. Yes.

14 Q. Okay, and you were aware at least at the time your
15 deposition was taken, you were aware that there were
16 several tiles in the living room that were set wrong,
17 correct?

18 A. Yes.

19 Q. And you were aware that there were electrical
20 problems too, correct?

21 A. Yes.

22 Q. Are you aware that the remaining defendants in this
23 case have asserted a defense of comparative negligence? Are
24 you aware of that?
25

1 Q. When you met Dr. Esquerra, where were you and what were
2 you doing?

3 A. I think Dr. Esquerra and myself actually met in the
4 backyard of his next-door neighbor. We were working on
5 George Bomadere's villa next door.

6 Q. George Bomadere's?

7 A. Yes.

8 Q. Okay, and what were you doing at that particular time?

9 A. Replacing his sliding glass doors.

10 Q. At that time did you drive a vehicle that had a sign on
11 it that said you were a licensed and bonded contractor?

12 A. No it did not say licensed and bonded, no sir.

13 Q. Have you ever driven a vehicle that says you were a
14 licensed and bonded contractor?

15 A. No, I have not.

16 Q. Did Dr. Esquerra ever ask you about your license
17 qualifications?

18 A. No he did not.

19 Q. Did he ever ask about your ability to pull a permit?

20 A. No he didn't.

21 Q. Now I want you to tell the court when you first went to
22 Mr. Baroni, what was his answer about helping you with this
23 project?

24 A. He was not interested. He was too busy.

1 Q. All right and why did you ask him to help you with this
2 project?

3 A. I was directed to Mr. Baroni by D&M Coastal Property,
4 the regime manager.

5 Q. Okay and that's because he did a lot of work for the
6 regime?

7 A. That's what I assumed, yes.

8 Q. And he told you no. What did you do when he told you
9 no?

10 A. I went to the -- at the same exact time I was going to
11 the Town went to Richard Madison to see if we needed plans
12 for this. At that time he told me you also going to need a
13 general contractor because this is commercial property which
14 was surprising to me. And I went back to -- told Dr.
15 Esquerra what was going on.

17 Q. What do you mean you told Dr. Esquerra what was going
18 on?

19 A. That we were having a little bit of problem with the
20 permit.

22 Q. Okay, did you tell him the nature of the problem with
23 permit that you didn't have a license to do this job?

24 A. No, I did not.

25 Q. Okay. Did anybody ask you not to disclose that to Dr.
Esquerra?

1 COURT: He is here. I will allow it, go
2 ahead.

3 A. Mr. Baroni instructed me to go see Greg Beste who is an
4 architect in Bluffton. He handed me my papers back along
5 with his business card. Said go see Greg and as soon as
6 everything is done with Greg, come back and see me and we
7 will move on from there.

8 Q. Did he tell you you had to come back to him with the
9 drawings and plans from Greg to review?

10 A. He did.

11 MR. BERL: All right and let me mark
12 this as the next exhibit -- I believe we
13 already have that marked in the deposition.
14 Your Honor for the record this is Defendant's
15 Exhibit 8 and 6 and 7 are not related to
16 this. We will have to have Mr. Brown's
17 testimony before they will come in.
18

19 (WHEREUPON DEFENDANT'S
20 EXHIBIT NUMBER 8 WAS
21 MARKED AND ENTERED INTO
22 EVIDENCE).
23

24
25 BY MR. BERL:

1 Q. All right, I am handing you what has been marked as
2 Defendant's Exhibit 8. Is that an invoice from Greg Beste
3 for architectural work?
4 A. It is.
5 Q. And is it for 147 Harborwood Villa which is Dr.
6 Esquerre's property?
7 A. Yes, it is.
8 Q. Okay, now when Mr. Baroni sent you back to get this
9 work, did he tell you that he wanted you to bring that stuff
10 back to review?
11 A. He did.
12 Q. And did he further tell you that if it was acceptable
13 to him he would go down and pull the permit?
14 A. I think that's exactly what he said.
15 Q. All right, now after you went and had this work done by
16 Greg Beste you had plans and specs. Did you go back to see
17 Mr. Baroni?
18 A. I did not.
19 Q. Why did you not go back and see Mr. Baroni?
20 A. I thought I had everything I needed and didn't
21 basically didn't want to bother Bob anymore. I thought that
22 I could move on by myself.
23 Q. Did Bob ever give you permission to make application?
24 A. No.
25

1 Q. Did he ever give you permission to go down and pull a
2 permit under his company's name without his knowledge?
3 A. No, he didn't.
4 Q. Did you ever tell him that that was your intention to
5 go down and make application under his name and pull a
6 permit without his knowledge?
7 A. No.
8 Q. But that's what you did?
9 A. Yes.
10 Q. And is the reason for that that you might have had to
11 pay Bob some fees if he actually was involved in this and
12 supervised the project?
13
14 MR. BOLCHOZ: Object to the form -- you
15 are leading.
16 MR. BERL: I am allowed to lead.
17 COURT: He is a biased witness, so
18 overruled.
19 A. Probably so, yes.
20 Q. All right, so I want to make sure I understand this
21 100% -- you of your own volition without any knowledge of
22 Mr. Baroni at all, went and pulled the application and the
23 permit without telling him?
24
25 A. Correct.

1 Q. And then you went ahead and started to do this work for
2 Dr. Esquerra?
3 A. Yes.
4 Q. Did you ever inform Bob Baroni that you were pulling
5 this work or doing this work for Dr. Esquerra?
6 A. No.
7 Q. What gave you the right to do that?
8 A. I don't think anything gave me the right to do it. It
9 was something that -- when I worked for Property
10 Administrators, I did it all the time under their license
11 and was so used to doing it.
12 Q. You never worked for Bob Baroni before?
13 A. No.
14 Q. In fact when you say you knew Bob Baroni for sixteen
15 years, you didn't associate with Bob Baroni, did you?
16 A. Our only association through our whole sixteen years
17 was on the job sites passing one another and shaking hands.
18 Q. Never worked on a single project as a party of his
19 company, did you?
20 A. No.
21 Q. And you haven't worked on any projects as a party of
22 his company since then, have you?
23 A. No.

1 Q. And in this particular instance you came to him, he
2 didn't come to you about doing the project together?
3 A. Correct.
4 Q. And he told you to bring stuff back to him and you
5 didn't?
6 A. He did.
7 Q. Let's turn to what was previously marked as Defendant's
8 Exhibit 6 and 7 if you would, sir. You have that in front
9 of you?
10 A. Yes.
11 Q. Can you identify those documents, please?
12 A. These are inspection information sheets from the Town
13 of Hilton Head.
14 Q. And what is on the second page of that? Of each of
15 those?
16 A. It is a receipt for where the building permit was paid
17 for.
18 Q. Who paid for those building permits, sir?
19 A. I did.
20 Q. Did you use an ACCI check to pay for them?
21 A. It was a Southeastern Services check.
22 Q. And is it what those receipts reflect?
23 A. They do.
24
25

1 Q. So Bob Baroni had no knowledge that you were pulling a
2 permit under his company's name, did he?

3 A. He did not.

4 Q. Now, you didn't have his permission to do that, did
5 you?

6 A. No I didn't.

7 Q. Now Mr. Bolchoz asked you about calling Mr. Baroni when
8 the permit expired. How did you learn that the permit
9 expired?

10 A. I think through an email from Jorge.

11 Q. You didn't get any directly from the Town, did you?

12 A. No.
13

14 MR. BERL: Your Honor, before I move on,
15 I move for admission of Defendant's Exhibits
16 6 and 7.

17 COURT: Any objection, Mr. Bolchoz?

18 MR. BOLCHOZ: You know I know he
19 testified about -- the witness testified
20 about the two receipts. I guess I don't have
21 any objection to those for what they are
22 offered for, but the two other sheets that
23 are on top, I mean I guess I don't really see
24 the relevance. I guess I do have an
25 objection, I don't think they are relevant to

1 A. Yes.

2 Q. All right. Did he ask you how in the world you

3 pulled that permit?

4 A. Not quite that nice but yes.

5 Q. And what did you tell him?

6 A. I just filled it out and pulled it.

7 Q. Once you discussed that with him, did he

8 subsequently call you and tell you what he was going to

9 do with regard to that fine?

10 A. Yes.

11 Q. And what was his reasoning for his paying that

12 fine? Do you know? Did he explain that to you?

13 A. We touched on the fact that it was just not worth

14 going to fight. It was a \$1,000 fine.

15 Q. And probation for a year?

16 A. That I didn't even know about.

17 Q. Okay. Versus thousands of dollars to have an

18 attorney go to Columbia and fight it?

19 A. Yes.

20 Q. Did he give you any other reason why he was going

21 to agree to that resolution?

22 A. No.

23 Q. Did he ever admit that he had "lent his license to

24 you"?

25

1 A. No.

2 Q. Had he lent his license to you?

3 A. No.

4 Q. Now with regard to the questioning by Mr. Bolchoz,

5 you testified that there were several tiles set wrong

6 in the living room. What do you mean by several?

7 A. I will use the number five.

8 Q. Okay. Now would that be individual tiles that

9 were set wrong or is that five groups of tiles?

10 A. Individual.

11 Q. So Dr. Esquerra testified about a couple of groups

12 of two or three at a time, is that accurate or what's

13 your recollection of what the tile problem was?

14 A. My recollection is there's probably no more than

15 six to eight tiles that probably need reset.

16 Q. Now part of your contract dealt with doing the

17 porch and enclosing that and from what I understand

18 part of your own contract also called for you to tile

19 the areas that were not carpeted. Is that correct?

20 A. Correct.

21 Q. All right. Was the porch one of those areas that

22 was not going to be carpeted?

23 A. Yes.

24

25

1 Q. Dr. Esquerra has testified that this job took
2 abnormally long, is that correct?
3 A. Yes.
4 Q. You believe it took abnormally long?
5 A. Yes.
6 Q. And why did it take so long?
7 A. Between the time that Dr. Esquerra and myself
8 entered into agreement and the time we actually
9 started, was abnormally long because we were going
10 through a process of being in Coastal Properties to get
11 it approved. That took several months and in the
12 course of that time we had got other jobs too; tried to
13 juggle them all.
14 Q. Did Mr. Baroni have anything to do with this job
15 whatsoever?
16 A. Nothing.
17 Q. Did he have anything to do with your contract
18 negotiations with Dr. Esquerra?
19 A. No.
20 Q. In fact you had that in place before you ever even
21 approached Mr. Baroni, didn't you?
22 A. Yes.
23 Q. I am going to hand you what I am going to make a
24 composite exhibit. These are emails back and forth
25

1 Q. What particularly was your problem in getting this
2 permit?
3 A. I didn't know who to go to for drawings, was one
4 of the main reasons because we never had to have
5 drawings before.
6 Q. And Mr. Baroni told you who to go to for that
7 right?
8 A. That's correct.
9 Q. And you went to Mr. Beste and I think there was an
10 exhibit in there already from Mr. Beste, is there not?
11 A. Yes.
12 Q. That was an invoice. Let's see here, what's the
13 date on that?
14 A. March 1, 2005.
15 Q. Okay, so your conversation with Mr. Baroni about
16 helping you out really didn't take place until sometime
17 in February? Would that be a fair statement?
18 A. That's correct.
19 Q. What were you doing for the three months between
20 November and February the date of your contract until
21 when you finally approached Mr. Baroni about this?
22 A. I don't think we got approval from D&M until
23 January, that's a couple of months there and then the
24
25

1 A. Mostly all labor.
2 Q. So you are still comfortable with that figure of
3 approximately \$50,000 in material?
4 A. I would say \$51,000.
5 Q. And all that material is basically in place in the
6 condominium?
7 A. It is.
8 Q. Now sir, I looked through there and I didn't see
9 any, but I noticed that you -- these are your emails
10 and I would assume you -- I never saw the name Bob
11 Baroni or ACCI or Boyd Laughlin anywhere in any of
12 these emails. To your knowledge are they in there
13 anywhere?
14 A. Not to my knowledge. I have not read through each
15 and every one of these emails. No, I don't think so.
16 Q. If I am not mistaken what your earlier testimony
17 was you mentioned Bob Baroni's name to Dr. Esquerra one
18 time during a phone call in early 2005 when you were
19 trying to get the permits pulled. Is that correct?
20 A. Correct.
21 Q. And other than that you had no other mention of it
22 with him, is that correct?
23 A. That's correct.
24
25

1 Q. Okay. Let's take a look at what's been marked as
2 I believe Plaintiff's Number 2. Did you explain that
3 to Mr. Ido?
4 A. Well there was no way to explain it in a letter I
5 felt to Mr. Ido what the situation with Mr. Baroni was.
6 Q. Okay, and what about in your letter to Mr. -- to
7 Dr. Esquerro from July 20, 2007?
8 A. Again it was just apologizing for everything where
9 he came to.
10 Q. Your own words were as far as Mr. Baroni's
11 involvement he did nothing more than to help me
12 expedite the whole process of obtaining the permit,
13 correct?
14 A. That's correct.
15 Q. So he did help you expedite the process of
16 obtaining the permit, correct?
17 A. Well again we are back to the yes or no question.
18 I was only explaining to Mr. Esquerro -- Bob's
19 involvement was nothing other than him saying go to
20 Beste. I didn't explain all that to Mr. Esquerro --
21 Dr. Esquerro.
22 Q. Or Mr. Ido, correct?
23 A. No I did not.
24 Q. And --
25

1 A. That's correct.
2 Q. And you never heard back from Mr. Baroni?
3 A. I did not.
4 Q. You never followed up after that with him about
5 renewing the permit?
6 A. I did not.
7 Q. Okay, so you have no way of knowing if he ever
8 even got that message?
9 A. I do not.
10 Q. Let's go back to Page 33 of your deposition, sir.
11 Now it says, "Did you know that you were going to use
12 ACCI's license to hold down this permit? Mr. Baroni
13 had said if you came back you could use his license and
14 so forth if everything was in order." Is that correct?
15 A. That's correct.
16 Q. Okay, did you go back to Mr. Baroni?
17 A. I did not.
18 Q. So could you use his license and so forth at that
19 time without having returned to him?
20 A. No.
21 Q. Did you have his authorization to do that?
22 A. No.
23
24
25

1 Q. Okay, going back to that permit issue. What
2 number did you try to call Bob Baroni at and leave a
3 message? Do you have a clue?

4 A. I think the only number I have for Bob is his cell
5 number, but I am not sure where I called.

6 Q. Do you remember what the number was?

7 A. No.

8 Q. All right and on Page 34 it says here Mr. Bolchoz
9 had you read the first part of that and asked if it was
10 a fair statement. Was it a fair statement that you
11 were doing it Mr. Baroni's authorization since you
12 didn't go back to him?

13 A. When it is worded that way, no.

14 Q. Why did you say in response to Mr. Bolchoz's
15 question at deposition and then again here today that
16 that -- actually just read today that that was a fair
17 statement. Why would you say that is a fair statement
18 if you hadn't done what Mr. Baroni told you to do in
19 order to get his help?

20 A. I don't really know how to answer that question.
21 Because what was worded -- when I filled out the
22 application standing up at the podium were you doing it
23 with Mr. Baroni's authorization, is that a fair
24 statement? I guess I answered it incorrectly. No, I
25

1 was not doing it with his authorization, but I just
2 assumed that it was okay.
3 Q. What made you assume it was okay when he told you
4 to come back with the drawings and let him review
5 everything before a permit was pulled by him?
6 A. Because I honestly thought I was doing Bob a favor
7 by not going back to him for something so small.
8 Q. Did he give you any indication that you were
9 allowed to do this without coming back to him and
10 getting his approval?
11 A. No.
12 Q. Did he give you any indication that you were
13 allowed to pull a permit under his company's name
14 without his knowledge?
15 A. No.
16 Q. In fact he was the one that was going to pull the
17 permit, wasn't he, if you came back to him?
18 A. Yes.
19 Q. And you submitted a check on Southeastern
20 Services, not even ACCI and yet the town accepted that?
21 A. That's correct.
22 Q. And that is contrary to Town policy is that
23 correct?
24 A. I think so, yes.
25

1 Q. Yes.

2 A. "Okay, so it was your understanding Mr. Brown when

3 you filled out that application with the name ACCI and

4 ACCI's license number that you were doing it with Mr.

5 Baroni's authorization? Is that a fair statement?" And

6 I answered, "That's very fair."

7 Q. Okay, there's nothing confusing about that

8 question, is there?

9 A. Did I think I was doing it with his authorization?

10 Yes, I thought.

11 Q. Okay.

12 A. So I answered yes. Was I doing it with his

13 authorization? No.

14 Q. So at the time you thought you had his

15 authorization and now you knew you didn't, is that --

16 A. That's exactly right.

17 Q. And how did you arrive at that conclusion?

18 A. Because we are sitting in this courtroom today.

19 Q. Okay.

20 A. Obviously I didn't have it.

21 Q. And again I don't know that that's obvious that

22 Mr. Baroni and ACCI have not filed suit against you,

23 have they?

24 A. No, they have not.

25

1 Q. Plaintiff's Number 6, letter dated July 16, 2006.
2 A. It's the same as Number 2?
3 Q. I am sorry, it is same as Number 2.
4 A. I am sorry, I didn't -- the question again?
5 Q. Were you confused about any of the facts when you
6 sent that letter to Mr. Ido?
7 A. I don't think so, no.
8 Q. Were you confused when you sent the letter dated
9 July 20, 2007 to Dr. Esquerra?
10 A. No, I was not.
11 Q. And were you confused when you wrote the first
12 draft of that same letter when you said I know that by
13 law it is illegal to practice license lending, but it
14 happens?
15 A. I wasn't confused but was very, very distraught
16 and didn't know how to respond to anything.
17
18 MR. BOLCHOZ: I have no further
19 questions, Judge.
20
21 COURT: Mr. Berl?
22
23 MR. BERL: Just one or two, Your
24 Honor.
25 BY MR. BERL:
Q. Turn to the July 16th letter to Mr. Ido will you
tell me the only thing you mentioned in there about

1 Robert Baroni is down at the end of the second
2 paragraph and your words at the time: "I approached
3 Mr. Robert J. Baroni of ACCI he was the property
4 manager's construction consultant who obliged to help
5 me." What did you mean by obliged?
6 A. I meant that he just offered to help me through
7 the whole process.
8 Q. Okay. You never got into the facts of what took
9 place in your conversation with Mr. Baroni, did you?
10 A. No.
11 Q. Is what you testified here today and in your
12 deposition under oath the truth as to what transpired
13 in your conversations with Mr. Baroni about pulling a
14 permit on this matter.
15 A. Yes.
16 Q. Did you have actual authority from Mr. Baroni to
17 pull a permit in his name on the day you went down and
18 filled out the application and submitted it to pull the
19 permit?
20 A. No.
21
22
23 MR. BERL: I have nothing further,
24 Your Honor.
25 MR. BOLCHOZ: One more follow up
Judge.

COURT: All right, go ahead.

BY MR. BOLCHOZ:

Q. Look on Page 54 of your deposition for me. Line 3 I ask "Okay, and what is the favor you are referring to there?" And what was your answer?

A. "In helping me secure the permit."

MR. BOLCHOZ: That's it for me,
Judge.

MR. BERL: Last one for me.

BY MR. BERL:

Q. What did he do to help you secure the permit other than refer you to Mr. Greg Beste to get plans and specs? What else did he do?

A. Nothing.

MR. BERL: Thank you, nothing
further.

COURT: All right, now technically I suppose Mr. Brown can ask himself questions. We won't do that, but Mr. Brown if you wanted to respond to any of that and tell us a little something additionally, there is certainly no obligation on your part, but I would allow you to.

Boyd Laughlin - Direct Examination by Mr. Bolchoz

1 Q. Are you familiar with them?
2 A. Yes I am.
3 Q. And this printout is information on the license
4 for Associated Construction Consultants, Inc.?
5 A. Yes.
6 Q. Okay and at the bottom of the print out it says,
7 "Supervises", and do you see the name under there?
8 A. Yes I do.
9 Q. Is that you?
10 A. Yes it is.
11 Q. Do you know what that means?
12 A. I don't know, you tell me.
13 Q. You are not employed by ACCI, correct?
14 A. No.
15 Q. And you are not paid any direct compensation as
16 the qualifying agent for ACCI, correct?
17 A. Explain your question.
18 Q. Do you receive compensation from ACCI as the
19 qualifier for ACCI's license?
20 A. Certainly.
21 Q. What do you receive by way of compensation?
22 A. I get a free office, I got free electrical, free
23 dumpsters, I get a lot of work through Bob. You know,
24 plenty of compensation.
25

1 Q. So through ACCI you get a lot of work?

2 A. Somewhat, I mean I don't get all of my work from
3 him, but I do get work from him yes.

4 Q. A considerable amount?

5 A. Yes.

6 Q. And you are not an officer of ACCI, correct?

7 A. Last I knew I was Secretary-Treasurer.

8 Q. You remember when I took your deposition earlier
9 this year?

10 A. Yes I do.

11
12 MR. BOLCHOZ: Your Honor, I've got
13 the sealed deposition here of Mr.
14 Laughlin.

15 BY MR. BOLCHOZ:

16 Q. Mr. Laughlin I am handing you a copy of your
17 deposition transcript from earlier this year. Take a
18 look at Page 32 of the deposition for me please. On
19 line 22 at the bottom of Page 32 I asked "So you are
20 not interested when Associated Construction
21 Consultants, Inc. gets sued" and your answer was, "No".
22 And then on the following page my question was "And why
23 not". Can you read your answer there.

24
25 A. "I am not part of the corporation. You know, I am
a licensed holder for them but it is not my corporation

1 Q. Okay well you know the date that I took your
2 deposition?

3 A. No, I do not.

4 Q. Look on the front of the document for me please.
5 You see a date on there of January 9, 2008?

6 A. January 9, 2008, no I do not.

7 Q. Bottom of the first page on the cover sheet.

8 A. Okay --

9 Q. Actually that's a misprint.

10 A. Yeah, 2008 cannot be correct.

11 Q. Actually -- that's a misprint, we actually did
12 this on 2009.

13
14 MR. BERL: I will stipulate to
15 that, Your Honor.

16 BY MR. BOLCHOZ:

17 Q. So you were not an officer for the corporation in
18 January of 2009? Is that accurate?

19 A. No, I do not believe I am.

20 Q. And you said there in your response on Page 33 "I
21 am nothing to the corporation except I am the qualifier
22 for the license", correct?

23 A. Yes.

24 Q. In other words you are just the party that allows
25 ACCI to get a general contractor's license, correct?

1 A. Well I still share the office, I am still there
2 every day. I am not a member of the Board any longer.
3 I am not an officer of the Board, which I used to be.
4 Unless, I could be wrong. I may still be the
5 Secretary-Treasurer, I don't know. But 2005 I was.
6 Q. You have a separate company from ACCI, correct?
7 A. Yes.
8 Q. And what's the name of that company?
9 A. Task Services.
10 Q. And you are the qualifier for Task Services?
11 A. Yes, I am.
12 Q. Are you employed by Task Services?
13 A. I am the President.
14 Q. Now Mr. Baroni and you have your own separate
15 projects that you work on, is that correct?
16 A. Yes.
17 Q. And you do two basically different types of work?
18 A. Yes.
19 Q. He pretty much has his own projects and you have
20 your own, correct?
21 A. Yes.
22 Q. And you don't know how many projects ACCI is
23 involved with year-to-year do you?
24 A. Not off the top of my head, no.
25

1 A. Well this is -- I think you are confusing --

2 MR. BERL: Your Honor, I am going
3 to object to him answering any of these
4 questions on the grounds of the 5th
5 Amendment.

6 COURT: And the question was, you
7 have already testified as such that he
8 is not employed full time; is that
9 correct?

10 MR. BERL: I am not going to allow
11 him to answer any further questions in
12 light of what the statute says, Your
13 Honor.
14

15 COURT: And his choice to do that of
16 course I think is a factor that I can
17 take into account in this case, is that
18 --

19 MR. BERL: Sir, you can certainly
20 take that into account. This has to do
21 with his credentials and so forth. It
22 has nothing to do with his involvement
23 in this particular case.
24
25

1 COURT: Okay. Let's do this for a
2 minute. Let's go off the record and
3 talk about this.

4 MR. BERL: Your Honor, I have had a
5 moment to consult with my client and
6 based upon his understanding of the laws
7 and how he believes they apply, he does
8 not feel that he is in violation of any
9 the standards or requirements of this so
10 he says he does not feel like he is
11 incriminating himself and he wishes to
12 testify fully on the matter.
13

14 COURT: All right. So go ahead,
15 Mr. Bolchoz.

16 BY MR. BOLCHOZ:

17 Q. I believe I asked the question I believe he
18 answered it. I am not sure.
19

20 COURT: Actually he didn't. You
21 said didn't you testify earlier that you
22 didn't work full-time -- something to do
23 with that and then -- then the objection
24 was made.

25 MR. BOLCHOZ: Okay.

COURT: As I recall --

MR. BOLCHOZ: Right, okay.

1 BY MR. BOLCHOZ:

2 Q. Well just to refresh, Mr. Laughlin you testified a
3 short while ago that you are not employed by
4 Associated, correct?
5

6 A. Correct.

7 Q. And let's see, look at Section -- well let me ask
8 you this about Subsection b(3) in view of that
9 subsection did you -- have you submitted proof of full
10 time employment and a responsible management position
11 in ACCI with the -- with anybody?
12

13 A. Subsection 3 right there that doesn't pertain to
14 ACCI. Turn back to the beginning. To qualify for
15 certification of the qualifying party -- okay, now this
16 -- whenever I took my test I qualified as qualifying
17 party for Task Services. Okay, that is what this is
18 covering. If you turn to the back of the page to
19 Section C, if a qualifying party desires to serve as a
20 primary qualifying party for two entities, okay --
21

22 Q. Uh huh.

23 A. --both entities must engage business from same
24 physical location qualifying party must and there is 1,
25 2, 3.

Q. Right.

1 A. Now, above C, A and B is whenever I qualified my
2 company, Task Services, okay, that's Section 3 there,
3 submit proof of full time employment and a responsible
4 management position by the entity for whom the
5 applicant will be the primary qualifying party. That
6 is my company. That's who I am. I am the President of
7 my company. Now, to qualify another entity go to
8 Section C and read that.

9 Q. You pointed out C says a qualifying party desires
10 to serve as primary qualifying party for two entities,
11 both entities must engage in business from the same
12 physical location, correct?

13 A. Yes.

14 Q. And you are the qualifying party for two entities,
15 correct?

16 A. Yes.

17 Q. And what are those two entities?

18 A. Task Services and ACCI.

19 Q. The qualifying party must Section C(1) be involved
20 in the operation of both entities on a daily basis?

21 A. Yes.

22 Q. Okay, but you are not involved in a daily basis on
23 the operations of ACCI are you?

24

25

1 A. Sure I am. We meet every morning, we would meet
2 in the afternoon. We discuss. We are doing several
3 projects together. I am not joined at the hip with
4 ACCI. I mean I don't know everything they are doing
5 all the time. You know I have my own company to run as
6 well, but certainly. I mean we start off there every
7 morning and go over projects. We go over what we are
8 doing, what's going on. And you know last night we
9 were there until 6:30 talking, just Bob and I talking
10 about our projects, what's coming up, what's going on
11 and projects that we are doing in conjunction with each
12 other, if you want, if you are interested.
13
14 Q. Okay, when I took your deposition last January,
15 sir, you testified, "I am not a part of the
16 corporation. You know I am the licensed holder for
17 them, but that is not my corporation and I am not an
18 officer on the Board. I am nothing to the corporation
19 except I am the qualifier for the license. Maybe I am
20 naive I don't know. But no I don't get concerned."
21
22 A. Uh huh.
23
24 Q. Well that doesn't sound like you are involved in
25 the day-to-day operations?
A. Maybe I answered that question wrong.

1 A. Have ownership in both entities and at least 50%
2 ownership in one of the entities.
3 Q. And you don't have any ownership in ACCI, do you?
4 A. I believe I do. We set this up eight years ago
5 and we renew our license every two years. You know I
6 have not gone back and studied it, but of course you
7 know when we got our license I had to follow these
8 guidelines. I believe, you know as Secretary-Treasurer
9 I believe I had ownership in the corporation.
10 Q. Do you own shares of stock in ACCI?
11 A. I said I don't know. I said -- you know it has
12 been almost eight years since we set this up. You know
13 I don't know. I can't really answer that question.
14 Q. Okay, well Section B(3) what's been marked as
15 Number 8, says "To become designated by an entity as a
16 primary qualifying party, an individual must (3) submit
17 proof of full time employment in a responsible
18 management position. Have you done that?
19 A. I am a President of Task Services.
20 Q. So you submitted proof of full time employment in
21 a responsible management position for ACCI?
22 A. C is where it pertains to qualifying two entities.
23 Q. Not C, B.
24 A. I am the President of Task Services.
25

1 Q. Uh huh.

2 A. You are confusing B with C. Now C clearly states

3 to become a qualifying party for two entities, okay,

4 which you can do legally in South Carolina, okay, it

5 doesn't say that in B. Okay, C has the three

6 stipulations for me to qualify ACCI along with Task

7 Services. Okay, at Task Services I am the President.

8 I am the owner of a sub-s corp of my corporation. Now

9 C pertains to ACCI.

10 Q. So the answer to my question is no?

11 A. No, what?

12 Q. Well I asked you if you had submitted proof of

13 full time employment in a responsible management

14 position for ACCI?

15 A. I am not required to do so.

16 Q. Okay, so the answer is no?

17 A. Yes, my answer is no.

18 Q. Okay.

19 A. You have to take that up with LLR. This is their

20 rules, I mean I didn't make them, but I do follow them.

21 Q. Well I mean were you familiar with Section 40-11-

22 230?

23 A. Certainly. I took the exams, I got qualified. It

24 has been eight years. You know I mean do I remember

25

1 every number of every statute out there? Absolutely
2 not. I am not a lawyer. It is not my job to remember
3 every code that's in the code book or the South
4 Carolina Code of Laws. I mean I don't have time for
5 that. You know I am trying to run a company and make a
6 living.

7 Q. Underneath Section C(3) the sentence that begins
8 "the primary qualifying party"; do you see that?

9 A. Where we at now?

10 Q. Under -- I'm sorry, excuse me, under Section B(3)
11 --

12 A. Uh huh.

13 Q. You see that sentence?

14 A. Submit proof of full time employment in a
15 responsible management position by the entity for whom
16 the applicant will be the primary qualifying party.

17 Q. Right, and you've already testified that doesn't
18 apply to you, correct?

19 A. To my knowledge, no, it doesn't.

20 Q. Okay. Underneath that sentence, the next sentence
21 begins, "The primary qualifying party", do you see that
22 sentence?

23 A. Uh huh.

24 Q. Can you read that out loud for me?

25

1 Q. Okay, now you are the only qualifying party for
2 ACCI, correct?

3 A. Yes.

4 Q. And you are not in a full time employment position
5 at ACCI, are you?

6 A. No, I am not required to be.

7 Q. Or the responsible management position?

8 A. This goes back to the other code Section C. It
9 explains clearly when I got licensed to do general
10 contracting to qualify for two entities -- see you are
11 getting the two codes mixed up. You are inter-mixing
12 them and -- I can check with LLR and we can get
13 somebody down here to clear this up if you care to.
14 I'm -- I know what the law is. When I took the
15 examine, whenever I qualified both the corporations
16 mine and his, there was nowhere where they ever said
17 that I had to own his company or be his President of
18 his corporation. It is very clear there, Section C of
19 40-11-240.
20

21 Q. Okay, so it is your testimony here today sir that
22 Section 40-11-240 does not apply to you?

23 A. Of course, it applies to me. My corporation is
24 Task Services.
25

Q. It doesn't apply to ACCI?

1 Q. All right, do you have confidence in Mr. Baroni's
2 knowledge of construction and his ability to manage
3 ACCI?

4 A. One hundred percent.

5 Q. Do you feel like you need to sit there and hold
6 his hand on every decision that ACCI does?

7 A. No.

8 Q. If you didn't have confidence in Mr. Baroni's
9 abilities and experience in this field, would you allow
10 your license to be with ACCI?

11 A. Absolutely not.

12 Q. Do you feel that you are in any way responsible
13 for what Jamie Brown did in filing this permit under
14 ACCI's license?

15 A. No.

16 Q. Did you know anything about this until the lawsuit
17 was filed?

18 A. No.

19 Q. Has the LLR ever sanctioned you for anything?

20 A. No.

21 Q. Has anyone other than Mr. Bolchoz here today ever
22 questioned whether you were appropriate qualifying
23 agent?

24 A. No.

1 Q. Okay, do you remember telling that to me, sir?

2 A. Yes, the same I am the person that runs the -- and
3 President of ACCI.

4 Q. And Boyd Laughlin is the qualifying party for
5 ACCI's license?

6 A. That is correct.

7 Q. And you do not have a separate general
8 contractor's license yourself, correct?

9 A. I don't have a general contractor's license, he's
10 correct. I have other ones.

11 Q. And Boyd Laughlin doesn't own any shares at ACCI,
12 does he?

13 A. No, he does not.

14 Q. I am going to show you a document and ask you if
15 you recognize it? Can you tell me what that is?

16 MR. BERL: I have never seen this
17 document before so on the grounds I will
18 object to it's admission today for not
19 being submitted in discovery.

20 MR. BOLCHOZ: I will get it marked
21 for identification purposes Judge and I
22 think Mr. Baroni ought to be able to
23 tell me if he knows what it is.

24 COURT: Just mark it for ID.
25

1 was that there was only one -- I mean
2 there is no debate that there is only
3 one qualifying party for ACCI.

4 COURT: I think that probably was
5 the testimony.

6 MR. BERL: I think so. He said
7 absolutely positively Section C was how
8 he determined he qualified for ACCI.

9 COURT: I mean, it is undisputed
10 and let me make sure so perhaps we can
11 stipulate to some of this and cut
12 through some of this. Mr. Berl, it is
13 undisputed that the primary qualifying
14 party for ACCI is Mr. Laughlin, right?
15

16 MR. BERL: Boyd Laughlin.

17 COURT: Is that correct?

18 MR. BERL: No doubt about it, Your
19 Honor.
20

21 COURT: And it is undisputed that
22 he does not work full time for ACCI?

23 MR. BERL: That is correct. He
24 works for two different companies,
25 that's correct, sir.

1 the primary qualifying party and what
2 his position is with ACCI.

3 MR. BERL: I think Mr. Laughlin has
4 clearly stated what his position was
5 with ACCI and he is the primary
6 qualifying party and I would stipulate
7 to his testimony being an accurate
8 accounting of what his role is with ACCI
9 and that he is the qualifying party and
10 has been for eight years.

11 COURT: That stipulation is on
12 behalf of your client, ACCI?

13 MR. BOLCHOZ: Yes, I think that ---
14 I don't think Mr. Baroni has any
15 objection, do you Mr. Baroni?

16 MR. BERL: No, I do not.

17 COURT: You would concur with that?

18 MR. BOLCHOZ: I don't even know
19 that I understand that stipulation, Your
20 Honor. When I was talking to Mr.
21 Laughlin yesterday and after the parties
22 went outside and took a break and he
23 conferred with his attorney during his
24 testimony, I mean he came back in -- I
25

1 found the tenure of the testimony to be
2 somewhat different than what it was
3 before and I am not sure that he didn't
4 -- I don't have all my notes in front of
5 me about what he testified -- I am not
6 sure that he didn't contradict some of
7 his own prior testimony including
8 testimony that he gave in his deposition
9 earlier this year.

10 MR. BERL: Your Honor, I take great
11 exception to any insinuation that his
12 testimony was altered in any way. I
13 spoke to him solely about the aspects of
14 his privilege and whether he wished to
15 waive it and that's what he said he
16 wanted to do because he didn't feel he
17 violated any rules and that's what he
18 was going to do.

19 MR. BOLCHOZ: I made no such
20 insinuation, Your Honor.

21 COURT: Let's get to whether or not
22 there is a stipulation available, it
23 might save us some time and also clean
24 the record up with regard to all of
25

1 MR. BERL: That's correct. Those
2 are accurate.

3 COURT: Is that the way you recall
4 the testimony as well?

5 MR. BOLCHOZ: Yeah, I mean -- I
6 recall that he said he wasn't sure if he
7 had ownership or not despite Mr.
8 Baroni's testimony that he does not.

9 COURT: Okay, well on behalf of
10 ACCI and Mr. Laughlin, is it stipulated
11 that he has no ownership in ACCI?
12

13 MR. BERL: Is that correct, Mr.
14 Baroni?

15 MR. BARONI: Yes, sir.

16 COURT: Okay, so what is also
17 undisputed and stipulated as I
18 understand it is ACCI has one qualifying
19 agent that being the primary qualifying
20 agent Mr. Laughlin, right. We have an
21 attorney Laughlin so I keep mixing them
22 up, but Mr. Laughlin is the primary
23 qualifying agent and in fact the only
24 qualifying agent of ACCI. He is not
25 employed there full time and does not

1 have an ownership interest although at
2 some point in the past he may have been
3 an officer of the corporation years ago
4 predating this suit and this cause of
5 action. Is that correct, Mr. Berl?

6 MR. BERL: I believe it is but I
7 want to make sure with my client. For
8 the general contractor. Mr. Baroni has
9 his own licenses to do all kinds of
10 other work, sir. For the general
11 contractor's license, that is correct,
12 sir.

13
14 COURT: Under 230 and 240 the only
15 qualifying party is Mr. Laughlin?

16 MR. BERL: Yes, sir.

17 COURT: Let me ask you this Mr.
18 Bolchoz, is that -- I am not going to
19 cut you off from asking questions, but
20 in an effort to shorten things up, does
21 that leave any questions you were going
22 to ask under this issue. Certainly you
23 have a number of other questions.

24
25 MR. BOLCHOZ: It does with regard
to 230 and 240. I had asked yesterday,

1 A. No, that's where we were at the time at the
2 deposition you asked me the question.
3 Q. Okay.
4 A. I gave you an honest answer.
5 Q. Has that changed since the time of the deposition?
6 A. No, it has not.
7 Q. Is it your testimony then that sometime prior to
8 my deposition Mr. Laughlin owned shares in ACCI?
9 A. I believe he did.
10 Q. Okay, when did he own shares in ACCI?
11 A. When we first started it up eight years ago.
12 Q. And does he have a certificate for those shares?
13 A. Yes, he would have certificates.
14 Q. So he -- I am sorry, go on.
15 A. No, I am sorry, go ahead.
16 Q. And so he sold those shares to somebody?
17 A. I believe he gave them back to the corporation so
18 I could give them to my children at a business annual
19 meeting.
20 Q. Okay, is ACCI a sub S corporation?
21 A. Yes, it is.
22 Q. So you submit a schedule to the taxing authorities
23 every year to inform them who the shareholders are?
24 A. Yes, we do.
25

1 yes, he does not work forty hours a week
2 with them.
3 COURT: Well any common definition
4 anyone would come up with it is not full
5 time employment with ACCI.
6 MR. BERL: Then we got the
7 stipulation.
8 BY MR. BOLCHOZ:
9 Q. So Mr. Baroni, ACCI is not in compliance with
10 Section A(2), is it?
11 A. He does not have full time employment in a
12 responsible management position, okay.
13 Q. So the answer to my question, is yes?
14 A. Section A(2), yes.
15 Q. And look at subsection B for me, can you read that
16 sentence?
17 A. "To qualify for a license an entity must submit" -
18 -
19 Q. And then read Section 6 for me.
20 A. "Proof that the entity's primary qualified party
21 in each classification is an employee in a responsible
22 management position."
23
24
25

1 I am trying to go by his prior
2 testimony.

3 COURT: Well why don't we do this?
4 What options were you offered Mr.
5 Baroni?

6 A. In July -- when I got receipt for the letter I
7 called the Chief of Investigation Mr. Ido and asked him
8 to tell me what this is all about and to also further
9 tell me what I could do and needed to do. He offered
10 me two possible scenarios. One I could ask for a
11 hearing. When I ask for the hearing I would -- he
12 suggested I probably should bring a lawyer with me and
13 come up to Columbia and sit down with the licensing
14 committee or board or whatever it is and explain my
15 position or --
16

17 MR. BOLCHOZ: I am going to object
18 to this. That's hearsay actually what
19 he is talking -- what he just testified
20 to.
21

22 MR. BERL: He is answering what
23 options the guy gave him.

24 MR. BOLCHOZ: That's not what I
25 asked him.

1 COURT: All right, so back on the
2 record. I think when we left we were
3 considering the admissibility of the
4 Investigative Review Committee Summary
5 Report. The question is under 40-11-190
6 is this an investigation or a proceeding
7 which would be confidential and if it
8 is, was the confidentiality waived and
9 therefore the document is admissible by
10 virtue of the fact that it was included
11 in discovery but not entered on
12 privilege log. Is that a summary of
13 where we are?

14 MR. BERL: And my second objection
15 also Your Honor it is not authenticated
16 and it is hearsay.

17 COURT: What are your thoughts
18 again, Mr. Bolchoz?

19 MR. BOLCHOZ: On which point?

20 COURT: On both of them.

21 MR. BOLCHOZ: Oh, I agreed with
22 your assessment about -- I think if
23 there is any privilege that attached to
24
25

1 this document it has been waived because
2 it was sent to me by counsel for the
3 Defendants and I didn't receive any
4 privilege log during the past few years
5 of this litigation, and certainly
6 nothing reflected that this was
7 privileged and I think it is just -- I
8 think it is waived.

9 As far as the second, I mean I
10 think I can lay a foundation. I think I
11 can authenticate it. I mean again
12 considering that I got it from opposing
13 counsel so --

14
15 COURT: Well let me clarify -- I
16 didn't mean that was my assessment of
17 it. I just meant that was the question
18 floating around out there.

19 MR. BOLCHOZ: Oh --

20
21 COURT: You just said that you
22 agreed with my assessment of it.

23 MR. BOLCHOZ: Oh, okay.

24 COURT: That may be my assessment,
25 but I didn't mean it to come out that
 way.

1 MR. BOLCHOZ: Right, I understand
2 what Mr. Berl's objection is and I
3 understand he is basing it on that code
4 section and I think -- I guess again my
5 position is if there --- I don't
6 necessarily agree that it is privileged
7 and if there is a privilege I believe it
8 is waived.

9 COURT: What does 4-11-20 say?
10 That seems to be - Does anybody have it?
11 I can find it.

12 MR. BOLCHOZ: I think a copy of
13 that is attached to their Motion -
14

15 MR. BERL: I don't know if I gave
16 you 11-20, Judge, because -- I agree.

17 MR. BOLCHOZ: It is definitions
18 under the contractor's section.

19 COURT: Sanctions. I think I am
20 going to exclude it as confidential. I
21 don't even know if Mr. Baroni as a
22 defendant can waive a particular
23 confidentiality of an investigation so
24 anyway I will exclude it.
25

1 MR. BOLCHOZ: Your Honor, not to
2 belabor the point but if I may, I think
3 you said he can't waive the privilege,
4 who does the -- I mean under the code
5 section who does the privilege belong
6 to?

7 COURT: Well it is the
8 confidentiality, not the privilege
9 because I think the privilege refers to
10 the 40-11-190. I was referring more to
11 the confidential investigation
12 proceeding conducted under this chapter
13 as confidential. I guess the question
14 is, can the LLR, it is a little bit like
15 this ethics thing going on in the
16 Supreme Court right now we don't have an
17 answer to yet, but I don't know. I mean
18 I am not given any guidance as to
19 whether or not, only the LLR can waive
20 their own internal confidentiality.
21 Unless you all can point me to a code
22 section that helps me out there, I think
23 I probably have to err on the side of
24 caution with regard to confidentiality
25

1 A. Yes, sir.

2 Q. Okay and then there is a line underneath there that is

3 typed in Associated Construction Consultants, Inc. and

4 Robert Baroni, Respondents. You see that?

5 A. Yes.

6 Q. Is that your signature above there?

7 A. Yes, it is.

8 Q. And what's the date that you signed this document?

9 A. 9/07. It looks like a 4 before, I am not sure which.

10 Q. Okay, looks like September of 2007?

11 A. Yes, sir.

12 Q. Now with this Consent Agreement the LLR found that you

13 and ACCI engaged in license lending, correct?

14 A. Yes, that's what this says.

15 Q. And by this Consent Agreement you also admitted to a

16 violation of the South Carolina Code Section 40-11-110(A),

17 correct?

18 A. I don't know what you are referring to. Yes, it does

19 say that down here.

20 Q. Well look at where it says "Conclusions of Law."

21 A. Yes.

22 Q. On the first page.

23 A. Yes.

24 Q. Can you read that?

25

1 A. Yes. "Respondent did respond to actions in this matter
2 is in violation of the South Carolina Code of Law something
3 40-11-1-(A) (9), 1976 as amended, and that the conduct in
4 this matter constitutes sufficient grounds for disciplinary
5 or corrective action. Respondent waives any further
6 Conclusion of Law with respect to this matter."
7 Q. Okay, thank you. So you understood by signing this
8 Agreement that you were admitting to the violation of that
9 code section, correct?
10 A. Yes.
11 Q. And you understood by signing this Agreement that you
12 were consenting to the LLR punishment, correct?
13 A. Correct.
14 Q. And you understood by signing this document that you
15 waived any further Conclusions of Law on the part of the
16 contractor's licensing board in this matter, correct?
17 A. Yes.
18 Q. And go above Conclusions of Law under Findings of Fact
19 for me please?
20 A. Yes.
21 Q. Read Number 3 for me.
22 A. "Respondent waives any further Findings of Facts with
23 respect to this matter."
24
25

1 Q. And you understood that in signing this document that
2 finding meant that you and ACCI had full knowledge of a
3 right to a hearing, correct?
4 A. I had full knowledge that they offered me two options.
5 One was to have a full hearing up in Columbia with a lawyer
6 present and in checking with my lawyer he wanted \$8,000 to
7 \$10,000 sum of money to go up and represent me at this
8 hearing or I could sign this document which would basically
9 say that I would be put on probation for one year and that I
10 would pay a thousand dollars and I treated this -- at the
11 time looking back now I probably should have done that but
12 what I did do I treated it as like if I had gotten a ticket
13 up in Podunk City I might not think I was speeding, but I
14 would send them the money and pay for the ticket. It is the
15 same thing I did here. I mean looking back, it was a bad
16 decision on my part, but it was the only thing I could do.
17 I didn't have the eight to ten thousand dollars to give
18 Frank Clabaugh to represent me and go up to a hearing and
19 take time off work, which would have cost me money to fight
20 something when I thought the least problems would be caused
21 by signing this. I don't have these problems. I never had
22 that problem. I don't have it now. I didn't feel I was
23 guilty anyway but I will pay the \$1,000.00, have my license
25

1 Q. And you never inspected the premises?
2 A. That is correct.
3 Q. And you never followed up on what Jamie Brown was doing
4 on the project?
5 A. I had no knowledge the project was even going on.
6 Q. And you never appeared on site during the course of the
7 project to supervise or inspect or direct Mr. Brown, is that
8 accurate?
9 A. Yes, because I never even knew the project was even
10 going on.
11 Q. Now you didn't appeal the findings in this Consent
12 Agreement, did you?
13 A. I did not appeal. What I did initially is send them a
14 letter stating exactly what had happened.
15 Q. And we reviewed that letter previously right?
16 A. Yes. You mentioned the letter.
17 Q. I believe that letter was Exhibit 11, Plaintiff's
18 Exhibit 11 correct?
19
20 MR. BERL: That is correct, Your Honor,
21 I will stipulate that is correct.
22
23 A. Correct.
24 Q. I have no more questions.
25 BY MR. BERL:

1 record and your objection is of course noted,
2 so you may continue.

3 MR. BERL: Your Honor, let's go ahead
4 and just make that a continuing objection so
5 we don't have to have Mr. Bolchoz interrupted
6 at each and every question. Would that be
7 all right with you, sir?

8 COURT: It is all right with me if it is
9 all right with Mr. Bolchoz.

10 MR. BOLCHOZ: That's fine. I agree with
11 that.
12

13 BY MR. BOLCHOZ:

14 Q. All right, so would you read that letter -- have you
15 read that thing in its entirety, sir?

16 A. Yes.

17 Q. My question to you, was this an admission as asserted
18 by Mr. Bolchoz in his questioning of you, or was it an
19 explanation to Mr. Ido of what transpired here?
20

21 A. I was trying to tell Mr. Ido exactly the sequence of
22 what took place.

23 Q. And is that why you began by telling how Jamie Brown
24 came to your office?

25 A. I went through the facts of the matter.

1 Q. Now sir, if you will look at paragraph 4 of that, okay,
2 you are stating that ACCI in the next to last sentence -
3 "ACCI did tell Mr. Brown we could use my license on both to
4 perform what was described by Mr. Brown and D&M Coastal
5 Property Management Company on a small job." Is that
6 correct?
7 A. Yes.
8 Q. All right, you go on to say, "ACCI never reviewed any
9 drawings, specifications, or scope of work." You go on to
10 further say, "ACCI did not do anything else in terms of
11 submitting a permit", etc., etc., etc. Now why were you
12 explaining to him what you did not do?
13 A. Because normally what would happen in this matter is if
14 I had reviewed the drawings and the drawings and the
15 specifications when Jamie first came to my office he was
16 rattling off the job to me with no documents, nothing to
17 look at it. I said Jamie to do -- for me and you to do this
18 job together we are going to have to have a series of things
19 done. One, is to go get some drawings; two, to get me a
20 scope of work or contract of what is going to be done. If I
21 were to review those drawings and he had brought them back
22 to my office, I would have reviewed the drawings. The first
23 thing after that would have been -- what I was trying to
24 explain here, I would have then sent a contract out to Dr.
25

1 Esquerra listing my company as the contractor because under
2 the rules of South Carolina and being a contractor, I would
3 have treated this like a subcontractor to me. The checks
4 would have to be drawn and sent to me and me to disperse the
5 money to Mr. Brown's company.

6 Q. That's the way it is supposed to work if you have the
7 permit in your name?

8 A. That is correct.

9 Q. Then I would take after getting his contract signed, we
10 would come back to my office. I would make out an
11 application and Jamie and I would go down to the Town of
12 Hilton Head and show the drawings to whoever was in charge
13 in the building department either Richard Madison or now
14 Richard Spruce. He would review them. I would pay a permit
15 fee with a company check from my company.
16

17 Q. Why a company check from your company?

18 A. It is a requirement in Hilton Head now and always has
19 been that the check must be drawn from the same person as --
20 - and the same company -- company not person, company that
21 appears on the application as the person acquiring the
22 permit.
23

24 Q. Did that happen in this case?

25 A. No, sir.

Q. Never pulled this permit?

1 A. No, sir. Never made application. That's what I am
2 trying to explain here. I never made application.
3 Basically Jamie came to my office. I sent him away. He
4 never came back. That was it.
5 Q. Would there have been any reason for you to go looking
6 for Jamie after he didn't come back?
7 A. No. If the guy doesn't come back to my office I
8 figured the job's not going to go forward, it's over. I
9 mean it's done, we are not going to be doing the job
10 together. You know, that's the facts.
11 Q. Now, Mr. Baroni, did you write this letter to Mr. Ido?
12 A. Yes I did.
13 Q. Did you talk to an attorney about possibly writing the
14 letter for you?
15 A. Yeah, I called Frank Clabaugh who was my attorney at
16 the time and said you know I want to write a letter
17 explaining everything that had happened and you know he said
18 --
19
20 MR. BOLCHOZ: Objection, hearsay.
21 A. I am sorry. He advised me.
22 MR. BOLCHOZ: No, no. Objection.
23 MR. BERL: I will ask another question.
24 You can't say what he said.
25 BY MR. BERL:

1 administrator -- one of the administrators of PAI or Sally
2 Warren at the time or David Hollard or David Carroll they
3 were all property managers and I would see his truck and he
4 would be working on it, that's all.

5 Q. Okay, when you say he is a competitor was that with
6 regard to your lesser licenses?

7 A. Yes. I mean there are jobs that I was asked to bid on
8 since he was painting a building later on in the last --
9 probably the last five years and Jamie would be there or
10 fixing a step and Jamie was asked to give a price for it or
11 Southern Services, not Jamie, but Southern Services was
12 asked.
13

14 Q. Did you do anything more in this matter than tell Mr.
15 Brown to go to Greg Beste and get some plans and specs drawn
16 up to show the job and bring it back to you for review. Did
17 you anything further on this entire matter?

18 A. No.

19 Q. Did you feel you had any duty to chase Jamie Brown down
20 and find out what happened to the job?
21

22 A. No because I didn't know that the job was going on.

23 Q. Now between the time Jamie started the job and the time
24 you suddenly received a call from Frank Hodge in the Fall of
25 2000 or actually it was the spring of 2006, is that correct?
Summer, 2006?

1 MR. BERL: Objection, Your Honor.
2 Characterization.

3 MR. BOLCHOZ: I am not characterizing
4 anything. I am asking him a question.

5 MR. BERL: Well he has to define what is
6 a great familiarity with the legal process,
7 Judge.

8 COURT: I don't suppose he could answer
9 I don't know, but be more specific.

10 BY MR. BOLCHOZ:

11 Q. Do you have a lot of experience with legal proceedings,
12 Mr. Baroni?

13 A. Only as far as what?

14 Q. Okay, well you have had your deposition taken 150
15 times, haven't you?

16 A. Yes.

17 Q. And most of those times was as an expert witness?

18 A. Yes.

19 Q. Okay, but it is your testimony here today before the
20 Court that you saw no ramification to you signing the
21 Consent Agreement with the LLR admitting to license lending?

22 A. I didn't think anything but I thought \$1,000 gets me
23 out of the problem. I am going to be put on probation for a
24 year. I am thinking, hell pay the thousand bucks and I
25

1 don't have to drive up to Columbia. I don't have to take a
2 lawyer, go to a hearing. I was busy at the time and I am
3 thinking the lesser of two evils -- you know it is over and
4 done and that's it. I mean that's the thing. I sent my
5 facts of what happened. I fired that to them, which is this
6 and I felt hey these are the facts. How you read the facts
7 are facts and that's exactly what happened. I mean I can't
8 be any more direct or honest about it.

9 Q. Well you knew that you were being or that your
10 admission to license lending related to the work that Jamie
11 Brown did on Dr. Esquerra's renovation, did you not?

12 A. No, what I sent them is this facts. This is what
13 happened. This is truly what happened. How they read this
14 and worked out their finding is off of what really happened
15 and this is what happened.

16 Q. Right and in that letter you discuss -- you discussed
17 Mr. Brown and his work on Dr. Esquerra's property.

18 A. No what I said to him -- what it says in this letter it
19 says very clearly. Jamie came to my office. Jamie came the
20 second time to my office after Westerland called, and I told
21 Jamie at that time, yeah we could do the job. We could use
22 my license to form what was described by Mr. Brown on a
23 small job. When he came here he had nothing in his hands.
24 He had no drawings. He started explaining. I said hey,
25

1 Jamie I don't know what the hell. You got to have drawings.
2 I got to see documents. I got to know the scope of work. I
3 got to get a contract for Dr. Esquerra. It is going to be
4 on my sheet. Go see Greg Beste. Come back -- when you get
5 done with Greg Beste you come back and see Bob. I will go
6 down to the Town with you -- I will look over, I will review
7 all the documents. If everything is in order the two of us
8 will go down and I will make out the application. I will
9 meet with Richard Madison or Richard Spruce. I can't
10 remember who it was, probably Richard Madison at that time,
11 you know and we will do the job. But a lot of things -- I
12 mean this is exactly what happened. These are the facts and
13 you know that's what I tried to do. I tried to write a
14 letter, maybe not the best written letter I ever wrote in my
15 life; Maybe not the worst. But you know that's what I sent
16 them and based on that they said it was license lending. I
17 don't think it is, but that's what they said. Was I going
18 to go and fight that license lending and spend \$10,000 of
19 which I don't have. Go drive up there, spend a couple of
20 days up there or was I going to charge a fee -- I said to
21 them -- or I asked them what would be the ramifications.
22 The guy said hey you are going to be put on probation for
23 one year. Probation for one year, hell I have never done
24 anything wrong. Why would I be concerned. I pay \$1,000 is
25

Nancy Heath - Direct Examination by Mr. Berl

1 before we broke for lunch and I made an
2 objection as to -- I don't believe that
3 you ever ruled on it. I want to make
4 sure that it was on the record my
5 objection as to the testimony from this
6 particular witness.

7 COURT: And the objection was?

8 MR. BOLCHOZ: Well the objection
9 was that Mr. Berl had indicated that he
10 was calling this witness Ms. Heath for
11 rebuttal testimony.

12 COURT: I understand. She was not
13 disclosed on the list of witnesses, is
14 that right?

15 MR. BOLCHOZ: She was -- well it
16 wasn't just that she was not disclosed
17 but also he was calling her apparently
18 he indicated to the Court for a specific
19 purpose. The purpose of which had been
20 -- the reason for which had been
21 addressed in my deposition of Mr.
22 Lacombe back in May and he indicated he
23 needed to provide this rebuttal
24 testimony because he was not aware until
25

1 the trial this week that we could not
2 stipulate as to Town customs or whatever
3 that was. My objection was that of
4 course he knew that I had a witness as
5 far back as last May that had indicated
6 something other than what he is
7 proffering today and that in conjunction
8 with the fact that I didn't have any
9 notice of this witness.

10 COURT: Okay and I understand all
11 that and your objection is made for the
12 record, but I will allow her to testify.

13 MR. BOLCHOZ: Thank you.

14 BY MR. BERL:

15 Q. Ms. Heath, what do you do in the plans and
16 permitting process, is that right? The plans and
17 permitting office; is that correct?

18 A. Yes.

19 Q. When a company has a general contractor's license
20 and they come to pull a permit from you, okay, what is
21 the process according to Town policy?

22 A. The policy is that the owner can come in and pull
23 a permit or a contractor can come and pull the permit,
24 and an agent for the owner which is normally the
25

Nancy Heath - Direct Examination by Mr. Bolchoz

1 contractor, or one of his employees can come and pull
2 the permit. The permit is normally signed by either
3 the owner or the contractor or an agent for that
4 contractor.

5 Q. Do you have the wherewithal in the Town of Hilton
6 Head to check the names of agents of contractors?

7 A. No.

8 Q. So what safeguard has the Town put into place to
9 try to insure that when someone pulls a permit in the
10 name of a company, that it really is that company
11 pulling the permit? What is it that the Town does?

12 A. The policy is that either the -- either the check
13 we receive is from the owner or from that contractor.

14 Q. From the contractor whose contracting name appears
15 -- the licensed company itself.

16 A. Exactly.

17
18 MR. BERL: Okay, thank you, I don't
19 have any further questions. Answer any
20 questions Mr. Bolchoz has.

21
22 BY MR. BOLCHOZ:

23 Q. Ms. Heath I believe that you testified that the
24 check came to you from either the contractor that's
25 pulling the permit or from the owner of the property
where the work is being done?

1 agent because it is so important to insure
2 the qualifying agent for the license has
3 complied and has done these things on behalf
4 of the entity for which he is supposed to be
5 in a responsible management position. So, I
6 am not looking at any one of these in
7 isolation. I mean I am looking, you know, at
8 least with these two particular code sections
9 right together.

10 COURT: All right, so the negligence is
11 based on under 40-11-230 your allegations of
12 negligence are essentially that he had a
13 requirement to supervise under this
14 particular statute and failed to do so.

15 MR. BOLCHOZ: Yes, sir.

16 COURT: And that failing to supervise
17 led to the license lending which led to the
18 shoddy construction.

19 MR. BOLCHOZ: The damages, sir. And
20 also under the negligence per se, Your Honor,
21 in violation of a statute. You can show that
22 the statute -- what the purpose of the
23 statute or the statute is meant to protect
24 people and show a violation of the statute.
25

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PO Box 11329
Columbia, SC 29211-1329

Re: Building Permit BO501162
147 Harborwood Villas
Hilton Head Island, SC 29928

Dear Mr. Ido,

I am writing you this letter in response to a letter that I received from Mr. Jorge Esquera, MD, the owner of the above referenced address.

We were hired by Mr. Esquera to perform a facelift renovation to his Harborwood villa that would include new tile floors, new cabinets both kitchen and bath, new doors, painting, adding recessed lights in the living room and bedrooms and enclosing an existing screen porch. Drawings and specifications were submitted and approved by The Town of Hilton Head. Richard Madison who worked for The Town of Hilton Head at that time advised me to find someone with a commercial general contractors license to let me use their license to perform this job. At that time I approached Mr. Robert J. Baroni from ACCI who was the property managers construction consultant who obliged to help me.

Southeastern Services started the job and had a good relationship with the homeowner. The work admittedly progressed slowly, but did progress. Some of the delays were not our fault for instance, countertops ordered and paid in full in October were not installed until late January. Throughout the project the only complaint Mr. Esquera ever had was that it was taking so long, and even then he never made a big issue out of it. The breakdown in our relationship came on one of his trips down here when a request for a draw was made and he refused, at which time I informed him that we were a small company and that I had to go and work on another job in order to make payroll and that we would return to his job in a few days. He immediately sent me an e-mail saying that we were no longer working together and that my tools would be out in the front of his villa. I made several calls to him and left messages that were never returned. At that time I just assumed that we were going our separate ways and that he would get someone else to finish the job which was very close to completion and still had plenty money left on the original contract.

It was a surprise to me when the letter was received because there has been no contact between Mr. Esquera and Southeastern Services since that day that he sent the e-mail. His letter is full of complaints that were never brought to anyone's attention while we were on the job with the exception of the roof leak. There are some facts in his letter that are incorrect.

1) Southeastern Services did not perform the electrical work on this job, it was performed by Brendlin Electric a company licensed by The Town of Hilton Head and The State.

2) Southeastern Services did not perform the plumbing on this job, it was performed by Padgett Plumbing a company licensed by The Town of Hilton Head and The State.

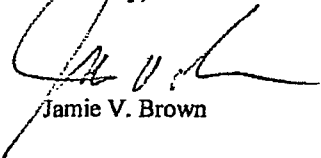
3) There is a known roof leak in the master bedroom and the sub contractor, Star Roofing was not paid because it leaked and they did not respond to several calls regarding the job they did.

4) The reference Mr. Esquera makes to a "sagging beam" is incorrect as no beam was ever installed or worked on.

In summary, I feel that all of his concerns would have been resolved if we had been allowed to complete the job. Southeastern Services was never given the opportunity to answer to any of these complaints and is being unfairly portrayed as an un reputable contractor. We have been working on Hilton Head Island for almost ten years and have never had a problem. We have been hired by The Town of Hilton Head to perform work for them at Town Hall and on several other occasions before and since Mr. Esquera's project.

Please call me at 843-290-3282 if you have any questions or suggestions on how to resolve this matter as we have had no contact with Mr. Esquera.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jamie V. Brown', written over a horizontal line.

Jamie V. Brown

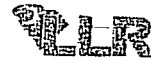


Mark Sanford
Governor

Adrienne Riggins Youmans
Director

South Carolina
Department of Labor, Licensing and Regulation

Division of Legal Services
Office of Investigations and Enforcement



110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329
Phone: (803) 896-4470

FAX Information
Office of Investigations (803) 896-4650
Wages and Child Labor (803) 896-7680
www.lhr.state.sc.us

July 26, 2006

Mr. James Brown III
Southeastern Services
90 McGill Ln
Ridgeland SC 29936

RE: Citation for Case # 2006-358 - Violation of State Licensing Law

Dear Mr. Brown:

It has come to the attention of this office that you submitted a proposal / estimate to Jorge V. Esguerra, 147 Harborwood Villas, Hilton Head Island SC for a job/project at this address. In checking our records, we did not find a Residential Builders License issued to James Brown III, dba- Southeastern Services and our records did show that James Brown III, dba- Southeastern Services to have a Residential Specialty License Registration in painter/wall paper, carpentry, and drywall without a bond.

Enclosed is a citation for \$500 for the violation of Section 40-59-240(D) of the South Carolina Code of Laws for undertaking a specialty contract that exceeds \$5000 without bond for construction and \$500 for the violation of Section 40-59-240(A) for contracting outside the scope of registration. This citation also carries a Cease and Desist Order clause requiring that you cease the conduct for which you are being charged until such time you become properly registered or licensed as required by law. You have ten calendar days from receipt of this citation and notification of penalty to request in writing an administrative review. The appeals procedures are printed at the top of the enclosed citation. Failure to make a timely request for review will result in the citation becoming final order of the Residential Builders Commission.

Should you have any questions pertaining to this matter, do not hesitate to call. Your cooperation is greatly appreciated.

Sincerely,

D. Alvin Messervy, Investigator
Office of Investigations and Enforcement

Cc: Jorge V Esguerra

File

Enclosure: Citation # 0482



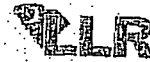
Mark Sanford
Governor

Adrienne Riggins Youmans
Director

South Carolina
Department of Labor, Licensing and Regulation

Division of Legal Services
Office of Investigations and Enforcement

July 26, 2006



110 Centerville Drive
Post Office Box 13329
Columbia, SC 29211-1329
Phone: (803) 896-4470
FAX Information
Office of Investigations (803) 896-4656
Wages and Child Labor (803) 896-7680
www.llr.state.sc.us

Mr. James Brown III
Southeastern Services
90 McGill Ln
Ridgeland SC 29936

RE: Citation for Case # 2006-358 - Violation of State Licensing Law

Dear Mr. Brown:

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Sincerely,

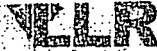
D. Alvin Messervy

D. Alvin Messervy, Investigator
Office of Investigations and Enforcement

Cc: Jorge V. Esguerra

File

Enclosure: Citation # 0482



S.C. DEPARTMENT OF LABOR, LICENSING AND REGULATION
RESIDENTIAL BUILDERS COMMISSION
P.O. Box 11329
Columbia, SC 29211-1329

CITATION AND NOTIFICATION OF PENALTY
NOTICE TO CEASE VIOLATION OF LAW

TO:

Arthur Brown III
South Carolina
90 Hillside Lane
Rock Hill, SC 29730

Issuance Date: 7-27-90
Citation #: 252
Investigator: John C. Smith

This citation describes alleged violation of §40-59-5, et seq., South Carolina Code of Laws, 1976, as amended. The penalties listed are based on these violations. You must pay the proposed penalties pursuant to §40-59-105. Any citation and/or penalty assessed by a representative of the South Carolina Department of Labor, Licensing and Regulation may be appealed by requesting, in writing, an administrative review. Such requests must be addressed to: Residential Builders Commission Administrator, South Carolina Department of Labor, Licensing and Regulation, P.O. Box 11329, Columbia, SC 29211-1329, and must be mailed within 10 calendar days from receipt of this Citation and Notification of Penalty. This citation concerns application of the South Carolina Residential Builders Act and Regulations and does not necessarily resolve all aspects of any disciplinary action currently pending before the Board or which may be filed in the future. Failure to make a timely request for review will result in the citation becoming a final order of the Residential Builders Commission.

Case # 2000-552

ITEM	SECTION(S) VIOLATED	DESCRIPTION	PENALTY
	§40-59-220	Unlicensed practice. Practice of Residential building at: on: _____	
	§40-59-220	Unlicensed practice of Specialty contracting at: on: _____	
<u>✓</u>	§40-59-240(A)	Practice of Specialty contracting outside the scope of the registration. (S.C. Regulation 106-3) at: <u>147 W. Lawrence Drive, Rock Hill, SC</u> on: <u>11-15-84</u> by engaging in: <u>Remodeling, Electrical and Plumbing</u>	<u>500.00</u>
	§40-59-240(C)	Failure to obtain a building permit for construction at: _____	
<u>✓</u>	§40-59-240(D)	Undertaking a Specialty contract which exceeds \$5000 without bond for construction at: <u>147 W. Lawrence Drive, Rock Hill, SC</u>	<u>500.00</u>
	§40-1-110(c)	Aiding or abetting violation of licensing requirements by: _____	

I certify that I explained the requirements of law and that the respondent must immediately cease and desist from further violation until such time, if ever, as proper authorization is issued by the S.C. Residential Builders Commission. I also provided the necessary application forms to be completed and forwarded to the Commission by the respondent.

John C. Smith
signature of Investigator/Administrator/Assistant Administrator/Supervisor

TOTAL PENALTY
1000.00

copy received:

Disposition:

Signature of Respondent

Presiding Officer

Please make check or money order payable to S.C. Department of Labor, Licensing and Regulation, and indicate citation number on remittance.

Rev. 3/03

Jamie Brown
90 McGill Lane
Ridgeland, SC 29936
July 20, 2007

Mr. Jorge V. Esguerra
2421 Brentwood Road NW
Canton, Ohio 44708

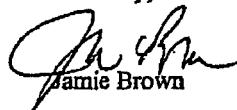
Dear Mr. Esguerra,

I am writing you this letter in response to the summons that I received from your attorney Sean Bolchoz. I want to first say that I deeply regret that this situation was ever allowed to get to the point where attorneys had to be hired. I truly feel that each and every problem or complaint could have been taken care of had the two of us just sat down and talked about it. I never did anything to intentionally hurt you or your family in regards to the work that was done in your villa. Throughout the entire project we had a good relationship and you even commented on how good the villa looked. All of the complaints would have been resolved upon a final walk through, I would not have left the job until you were happy. This is extremely upsetting to me because, it is my character and the way I was raised to have done anything in my power to have made you happy before I left your job.

As far as Mr. Baroni's involvement, he did nothing more than a favor for me to help expedite the whole process of obtaining a permit and approval from the board, which if you will recall was quite a fiasco given that they were under investigation for embezzlement. Getting Mr. Baroni involved was a decision made by me after Richard Maddox from the Town of Hilton Head suggested doing so. It is with deep regret and many sleepless nights that I ever asked for that favor.

In closing, I just want to tell you that I am sorry that it came to this. I do not have the money to hire an attorney nor do I have any assets that I could offer you to keep this from going to court. If there was anything I could do to make this right I would and will if you have any suggestions. I contacted your attorney to try to work something out, but he told me that I needed to seek legal counsel to which I did and cannot afford. I am not writing this looking for sympathy, I am simply stating the facts as they are. I live a very simple life with little money and no assets. I am sorry it ever got to this point, and will gladly do whatever I can to make you happy. Please feel free to contact me.

Sincerely,



Jamie Brown

July 20, 2007

Dear Mr. Esquivel,

I am writing you this letter in response
to the summons that I received from your
attorney Sean Bolchay. I want to first
say that I ~~am~~ deeply regret that this
situation ~~was~~ was allowed to ever get to
the point where attorneys had to be hired.
I truly feel that each and every problem
or complaint would have been taken care
of had the two of us just sat down and talked
about it. I never did anything to willfully
hurt you or your family in regards to the
work that was done in your villa, ~~without~~
~~going in to the specifics, we both had~~
~~the same concerns specifically of the tile~~
~~to the~~ Throughout the entire project
we had a good relationship and you ever
commented on how good the villa looked.
All of the complaints would have been resolved
upon a final walk through. I would not
have left the job ~~if~~ you were happy.

and that is a fact because that is my character and is the way that I was raised.

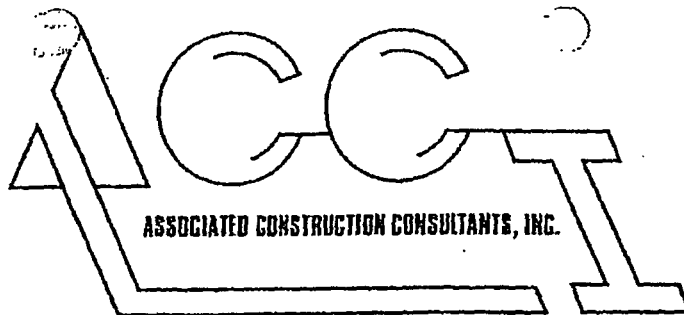
As with regards to Mr. Baroni, ~~and~~ ~~his~~ his involvement in this was nothing more than doing me a favor to help expedite the whole process of obtaining a permit and approval from the Board, which if you recall was quite a process given that they were under investigation for embezzlement. ~~I know that by law it is illegal to practice business banking, but it happens.~~ Noting Mr. Baroni's involvement was a decision made by me after Richard Maddox for the Town of H. had suggested doing so. It is with deep regret and many sleepless nights that I even asked for that favor.

In closing, I just want to tell you that I am sorry that it came to this. I do not have the money to hire expensive attorneys nor do I have any assets that I could offer you. If there was anything I could do to make this right I would and will. If you have any suggestions in mind, I contacted your attorney several weeks ago to try to work something out but he told me that I needed to seek legal counsel.

3
which I did and cannot afford it. I
am not writing this looking for sympathy,
I am simply stating the facts and they
are, ~~I have~~ I live a very simple life
with little money and no assets, I would
have made everything worse and I am
sorry it ever got to this point. ~~The~~
~~only legal counsel that I sought was the~~
~~one who~~ If there is ~~anything~~ anything that
I can do to make you happy, please
contact me, ~~if~~

Sincerely
James V. R.

CORPORATE HEADQUARTERS
306 Clemons Road
Brandon, Florida 33510
(813) 653-3236
1-800-828-0009
Fax (813) 689-7623



SOUTH CAROLINA BRANCH
21 Dillon Rd., S.
Hilton Head Is.
South Carolina 29928
(843) 342-9984
Fax (843) 342-5
Cell # (843) 384-2
E-Mail Bmmmmmb@aol.com

July 12, 2006

Charles Ido
Chief of Investigations
Office of Investigations and Enforcement
110 Center View Drive
PO Box 11329
Columbia, SC 29211-1329

Re: Building Permit B0501162
Addr: 147 Harbourwood Villas
Sea Pines
Hilton Head Island, SC 29928

Dear Mr. Ido:

I am in receipt of a letter dated July 3, 2006, from Mr. Jorge Esquerro, MD, the Owner of the above referenced address.

Mr. James Brown stopped by my office by way of the property manager at the time D&M Coastal Property Management Company to ask me if I was interested in doing work at Harbourwood Villas. ACCI declined to do work. Mr. Brown then advised me that he had met with Town of Hilton Head, Richard Madison, who had advised him that he needed to find someone to use their license to perform the work.

James Brown is not affiliated with or ever had a sub-contract of ACCI. Southern Services actually had performed work for many of the same Property Managers as ACCI had and often bid the same work.

ACCI'S relationship to D&M Coastal Property Management Company was that ACCI was the building consultant on numerous projects that they managed. Westerlund called to ask if he could help the owner so that the work can be accomplished. ACCI did tell Mr. Brown we could use my license number to perform what was described by Mr. Brown and D&M Coastal Property Management Company on a small job. ACCI never reviewed any drawings, specifications or scope of work.

ACCI further did not

1. Submit to the Town of Hilton Head an application.
2. Pay for permit.

Record on Appeal

Page No.

3. Pick up a permit.
4. Or aware of any requirement.
5. Had any contact with the Town of Hilton Head or Owner.
6. Received any money.

ACCI was not even aware that work was being performed until about 3-4 weeks ago when I received a voice message to call Frank Hodge. Before I could return the call James Brown stopped by my office and explained to me about the job.

He explained the following:

1. The building the work was performed on is less than six units per building and less than three stories in height.
2. He performed the work as shown on the drawings furnished by Architect Greg Beste and submitted and approved by the Town of Hilton Head.
3. Mr. Brown had submitted a subcontractor roster to the Town of Hilton Head which included:
 - a. Electrical – Brendlen Elec
 - b. Plumbing – Padgett Plumbingwhich both hold a state and Hilton Head license.
4. Mr. Brown did not install nor work on a beam that is mentioned in the Owner's letter and performed no structural work.

Mr. Brown further explained that the only complaint during the job was that the Owner insisted the job be completed prior to Heritage. Mr. Brown said when he asked for the balance owed he received an email from the owner terminating his contract and was not given the opportunity to deal with any of the problems nor did he receive any additional payments.

Mr. Brown, also, stated that he is being portrayed as an un reputable contractor. He continues to be hired to work by the Town of Hilton Head before this letter and since then to perform work over \$5,000 cost.

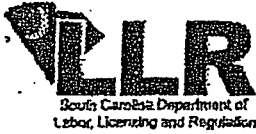
In summary, ACCI again was not involved or received any money or provided any services. ACCI merely tried to help a property manager, owner and contractor out.

Please call me if you have questions at 843-342-9985 office or 843-384-2440 cell.

Very truly your,



Robert J. Baroni
President



Office of Investigation and Enforcement

INVESTIGATIVE REVIEW COMMITTEE (IRC) SUMMARY REPORT

Complainant: RBB **Licensee/Respondent:** Robert Baroni, Associated Construction Consultants, Inc.

Case # 2007-118

Date Received: 06-11-07

Date of Report: 07-02-07

License No. 96184 **Type:** CLG **Status:** Active

Bonded: N/A **Name of Bonding Company:** N/A

Status: N/A

Investigator: Maurice Smith

Person Interviewed: Robert Baroni, Respondent.

License and Complaint History: There are other issues for Robert Baroni, Associated Construction Consultants, Inc.

Summary of the Complaint: The complaint is concerning Robert Baroni, Associated Construction Consultants, Inc. had performed license lending to Jamie Brown (Southeastern Services) a residential builder so he could perform a project that was outside of his license classification.

Investigative Findings: The facts reveal by means of documents and telephone interviews that the Respondent(s) had allowed a non licensed contractor to obtained a permit and started work for \$34,000.00 to perform General Mechanical Contractors work at 147 Harborwood Villas Hilton Head Island, S.C. without being properly licensed (**Licensed Lending**) to perform General or Mechanical contracting work as required by Section 40-11-20 (8)(9)(24) of the 1976 Code of Laws as amended.

Respondent's letter of explanation admits to license lending as did investigators phone interview with the respondent. Respondent stated that he did not perform any work nor received any monies, he was just trying to help the property manager, owner, and a contractor.

NOTE: James Brown was fine by the RBB.

Evidence Gathered:

1. Copy of complaint.
2. Copy of Jamie Brown contract.
3. Copy of Building Permit.
4. Respondent's letter of explanation.

Recommendations: Consent agreement for license lending, \$1,000.00 fine, and one year probation.

Contract Information		Address Memo	
DBA(40 Char): ASSOCIATED CONSTR CONSULTANTS INC.			
FID#	59-3228427	SSN#	
Entity	COR		
General	+	-	
Lic#	96184	##	G-R
status	A	Print	Y
Limit		Class	IR4 BD4
Active: Issue(Date)	10/7/2003	License Fee	0
Inactive:		Penalty	0
Expire(date)	10/31/2006	Fee	0
First Issue(Date)	1/27/1997	Fine	0
Issue(date)	1/1/1900		
Mechanical	+	-	
Lic#	0	##	M-R
status		Print	Y
Limit		Class	
Active: Issue(Date)		License Fee	
Inactive:		Penalty	
Expire(date)		Fee	
First Issue(Date)		Fine	
Issue(date)			
Misc	0	Total Ck	460
Deposit(date)	10/7/2003		
Qualifier	BARONI, ROBERT J	SSN#	~~123456789~~
Qualifier	LAUGHUN, RUFUS	SSN#	~~123456789~~
Qualifier		SSN#	
Grand Father Provision Name		SSN#	
Date	1/1/1900		
Violation		Susp Start	1/1/1900
Susp end	1/1/1900		
Bad Check Notification	NSF 00257 \$525.00		

SC DLLR - Contractor's Licensing Board

Database Prior to July 2005

Contract Information**Address Memo****Mailing Address**

Address: 5 TURRETT SHELL

Print

City: HILTON HEAD ISLAND

State: SC

Zip: 29926

County Code: 07

Phone#: 843-9957

Physical Address

Address: 5 TURRETT SHELL

Copy

City: HILTON HEAD ISLAND

State: SC

Zip: 29926

County Code: 07

Phone#: 843-9957

Fee

MEMO ROBERT J. BARONI, PRES ISSUED CM-176 11/3/00 (TRH)
ADDED BD CLASS & PQP BOYD R LAUGHLIN 9/9/2002 TAG
BOYD R LAUGHLIN QUALIFIES 2 ENTITIES 4/8/2003 TAG
*NSF 00257 \$525.00 11/12/2003 NOTIFIED TAG #

SC DLLR - Contractor's Licensing Board

**S.C. DEPARTMENT OF LABOR, LICENSING AND REGULATION
CONTRACTORS' LICENSING BOARD
CURRENT CLASSIFICATION ABBREVIATIONS &
FINANCIAL PROJECT LIMITATIONS
As of January 1, 2002**

GENERAL CONTRACTORS

MECHANICAL CONTRACTORS

Building	BD	Air Conditioning	AC
Highway	HY (AP, CP, BR, GD, & HI) *	Electrical	EL
Asphalt Paving	AP	Heating	
			HT
Concrete Paving	CP	Lightning Protection	LP
Bridges	BR	Packaged Equipment	PK
Glass & Glazing	GG	Plumbing	PB
Grading	GD	Process Piping	1P or 2P***
Highway Incidental	HI	Refrigeration	RG
Public Utility Electrical	1U or 2U**		
Pipelines	PL		
Water & Sewer Lines	WL		
Water & Sewer Plants	WP		
Boiler Installation	BL		
Concrete	CT		
Boring & Tunneling	BT		
Marine	MR		
Masonry	MS		
Pre-engineered Metal Buildings	MB		
Interior Renovation	IR		
Railroad	RR		
Specialty Roofing	SR		
General Roofing	GR		
Structural Framing	SF		
Structural Shapes	SS		
Swimming Pools	SP		
Wood Frame Structures	WF		

- * The Highway classification "HY" is given to licensees who have passed all of the following exams: AP, CP, BR, GD & HI.
- ** 1U is the Public Utility Electrical classification for those licensed prior to 4/1/99; licenses issued after 4/1/99 will be given the classification as 2U and may not engage in stadium lighting.
- *** Process Piping is designated as 1P prior to 4/1/99. Those licensed in Process Piping after 4/1/99 is designated as 2P and may not engage in boiler work.

FINANCIAL GROUP LIMITATION PER PROJECT

GENERAL CONTRACTORS

MECHANICAL CONTRACTORS

Group 1	\$5,000 to \$ 30,000	Group 1	\$5,000 to \$ 17,500
Group 2	to \$100,000	Group 2	to \$ 30,000
Group 3	to \$350,000	Group 3	to \$ 50,000
Group 4	to \$750,000	Group 4	to \$125,000
Group 5	to Unlimited	Group 5	to Unlimited

SC DLLR - Contractor's Licensing Board

Credential View Screen [update]

[add tickle]

ASSOCIATED CONSTR CONSULTANTS
INC

☒ Public ☐ Mail
ASSOCIATED CONSTR CONSULTANTS
INC
5 TURRETT SHELL
HILTON HEAD ISLAND, SC 29926

ID 1889986
Contact Status Active
SSN / FEIN # ~~999723327~~
Public File No
Mailing List
Contact Type CORPORATION

Credentials
Contact
Audit
Issues
Documents
Exams
Experience
History
Renewal History

Schools
Supervises
SupervisedBy
Flags
Librarian
Legacy

Comments: 12/21/06 TO BE RENEWED. LE

GENERAL CONTRACTOR [update] [form letter]

Credential # 96184
License Type GC
Effective Date 12/21/2006
Expiration Date 10/31/2008
First Issuance Date 01/27/1997

Credential Status ACTIVE
Disciplinary Status
Amount Due \$0.00
Date Last Activity 12/21/2006 11:19:56 AM
Last Updated by BaumbergerJ
Certificate Sent Date 01/05/2007
Green Card Received

Audit
Cont. Edu
Inspection
Documents
Fees
History
OV History
Supervises
SupervisedBy

Print Docs
Legacy

Supervises	Credential	Status	City	State
LAUGHLIN, BOYD R	CQG. 17106	ACTIVE	BLUFFTON	SC

Comments: NSF 00257 \$525.00

User Definable Credential Data (Board Common / Credential Specific) [update]

Board Common

Credential Specific

General Classification 1 IR4
General Classification 2 BD4
General Classification 3
General Classification 4
General Classification 5
General Classification 6
General Classification 7
General Classification 8
General Classification 9
General Classification 10
General Classification 11
General Classification 12
General Classification 13
General Classification 14
General Classification 15
General Classification 16

President/Owner
Sect/Treasurer

Grandfather Name

Vice Pres/Partner
Additional Rep

Grandfather Issue Date

Current Database

SC PLLR - Contractor's Licensing Board

Credential Audit Trail for CLG. 96184

Date	User	Table	Field	New	Old
12/21/2006 11:19:56 AM	BaumbergerJ	CREDENTIAL	CREDENTIALSTATUSID	APPROVED	ACTIVE IN RENEWAL
12/21/2006 11:19:56 AM	BaumbergerJ	CREDENTIAL	EFFECTIVEDATE	20061221	20031007
12/21/2006 11:19:56 AM	BaumbergerJ	CREDENTIAL	EXPIRATIONDATE	20081031	20061031
12/14/2006 12:34:53 PM	ErbyL	Supervision			
Supervisor: (REMOVED) CLG.96184					
Supervisee: (REMOVED) CQG.6373 <i>Robert Baroni</i>					
12/14/2006 12:34:21 PM	ErbyL	CREDENTIAL	APPROVEDBY		0
12/14/2006 12:34:21 PM	ErbyL	CREDENTIAL	OVERPAYMENTFLAG	N	

SC NLR - Contractor's Licensing Board

Credential View Screen

[update]

[add tickle]

ROBERT J BARONI

☒ Public ☐ Mail

ROBERT J BARONI
5 TURRETT SHELL
HILTON HEAD ISLAND, SC 29926

ID 1882558
Contact Status Active
SSN / FEIN # ~~212121212~~
Birth Date 10/02/1944
Public File No
Mailing List
Contact Type INDIVIDUAL

Credentials
Contact
Audit
Issues
Documents
Exams
Experience
History
Renewal History

Schools
Supervises
SupervisedBy
Flags
Librarian
Legacy

Comments:

GENERAL Qualifying Party [update] [form letter]

Credential # 6373
Effective Date 07/09/1999
Expiration Date 10/31/2200
First Issuance Date

Credential Status ACTIVE
Disciplinary Status
Approved By LEGACYDATA, CAVU
Amount Due
Date Last Activity 9/21/2007 10:29:18 AM
Last Updated by GunterT
Certificate Sent Date
Green Card Received

Audit
Cont. Edu
Inspection
Documents
Fees
History
OV History
Supervises
SupervisedBy

WARNING: Supervision is required for this credential but is not present

Print Docs
Legacy

Comments:

User Definable Credential Data (Board Common / Credential Specific) [update]

Board Common

Credential Specific

General Classification 1 IR	Exam Date 1 01/22/1997
	Licensed By 1
General Classification 2	Exam Date 2
	Licensed By 2
General Classification 3	Exam Date 3
	Licensed By 3
General Classification 4	Exam Date 4
	Licensed By 4
General Classification 5	Exam Date 5
	Licensed By 5
General Classification 6	Exam Date 6
	Licensed By 6
General Classification 7	Exam Date 7
	Licensed By 7
General Classification 8	Exam Date 8
	Licensed By 8
General Classification 9	Exam Date 9
	Licensed By 9
BML Exam	COL Exam
Drivers License#	Drivers License State

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE CONTRACTORS' LICENSING BOARD**

In the matter of:

**Robert Baroni
Associated Construction Consultants, Inc.
5 Turrett Shell
Hilton Head Island, SC 29926**

License No. CLG.96184

Case No. 2007-118

Respondents

CONSENT AGREEMENT

By agreement of the State Contractors' Licensing Board (the Board) and the above-named Respondent, the following disposition of this matter is entered pursuant to the provisions of S.C. Code of Laws §1-23-320(f) (1976, as amended) of the South Carolina Administrative Procedures Act:

FINDINGS OF FACT

1. At the time of the incident respondent was licensed as a General Contractor with IR4 and Building 4 credentials. The Board has jurisdiction over the Respondent and the subject matter herein.
2. The Respondent aided (License Lending) a residential contractor in obtaining permits and documents to perform commercial work which the residential builder was not licensed to perform.
3. Respondent waives any further findings of fact with respect to this matter.

CONCLUSIONS OF LAW

Respondent admits that the Respondent's action in this matter is in violation under SC Code of Laws §40-11-110 (A) (9) (1976, as amended) and that the conduct in this matter constitutes sufficient grounds disciplinary or corrective action. Respondent waives any further conclusions of law with respect to this matter.

THEREFORE, IT IS ORDERED WITH RESPONDENT'S CONSENT THAT:

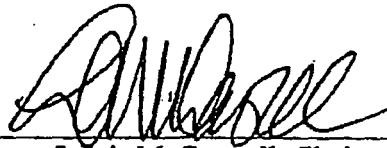
1. Respondent's license shall be publicly reprimanded and Respondent's license shall be placed on probation for a period of not less than one (1) year with the following conditions:
 - a. Respondent shall pay a penalty of \$1,000.00 within 30 days after receipt of this agreement. Said penalty shall not be deemed paid until received by the Board in the form of a money order or cashier's check.
2. Respondent agrees that if he fails to meet the conditions agreed to in this Consent Agreement, the Board may immediately suspend Respondent's licenses pending a hearing, which may result in further discipline.
3. Respondent has full knowledge that he has the right to a hearing and to be represented by counsel in this matter, and freely, knowingly, and voluntarily waives such rights by entering into this Consent Agreement. Respondent understands and agrees that by entering into this Consent Agreement he voluntarily relinquishes any right to judicial review of Board action(s) which may be taken concerning any related matters.
4. Respondent understands and agrees that this Consent Agreement will not become effective unless and until approved by the Board. Respondent understands and agrees that this Consent Agreement, if approved, will be disseminated as a public action of the Board in the manner provided by law. Respondent understands and agrees that if this Consent Agreement is not approved, it shall not constitute an admission against interest in this proceeding or prejudice the right of the Board to adjudicate this matter.
5. Pursuant to the South Carolina Freedom of Information Act, this Consent Agreement, with attachments, is a public document.
6. This Consent Agreement shall take effect immediately upon receipt by Respondent or his counsel.

AND IT IS SO ORDERED.

SOUTH CAROLINA CONTRACTORS' LICENSING
BOARD

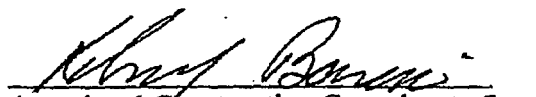
27 August 2007

Date



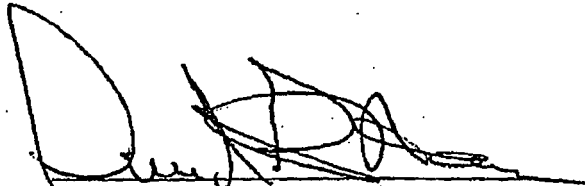
Lewis M. Caswell, Chairman

I CONSENT:


Associated Construction Consultants, Inc.
and Robert Baroni, Respondents

9/2/07

Date



ATTORNEY for the S.C. Department
of Labor, Licensing & Regulation

9/6/07

Date

SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
BEFORE THE SOUTH CAROLINA CONTRACTORS' LICENSING BOARD

IN THE MATTER OF:

Robert Baroni
Associated Construction Consultants, Inc.

Respondent (s).

License Number: CLG.96184

AFFIDAVIT OF PERSONAL SERVICE

CASE NUMBER 2007-118.

**TO: Robert Baroni
Associated Construction Consultants, Inc.**

The undersigned, *Maurice Smith*, being duly sworn says he served the following *Consent Agreement in the State of South Carolina* by delivering same to Robert Baroni, a person of discretion and that he/she knows the persons served to be mentioned and described in the papers served and the deponent is not party of the action.

A copy of the same was left on the 12 day of September, 20 07.
Month

Maurice Smith
Server: Maurice Smith/Investigator
SC Labor, Licensing, & Regulation
Div. of Legal Services/OIE
803-896-5378

09-12-07
Date Served

SWORN AND SUBSCRIBED to before me

this 12 day of September, 20 07.
Month

Jordan Bryant
Notary Public

My Commission Expire: 3/9/09

Consent Order

Respondent:

**Mr. Robert Baroni
Associated Construction Consultants, Inc.
5 Turrett Shell
Hilton Head Island, SC 29926**

**Case #: 2007-118
License #: CLG.96184**

Finding of Facts:

- 1. At the time of the incident respondent was licensed as a General Contractor with IR4 and Building 4 credentials.**
- 2. The Board has jurisdiction over the Respondent and the subject matter herein;**
- 3. The Respondent added (License Lending) a residential contractor in obtaining permits and documents to perform commercial work which the residential building was not license to perform.**
- 4. Conclusion of Law: The Respondent's actions are in violation of SC Code Ann. 4-11-110 A-9.**

Agreed that: Respondent shall pay a civil penalty of one thousand dollars (\$1,000.00); Receive a one year probation period.

1 BOLCHOZ - LAUGHLIN (DIRECT EXAMINATION)

2 Q And why not?

3 A I am not part of the corporation. You
4 know, I am the license holder for them, but that
5 is not my corporation and I am not an officer on
6 the board. I am nothing to the corporation,
7 except I am the qualifier for the license. So
8 maybe I am naive, I don't know, but no, I don't
9 get concerned.

10 Q We will move these first few pretty
11 quickly.

12 Have you ever seen what has been marked
13 as Baroni Exhibit 2?

14 A No. That is like the last one.

15 Q Do you know what it is?

16 A No, I don't.

17 Q So Mr. Baroni never showed that one to
18 you either?

19 A No.

20 Q Do you see who signed the second page
21 you see that name?

22 A Which one? There is two signatures.

23 Q The one at the top there under
24 attorney?

25 A Frank Clabaugh.

JAMES O. HALE*
REBECCA H. HALE
SEAN MICHAEL BOLCHOZ

* Also licensed in GA

HALE & BOLCHOZ, L.L.C.

ATTORNEYS AND COUNSELORS AT LAW
1533 FORDING ISLAND ROAD, SUITE 294
MOSS CREEK VILLAGE
P.O. BOX 22561
HILTON HEAD ISLAND, SOUTH CAROLINA
29925-2561

TELEPHONE (843) 837-3000
FACSIMILE (843) 837-3001

WWW.HALEANDBOLCHOZ.COM

December 4, 2009

VIA EMAIL ONLY TO HMCLEOD@BCGOV.NET

The Honorable Marvin H. Dukes
Beaufort County Master-in-Equity
PO Drawer 1228
Beaufort, SC 29901

RE: *Jorge V. Esguerra v. Jamie V. Brown individually and d/b/a Southeastern Services, Robert Baroni, Boyd R. Laughlin and Associated Construction Consultants, Inc.*
Case No. 07-CP-07-1547

Dear Judge Dukes:

After our post-trial arguments last Wednesday, December 2, I realized that Jim Berl brought up a couple of issues that, because of the rather informal format of our discussion via conference call, I was not able to adequately address, to wit:

- Counsel argued that I failed to request in my prayer for relief a judgment against his clients with regard to my cause of action for negligence *per se*. However, if you review paragraph 27 of the Plaintiff's Amended Complaint, the Plaintiff is clearly seeking negligence *per se* as against all Defendants. I do not believe that I am required to include any more information than that in order to put the Defendants on notice. Moreover, it was clear from the evidence at trial that Jim's clients had violated a number of South Carolina Code sections, which supports the Plaintiff's claim for negligence *per se*. To the extent necessary, I would move to have the pleadings conform to the evidence presented at trial. If the Defendants feel that they are prejudice in this regard, I am more than happy to reopen the testimony to allow more questioning from Defendants' counsel, although I believe such would be redundant.
- It should be noted that the Plaintiff's evidence as to the culpability of Brown (his prior testimony, his trial testimony and three written documents containing admissions), Robert Baroni and ACCI (Brown's testimony, Baroni's letter to the LLR

and the Consent Agreement with the LLR¹) and Boyd Laughlin (Laughlin and Baroni's testimony regarding Laughlin's abdication of ACCI's license and lack of involvement with ACCI) is not only overwhelming, but is countered *with nothing more than Baroni's self-serving statement* that he lent the license subject to some condition.² This, I believe, is key. Defendants Baroni and Laughlin presented no written documents and no witnesses to support their version of events beyond Baroni's (again, clearly self-serving) qualification. I do not believe this is sufficient to counter the staggering evidence presented by the Plaintiff.

- It cannot be seriously contended by the Defendants that Laughlin should not be held personally liable for negligence *precisely because* he was in direct violation of S.C. Code Section 40-11-230 (which requires the qualifying agent be employed full-time in a responsible management position in ACCI). Certainly, if Laughlin *had* been in compliance with this Section, it would be absurd for the Defendants to argue that the Plaintiff did not have a claim against Laughlin personally for negligence: A corporation cannot shield an actor from his own negligent acts. Equally preposterous is any argument that the situation would be remedied by such actor's blatant disregard of statutory duties.
- I believe that the Code sections breached by the Defendants are very clear as to the requirements for a general contractor and its primary qualifying agent, just as I believe that these requirements, in conjunction with the theme of *Burry & Son Homebuilders, Inc. v. Ford*, 310 S.C. 529, 426 S.E.2d 313 (1992), reflect that there is more than ample evidence of Laughlin's liability in this matter.
- While the Defendants may argue that Laughlin indicated at trial he had no involvement with only those ACCI projects that did not require a general contractor's license, such runs counter to his deposition testimony, wherein he clearly indicated (repeatedly) that he had nothing to do with ACCI.³

¹Defendants' counsel seems to argue that if this Court finds Baroni is not collaterally estopped from taking a position contrary to the Consent Agreement, then the Consent Agreement must be ignored and given no weight. This is erroneous. Even if collateral estoppel does not apply here (and the Plaintiff holds emphatically that it does), the Consent Agreement *is still evidence* of Baroni having, in fact, admitted to license lending. Such admission is further supported by the testimony and written statement of Brown. (See Brown's handwritten letter: "I know that by law it is illegal to practice license lending, but it happens.")

²Arguably, this contention in and of itself amounts to an admission of license lending, as Baroni (who is not the primary qualifying party for ACCI) was only utilizing the license abdicated by Laughlin.

³"I am not part of the corporation. You know, I am the license holder for them, but that is not my corporation and I am not an officer on the board. I am nothing to the corporation, except I am the qualifier for the license." (See Transcript of Deposition of Boyd Laughlin, 33:3-7); Q: And how do you operate within ACCI? How do you and Bob

The Honorable Marvin H. Dukes
December 3, 2009
Page 3

Please let me know if you will need anything else from me prior to rendering your decision in this case.

With kind, personal regards, I am

Sincerely,

HALE & BOLCHOZ, L.L.C.



Sean Michael Bolchoz
SENDER'S E-MAIL ADDRESS:
SBOLCHOZ@HALEANDBOLCHOZ.COM

SMB/rmb

cc: Dr. Jorge Esguerra
James F. Berl, Esquire

Z:\Client Files\D to G Clients\Esguerra, Jorge - 3463\w. Jamie V. Brown & Associated Construction Consultants - 01\Dukes ltr re post-trial.wpd

Baroni handle contracts or projects? A: Well, pretty much he has his own and I have my own. We do basically two different types of work. (Laughlin Deposition, 22:20-24).

Law Offices of
JAMES F. BERL, P.C.
MAIN STREET PROFESSIONAL BUILDING
70 MAIN STREET, SUITE 400
P.O. BOX 22626
HILTON HEAD ISLAND, SOUTH CAROLINA 29925-2626

JAMES F. BERL **

AMY C. NARDI

* ALSO LICENSED IN VA

* CERTIFIED FAMILY COURT MEDIATOR

PHONE (843) 689-5771

FAX (843) 689-5772

EMAIL berlaw@hnrgray.com

April 18, 2008

SENT VIA FACSIMILE ONLY (837-3001)

Sean Michael Bolchoz, Esquire
Hale & Bolchoz, LLC
P.O. Box 22561
Hilton Head Island, SC 29925

Re: Jorge V. Esguerra v. Jamie V. Brown, et al
Case No. 07-CP-07-01547

Dear Sean:

Due to my having to travel to Florida with my wife for a medical procedure, I have yet to be able to talk to Mr. Baroni regarding the matters posed in your letter of April 10, 2008. As such, I cannot answer the questions posed. As to paragraph 2, I am informed by my Litigation Paralegal that we have received information in from the Town of Hilton Head and the South Carolina Department of Labor, Licensing & Regulation, which will be forwarded to you next week as a supplemental response to discovery.

On the issue of our objection to your inquiry about other litigation contained in Interrogatory #10, I want you to know that we gave careful consideration to that issue before serving that Interrogatory response. Nonetheless, we have thought about it again at your renewed request, based upon your claim under the Unfair Trade Practices Act. After consultation with my Colleague, Jim Herring, our response remains that any information that might be offered would be irrelevant and inadmissible at trial in this case. As such, I continue to believe that a response to this inquiry would not likely lead to any admissible evidence in this case. Therefore, we respectfully renew our objection to Interrogatory #10.

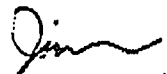
As to paragraphs 3 and 4 of your letter, since I have been unable to speak with my client, I cannot answer the same. So that we don't waste any additional time on this matter, it might be easiest if you provide us with supplemental discovery requests specifically addressing those items so that when I do have the opportunity to address them with my client, there will be no doubt that he has to provide answers to the same.

Sean Michael Bolchoz, Esquire
Page 2
April 18, 2008

I am sorry that I cannot provide you with a more complete response, but my having to be out of town with my wife, coupled with my inability to speak with my client, were matters beyond my control. However, I did want to uphold my pledge that I would get back to you before the end of the week.

With kind regards, I am

Yours very truly,


James F. Berl

JFB/dme
cc: Mr. Robert Baroni

JAMES O. HALE*
REBECCA H. HALE
SEAN MICHAEL BOLCHOZ

* Also licensed in GA

HALE & BOLCHOZ, L.L.C.

ATTORNEYS AND COUNSELORS AT LAW
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April 15, 2008

VIA FACSIMILE ONLY TO (843) 689-5772

James F. Berl, Esquire
Law Offices of James F. Berl, P.C.
PO Box 22626
Hilton Head Island, SC 29925

RE: Jorge V. Esguerra v. Jamie V. Brown individually and d/b/a Southeastern Services, Robert Baroni, Boyd R. Laughlin and Associated Construction Consultants, Inc.

Dear Jim:

I am in receipt of your letter to me dated April 14, 2008, along with an e-mail from your support staff of the same date; enclosed is a copy of the e-mail for your review, in the event that you have not seen it. Inasmuch as I cannot see the point of the e-mail, I do not intend to respond to the same.

When you first contacted me about this case, you assured me that my lawsuit against your clients was a misunderstanding and that Jamie Brown had, apparently, forged certain documents, without your clients' consent, in order to secure the contract with Dr. Esguerra. I can only assume that, when you made such representations, you had not yet reviewed the letter of July 12, 2006, from your client to the LLR (which you just produced for me with your April 14 letter yesterday afternoon), which contains Robert Baroni's admission that he allowed Mr. Brown to use the license in this case. This, quite obviously, obliterates any purported claim that Brown acted without your clients' knowledge and consent. Perhaps if your client had produced this when he sent his letter to me last October, it would have saved my client considerable costs and attorney's fees (some of which went toward filing the motion to compel discovery, complete responses to which I still have not received, despite Judge Duke's order).¹

¹Although you assure me in your letter that you have not had time to fully respond to my discovery requests, and that you are working diligently to complete the same, it appears that you have overlooked paragraph 1 of my April 10 letter to you: You responded to my Interrogatory Number 10 by objecting to the same as irrelevant, **not** by asking for more time to respond. If we cannot resolve this case, as discussed above, I intend to get this issue before the Court immediately, which will entail a request for costs, attorney's fees, and sanctions against your clients.

James F. Berl, Esquire
April 15, 2008
Page 2

In light of this rather startling revelation, are your clients now prepared to get serious and acknowledge their liability in this matter? Please let me know by the end of the week.

Lastly, as you well know, I have extended numerous accommodations to you since your appearance in this case, and I will continue to do so, whenever possible. However, I expect, in turn, that any such accommodation will be met with good-faith responses in a timely fashion.

With kind, personal regards, I am

Sincerely,

HALE & BOLCHOZ, L.L.C.



Sean Michael Bolchoz

SENDER'S E-MAIL ADDRESS:
SBOLCHOZ@HALEANDBOLCHOZ.COM

SMB/rmb
Enclosures

cc: Dr. Jorge Esguerra
Owen J. Rarric, Esquire

X:\Z Drive\Client Files\D to G Clients\Esguerra, Jorge - 3463\w. Jamie V. Brown & Associated Construction Consultants - 01\Berl ltr re response to 4.14 ltr.wpd

remodelling

①

Subject: remodelling

From: "Jorge Esguerra" <jesg@neo.rr.com>

Date: Sun, 14 Nov 2004 15:47:59 -0500

To: "Jamie Brown" <sbrown5@hargray.com>

CC: "Jorge V Esguerra" <Jesg@neo.rr.com>

Hi Jamie

Got back to Ohio late saturday. Discussed remodelling with my wife and we are all set to go. I will mail the signed contract Monday with the check equal 25% of total. I left a list of items at the villa for you to dispose at your convenience. If not included living room sofas and chair as well end table and cocktail table remains, and TV/VCR too. Dave Durland maybe of assistance as you draw the enclosed porch plan especially addressing your concern about the extensions. As far as I know, the cemented area in front of the bed room is part of condo and beyond that is common property. As I said before, there are units with partial to complete extension already completed by current owners so, we should not have any problem. But Dave may give you clue as to how to proceed with it. I brought home, the tile we selected for the floor and its lighter than what we have here in our kitchen. I noticed that the grout gets dirty easy, so perhaps we should set the tiles closer together. thanks again . take care and have a good week. Jorge

rennovation 147 Harbourwood

②

Subject: rennovation 147 Harbourwood

From: "Jorge Esguerra" <jesg@neo.rr.com>

Date: Fri, 10 Dec 2004 21:40:22 -0500

To: "Jamie Brown" <sbrown5@hargray.com>

CC: "Jorge V Esguerra" <jesg@neo.rr.com>

Hi Jamie,

I am sending this mail to touch base with you as to the progress of the planned remodelling. Obtaining the building permit maybe a hurdle. How is it going.? Also kindly provide me a copy of the completed contract.thanks. jorge

Counter top

Subject: Counter top

From: "Jorge Esguerra" <jesg@neo.rr.com>

Date: Sun, 24 Apr 2005 13:11:56 -0400

To: "Jamie Brown" <sbrown5@hargray.com>

CC: "Jorge V Esguerra" <Jesg@neo.rr.com>

Hi Jamie

Yesterday, I went to the Lowe's store here in Canton and checked counter tops for the kitchen. I know we had chosen one but the combination of Baltic Brown[granite] instead of the Impala black with Cross Creek[Kraftsmaid] Maple Toffee will look real nice according to the lady in the design center. Roman top doors will remain. So please note this change and let me know if you agree.

We forgot to discuss the wet bar while i was down there. And also, is the upcharge on the bathroom vanity tops at \$700 for both bathrooms.

Thanks and have a good week. J esguerra.

Re: remodeling

④

Subject: Re: remodeling
From: "Jorge Esguerra" <jesg@neo.rr.com>
Date: Tue, 21 Jun 2005 22:40:45 -0400
To: "Samantha H. Brown" <sbrown5@hargray.com>

Thanks for the message. I will probably be in Hilton Head, for 3-5 days in July, perhaps 10th -13th. Let me know what other items I have to work on. Please remember that I am reconsidering the countertop material to be Corian rather than Granite. so please keep this in your record. thanks again. jorge

----- Original Message -----

From: "Samantha H. Brown" <sbrown5@hargray.com>
To: <jesg@neo.rr.com>
Sent: Friday, June 10, 2005 11:40 PM
Subject: remodeling

Hi jorge,
Sorry for the slow response, it has been a busy week. Work continues to progress at your villa. The plumbing rough in is scheduled for next week. Also to be finished Saturday is the rough in electrical. I am on vacation beginning tomorrow and will return on Monday the 20th. Sheetrock, cabinets and porch demo happen upon my return. Have a great week and will talk to you soon.

Jamie

rennovation progress

⑤

Subject: rennovation progress

From: "Jorge Esguerra" <jesg@neo.rr.com>

Date: Wed, 6 Jul 2005 20:48:16 -0400

To: "Jamie Brown" <sbrown5@hargray.com>

CC: "Jorge V Esguerra" <Jesg@neo.rr.com>

Hi Jamie

I will be in HHI for a couple of days only. So I will see you at the condo July 11 in the morning. jorge

Chris (male) Dubose
5262
247-3713
(moms)
124-3648

villa renovation

(6)

Subject: villa renovation

From: "Jorge Esguerra" <jesg@neo.ir.com>

Date: Sun, 31 Jul 2005 21:57:53 -0400

To: "Jamie Brown" <sbrown5@hargray.com>

CC: "Jorge V Esguerra" <Jesg@neo.ir.com>

Hi Jamie

Thought i should send you a couple of things which came to mind with regards to the villa. First, please keep the phone line off the dining area functional and if possible build a small recess on the wall for it. The other two lines are in the bed room are too inconvenient. Secondly, please consider installing electrical line for a ceiling fan [without lights on it] in the master bedroom. It may improve the ventilation especially with the added sitting room. Also, did you have a chance to check the DuPont material for kitchen countertop i mentioned in my fax message. thanks and have a good week. jorge

villa progress

7

Subject: villa progress

From: "Jorge Esguerra" <jesg@neo.rr.com>

Date: Mon, 8 Aug 2005 22:30:35 -0400

To: "Jamie Brown" <sbrown5@hargray.com>

CC: "Jorge V Esguerra" <jesg@neo.rr.com>

Hi Jamie

I am just wondering if you got my voice mail last friday with regard to the dumpster issue. Also i would appreciate if you could send me some photos of the villa showing the progress of the rennovation. thanks
Jorge

HHI trip

8

Subject: HHI trip

From: "Jorge Esguerra" <jesg@neo.rr.com>

Date: Mon, 5 Sep 2005 10:02:59 -0400

To: "Jamie Brown" <sbrown5@hargray.com>

Hi Jamie

I was able to take off a couple of days to travel to HHI. Hopefully, i could work on the paint and counter top for the kitchen. I will arrive tues and will see you wednesday and perhaps settle on few other things WE should "steal" some ideas from Mr Dobyns unit since it was our model when we first planned the rennovation..thanks. jorge

Re: Electrical Additions/Bathroom vanity tops

9

Subject: Re: Electrical Additions/Bathroom vanity tops

From: "Jorge Esguerra" <jesg@neo.rr.com>

Date: Sun, 25 Sep 2005 23:07:35 -0400

To: "Samantha H. Brown" <sbrown5@hargray.com>

Thanks Jamie

I was away last week. The Vanity Tops quote per my note was \$700 more, for both bathrooms and not \$1200. Can you tell me the difference in material between the original and the stone looking one. Its been a long time since we viewed this thing. As far as the cable TV lines, I would like a total of two lines, one in the living room wall in the center [relocate the old one] and a new one in the enclosed porch wall separating it from the sitting room. I thought that Cable companies install this and not electricians. The one in the porch for internet access and not for cable tv viewing. Jamie, I also received a letter from the Town of Hilton Head requiring inspections for Flashing, rough in electrical, rough in plumbing, final inspections. Expiration is 10/23/05 or else extension of permit is required. Our Fax machine at home is down at, so I will send from work tomorrow. Hope this helps you. Do you have a date of completion? At this time I have to know for sure. I will travel to the island in Oct. thanks again Jorge

----- Original Message ----- From: "Samantha H. Brown" <sbrown5@hargray.com>

To: "Jorge Esguerra" <jesg@neo.rr.com>

Sent: Sunday, September 25, 2005 7:48 PM

Subject: Electrical Additions/Bathroom vanity tops

Hi Jorge,

The electrician finally got back to me about the additional work you requested and the price is as follows:

\$1300.00 for everything you wanted to include:

Ceiling fans in both bedrooms

Additional receptacles in living room on both walls.

Additional catv boxes on living room wall and in sitting area of master bedroom.

One flood light on porch under eave.

This price includes all materials and labor including drywall repair.

Also I need a decision on the vanity tops we discussed a while back. The price difference between the original ones quoted and the stone looking ones you saw at Lowe's would be \$1200.00.

Please let me know how to proceed with these items as soon as possible.

Thanks, Jamie

CATV line correction

10

Subject: CATV line correction

From: "Jorge Esguerra" <jesg@neo.rr.com>

Date: Sun, 25 Sep 2005 23:31:10 -0400

To: "Jamie Brown" <sbrown5@hargray.com>

Hi Jamie

I spoke with one of my sons. I only need ONE CATV line and that is in the living room, the existing line that needs relocated to the middle of the wall. The cable co can split that line later on for TV and the other hooked up to a router which I can use for computer work anywhere in the condo. So to cut cost, the wall bet porch and bedroom sitting room needs only electrical outlets on both sides, but NO cable lines.. thanks. pls take note of this. jorge

address

11

Subject: address

From: "Jorge Esguerra" <jesg@neo.rr.com>

Date: Mon, 26 Sep 2005 21:28:33 -0400

To: "Jamie Brown" <sbrown5@hargray.com>

CC: "Jorge V Esguerra" <jesg@neo.rr.com>

Hi Jamie

This AM, I faxed the letter from the Town of Hilton Head . Also today, a letter I sent you returned containing the items the two of us agreed upon during my visit early this month. Your current address: Route 5, Box 616-C Ridgeland SC 29936; If there is a more recent one please provide it to me. I am faxing the list tonight. jorge

kitchen countertop

12

Subject: kitchen countertop

From: "Jorge Esguerra" <jesg@neo.rr.com>

Date: Mon, 26 Sep 2005 21:35:16 -0400

To: "Jamie Brown" <sbrown5@hargray.com>

CC: "Jorge V Esguerra" <Jesg@neo.rr.com>

Jamie

As agreed during my trip to HHI, kitchen countertop is Baltic Brown granite with small Ogee edge thanks.
jorge

Javier - star Roofing - Harborwood 147

~~338~~ - 338-2527

Re: Electrical extras

463 C.W. STAJIA BERK

(13)

Subject: Re: Electrical extras
From: "Jorge Esguerra" <jesg@neo.rr.com>
Date: Wed, 28 Sep 2005 21:19:37 -0400
To: "Samantha H. Brown" <sbrown5@hargray.com>

Jamie

Thanks. i then agree with your suggestion with regards to vanity tops in the bathroom. As far as the CATV, I do only need one in the living room. Any cost savings is good. The bed room fans are ok. thanks again. I will be in MHI 3rd week of oct. jorge

----- Original Message ----- From: "Samantha H. Brown" <sbrown5@hargray.com>

To: "Jorge V Esguerra" <jesg@neo.rr.com>

Sent: Wednesday, September 28, 2005 6:47 AM

Subject: Electrical extras

Hi Jorge,

I recieved your fax and will take care of the extension on the permit. My address changed due to 911 addressing and it is now 90 McGill Lane Ridgeland, SC 29936.

As far as the electrical items go, deleting one catv box is really not going to save very much but I will do whatever you want. I just need an o.k. on the additionalso I can proceed with sheetrock.

The vanity tops were an additional \$700.00 for the stone looking ones. After looking at them together I really think that a plain white cultured marble top with built in sink would look the best. Too many different surfaces in the small bathrooms may make it appear even smaller. Thanks, Jamie

Re: Draw request

14

Subject: Re: Draw request
From: "Jorge Esguerra" <jesg@neo.rr.com>
Date: Wed, 19 Oct 2005 14:44:47 -0400
To: "Samantha H. Brown" <sbrown5@hargray.com>

Hi Jamie

My wife and I will on the island this Sunday. I will meet with you on monday am at the villa. It maybe faster for me to hand you the check then as we go over progress of the project. Do you have a completion date in mind? thanks. jorge

----- Original Message ----- From: "Samantha H. Brown" <sbrown5@hargray.com>

To: "Jorge V Esguerra" <jesg@neo.rr.com>

Sent: Wednesday, October 19, 2005 6:14 AM

Subject: Draw request

Hi Jorge,

I did not know the exact date you would be arriving so I am sending this e-mail to request a draw for the following:

kitchen countertops - \$4000.00 (must be paid before ordering)

tile - \$ 5000.00

electrical extras - \$1000.00

Total request - \$10,000.00

This will leave a balance of \$21,000.00 to complete the job. Hope to hear from you soon.

Jamie

villa door and others

15

Subject: villa door and others

From: "Jorge Esguerra" <jesg@neo.rr.com>

Date: Mon, 31 Oct 2005 07:20:18 -0500

To: "Jamie Brown" <sbrown5@hargray.com>

CC: "Jorge V Esguerra" <jesg@neo.rr.com>

Hi Jamie

My wife and I selected the entrance door for the villa at the Lowe's here in Canton. It's in page 4 of their entry door system book, 450 series premium steel 1/2 light door, 1/2 side lights and rectangular transom with Isabella Collection glass. I like to include the side light on the left if possible. Apparently, fiberglass is more expensive than steel- An important plumbing item I forgot to mention to you is the problem we had long time ago in the guest bed room/bathroom. Water leak occurred from a pipe feeding the shower in the bathroom. Access is from the guest bathroom wall. Please check its condition, bec if maybe a good idea to replace it now. WE think that we have chosen the carpet but not quit sure yet. We will inform you soon including the light fixture for the dining area. have a good day. i will probably be on the island Nov 14/15 to work on furnitures, then my wife and i will travel again upon completion of the unit. have a good week. jorge

villa completion

16

Subject: villa completion

From: "Jorge Esguerra" <jesg@neo.rr.com>

Date: Sat, 26 Nov 2005 15:18:55 -0500

To: "Jamie Brown" <sbrown5@hargray.com>

CC: "Jorge V Esguerra" <jesg@neo.rr.com>

Hi Jamie

My wife and I are very excited with the looks of the villa as you work on it. We are however not certain as to the date of completion and this is posing a problem on our schedules. I would like to see the unit finished soon because of my early 2006 work and trip schedules which are quite demanding. At this point in time, we would like to know a firm date of completion of the unit. I am lining up people to do the outside paving off the living room door and off the master bed room sitting room. I also contacted someone from Hickory Furniture Mart to help me chose furnitures for the condo. Delivery will depend upon completion of work at the condo. So, it would help us to know when the unit will be completed.

During the last visit, I noted that there were no recessed ceiling lights in the bathrooms yet. I also observed that it maybe nice to have two small recessed ceiling lights over the bar counter, similar to we have in our master bathroom here in Ohio.

We have chosen the bedroom carpets and ceilings fans. I will send them to you soon.

There was a letter from the Town of Hilton Head ARB, that states that I inform you about tidiness at construction sites that they require at the Plantation. [I will send a copy later]

Thank you and have a good week. I.jorge

17

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From: <sbrown5@hargray.com>
Subject: 147 Harborwood
Date: Thu, 15 Dec 2005 11:11:50 -0500
To: Jesg@neo.rr.com

Hi Jorge,

The remodel is wrapping up quite well. The walls and trim are all painted. I am having one large problem with Lowe's regarding the countertops. They were ordered and paid for on 11/10 at which time I was told it would be five weeks until install. The installers came Monday 12/12 and made templates and informed me it would be five weeks from then. I called Lowe's to express my concerns and really was only offered a refund, which would only set us back again so I declined and told them to proceed with the job. They assured me they would do everything to expedite the job, but could not promise anything.

In one of your previous e-mails you said something about recessed lights in the bathrooms. We can install them but this would be additional as we were only going to give you new above the mirror lights. Please let me know how to proceed a.s.a.p. Also, we bought a new computer and your last e-mail was lost, so please re-send it so I can have the carpet choice and get it installed. As soon as I get this ordered I should be able to give you a firm date for completion.

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From: "Jorge Esguerra" <jesg@neo.rr.com>
Subject: Fw: 147 Harbourwood
Date: Wed, 21 Dec 2005 23:24:08 -0500
To: "Jamie Brown" <sbrown5@hargray.com>
Cc: "Jorge V Esguerra" <Jesg@neo.rr.com>

Here is the email I sent dec 17. thanks. i will send another email tomorrow. jorge

----- Original Message -----

From: Jorge Esguerra**To:** Jorge Esguerra**Sent:** Saturday, December 17, 2005 2:23 PM**Subject:** Re: 147 Harbourwood

Jamie

good morning. here is the email that i sent which could have been lost. it contains, choice of carpet, pad and ceiling fans for the bed rooms. thanks. jorge

----- Original Message -----

From: Jorge Esguerra**To:** Jamie Brown**Cc:** Jorge V Esguerra**Sent:** Wednesday, December 07, 2005 1:39 PM**Subject:** 147 Harbourwood

Hi Jamie

Here is the carpet of our choice from Lowe's that we have chosen for the bedrooms at my villa: Garnet Shard-Mohawk Dupont Tactee Nylon 100% to be installed on premium pad. Ceiling fans for the bedrooms[Harbourbreeze, Textured white finish (length of blades to size with space. It seems that a 16inch paddle blades are appropriate, quite similar to what we have in our kitchen here.. I sent an email before requesting your estimate of remodelling completion. This is an important date for my wife and I because of some time commitments we've made. Although we don't live on the island, completion of work is critical so that we can move on to different stages required for occupancy. Again, please let us know and if there is further delay to inform us. thank you My wife and I will on the island the first week in January 2006.jorge

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From: <sbrown5@hargray.com>
Subject: carpet choice
Date: Wed, 21 Dec 2005 21:38:58 -0500
To: jesg@neo.rr.com

Hi Jorge,

In my last e-mail I requested that you re-send your carpet and fan choices which I did not receive, so if you will please re-send them a.s.a.p.

Regarding the can lights in the bathrooms, it was never my intention to install them in these rooms but I was going to upgrade the above the mirror sconces instead. The additional cost to install can lights will be \$700.00, Please let me know how to proceed.

Also at this time I am requesting a draw to cover carpet, plumbing and electrical set outs and misc. carpentry. The payments made thus far are as follows:

\$86,500.00 original bid

\$1000.00 additional electrical

\$1500.00 chair rail in living room, foyer, hall and sun room

\$89,000.00 Total to date

\$21,625.00 deposit

\$35,500.00 draw on 7/11

\$10,000.00 draw on 10/25

\$67,125.00 total paid to date

I am requesting a draw of \$12,000. which will leave a balance of \$9875.00 unless you decide to go with the additional can lights.
The villa really is quite beautiful.

Merry Christmas! Jamie

20

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Merry Christmas! Jamie

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From: "Jorge Esguerra" <jesg@neo.rr.com>
Subject: Fw: 147 Harbourwood
Date: Wed, 28 Dec 2005 22:02:02 -0500
To: "Jamie Brown" <sbrown5@hargray.com>
Cc: "Jorge V Esguerra" <Jesg@neo.rr.com>

Jamie: this is the email containing our carpet and ceiling fan choices for the villa. I think that I resent one already but don't know whether you receive it or not. My wife and I will be on the island next week, arriving late Tuesday. We would like to talk to you about a more definite completion date. Hope you understand our situation which I related to you several weeks ago. Jorge

— Original Message —

From: Jorge Esguerra
To: Jamie Brown
Cc: Jorge V Esguerra
Sent: Wednesday, December 07, 2005 1:39 PM
Subject: 147 Harbourwood

Hi Jamie

Here is the carpet of our choice from Lowe's that we have chosen for the bedrooms at my villa: Gamet Shard-Mohawk Dupont Tactee Nylon 100% to be installed on premium pad. Ceiling fans for the bedrooms [Harbourbreeze, Textured white finish] length of blades to size with space. It seems that a 16 inch paddle blades are appropriate, quite similar to what we have in our kitchen here.. I sent an email before requesting your estimate of remodelling completion. This is an important date for my wife and I because of some time commitments we've made. Although we don't live on the island, completion of work is critical so that we can move on to different stages required for occupancy. Again, please let us know and if there is further delay to inform us, thank you My wife and I will on the island the first week in January 2006. Jorge

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From: "Jorge Esguerra" <jesg@neo.rr.com>
Subject: Re: carpet choice
Date: Wed, 28 Dec 2005 22:11:49 -0500
To: <sbrown5@hargray.com>
Cc: "Jorge V Esguerra" <Jesg@neo.rr.com>

Jamie

My wife and I will be on the island to see progress of the villa work next week. We can then discuss some of the items below. I would like to decline on installing the chair rail and keep instead the recessed lighting in the bathrooms. Happy New Year. See you next week. jorge

----- Original Message ----- From: <sbrown5@hargray.com>

To: <jesg@neo.rr.com>

Sent: Wednesday, December 21, 2005 9:38 PM

Subject: carpet choice

*Hi Jorge,**In my last e-mail I requested that you re-send your carpet and fan choices which I did not receive, so if you will please re-send them a.s.a.p.**Regarding the can lights in the bathrooms, it was never my intention to install them in these rooms but I was going to upgrade the above the mirror sconces instead. The additional cost to install can lights will be \$700.00, Please let me know how to proceed.**Also at this time I am requesting a draw to cover carpet, plumbing and electrical set outs and misc. carpentry. The payments made thus far are as follows:**\$86,500.00 original bid**\$1000.00 additional electrical**\$1500.00 chair rail in living room, foyer, hall and sun room**\$89,000.00 Total to date**\$21,625.00 deposit**\$35,500.00 draw on 7/11**\$10,000.00 draw on 10/25**\$67,125.00 total paid to date**I am requesting a draw of \$12,000. which will leave a balance of \$9875.00 unless you decide to go with the additional can lights. The villa really is quite beautiful.**Merry Christmas! Jamie*[Top](#)[Reply](#) [Reply to All](#) [Forward](#) [Delete](#)[-select mailbox-](#) [Move](#) [Copy](#)[Printer Friendly](#)[<Back to Folder](#) [Next Unread >](#)

Record on Appeal

<http://webmail.hargray.com/Session/175863-rrPageCJYS-049iq5CJYS-kmbdzld/Message...> 12/29/2005

(23)

Status: ☒ Unread Message[Reply](#) [Reply to All](#) [Forward](#) [Delete](#)[<Back to Folder](#) [Next Unread >](#)[Bottom](#)[Copy address to address book](#)[Close](#)☒ This recent Message is not flagged [☐ Flag as important | ☐ Close as Unread]**From:** "Jorge Esguerra" <jesg@neo.rr.com>**Subject:** 147 harborwood**Date:** Sun, 8 Jan 2006 14:19:08 -0500**To:** "Jamie Brown" <sbrown5@hargray.com>**Cc:** "Jorge V Esguerra" <Jesg@neo.rr.com>

Hi Jamie

Got back late last night. Its a lot of driving for a short visit. I went to the villa a couple of times before leaving the island. Im'sureof having the cable hook up installed in the porch near the outlet there. Itwill help me later decide where to put a small computer desk. Wireless system there may not work bec of the concrete wall that you covered if a router is installed in the living room. You said before that thiscould be done at no additional cost. [can't remember for sure] Local TV ads on the island from Lowe's offers 10% discount on carpets bought and installed by them. Are you able to pass the savings to me? Told my wife about progress of the rennovation, but she can't come with me yet till perhaps March. She likes to see some photos if you can email them when tiles are laid. thanks and have a good week. jorge

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sbrown5@hargray.com INBOX Message

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From: "Jorge Esguerra" <jesg@neo.rr.com>
Subject: villa rennovation
Date: Sun, 29 Jan 2006 21:21:29 -0500
To: "Jamie Brown" <sbrown5@hargray.com>
Cc: "Jorge V Esguerra" <Jesg@neo.rr.com>

Hi Jamie

Got back last night from Hickory, NC to order furnitures for the villa. Delivery will occur once i know the completion date of the unit. don't know if certificate of occupancy is required to move in furnitures, but i will call Seapines for the info. I certainly would not like to be penalized. Are there photos that we can view? My wife and I will on the Island Feb 28 for a couple of days. Take care and have a good week. Jorge

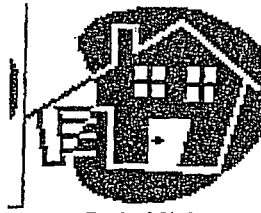
Jorge Esquerro

From: "Samantha H. Brown" <sbrown5@hargray.com>
To: "Jorge V Esquerro" <Jesg@neo.rr.com>
Sent: Monday, May 09, 2005 4:33 PM
Subject: Kitchen Remodel

Dear Mr. Esquerro,

I'm wrapping up a few small things that I started while waiting on all of the permits for your job. Your job will have my undivided attention starting Wed. If you have any questions please feel free to call.

Thank you,
Jamie Brown
Southeastern Services



11
10/2

Inspection Information Sheet

The Building Permit must be posted on the job site and a set of marked plans must be available.

Electrical, plumbing and mechanical certificates, signed and notarized, must be submitted before work begins in these trades.

Flood Elevation Certificate, if needed, must be submitted before vertical construction begins. A Flood Elevation Certificate for finished construction must be submitted prior to a request for Final or CO inspection.

Before PS inspection request:

Subroster with current business licenses and specialty license numbers (required for residential work)
As-built for new construction and additions

Before CO inspection:

Copy of approved job site plans

Any other pertinent documentation such as termite treatment, gas certification, septic tank approval, shop drawings, structural calculations etc. related to your construction.

If required, a Certificate of Compliance must be issued before approval of a CO inspection.

REQUIRED INSPECTIONS

To request an inspection, call our Interactive Voice Response System at 843-341-4677 or you may register to request inspections on-line. Requests made by phone by 7AM will be processed that day if possible. Requests made on-line can be made up to midnight for a next day inspection. You must know your permit number and the inspection item number for the requested inspection.

All required paperwork has to be submitted before you request the inspection. Mechanical certificates must be in our files prior to work beginning in the related field.

The following inspections are required based on the type work you are performing for permit number **B0501161**. If you feel changes to this list are needed, contact our offices.

UNIT 147 - REMOVE SCREENING AND INSTALL WINDOWS TO ENCLOSE AREA 5/18/05 Revised to include kitchen cabinets replace fiberglass tubs with ceramic showers install (12) can lights replace interior doors baseboard and paint

- Item: 00338 Com Flashing
- Item: 00470 Com Final Inspection
- Item: 00420 Com Rough In Electrical
- Item: 00410 Com Rough In Plumbing

ORIGINAL RECEIPT

TOWN OF HILTON HEAD ISLAND
ONE TOWN CENTER COURT
HILTON HEAD ISLAND, SC 29928

(A)
266

Receipt Number: R05005892

Issuing Officer: AG

(Receipt not valid without Issuing Officer's initials.)

OWNER: ESGUERRA JORGE MARY LYNNE
BUSINESS NAME: HARBOUR WOOD VILLAS - UNIT 147 - ESGUERRA
APD #: B0501161
SITE ADDRESS: 62 PLANTATION DRIVE ****
ACCOUNT NUMBER: ??
NOTATION: SOUTHEASTERN SERVICES, 90 MCGILL LANE, RIDGELAND, SC 29936

TRANSACTION DATE: 05/18/2005

TOTAL PAYMENT: 157.50

TRANSACTION LIST:

Type	Method	Description	Amount
Payment	Check	6904	157.50

ACCOUNT ITEM LIST:

Item#	Fee Description	Account Code	Total Fee	Total Paid	Current Pmt
310	Comm Bldg Permit Plan Ck	11002-41100	273.75	273.75	67.50
370	Comm Misc Permit	11002-41102	365.00	365.00	90.00

ISSUED BY: ANNIEG
DATE: May 18, 2005 03:08 PM



Revised 8/04

6
1 of 2

Inspection Information Sheet

The Building Permit must be posted on the job site and a set of marked plans must be available.

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As-built for new construction and additions

Before CO inspection:

Copy of approved job site plans

Any other pertinent documentation such as termite treatment, gas certification, septic tank approval, shop drawings, structural calculations etc. related to your construction.

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The following inspections are required based on the type work you are performing for permit number **B0501161**. If you feel changes to this list are needed, contact our offices.

UNIT 147 - REMOVE SCREENING AND INSTALL WINDOWS TO ENCLOSE AREA

Item: 00338 Com Flashing

Item: 00470 Com Final Inspection

ORIGINAL RECEIPT

TOWN OF HILTON HEAD ISLAND
ONE TOWN CENTER COURT
HILTON HEAD ISLAND, SC 29928

2012

Receipt Number: R05004062

Issuing Officer: AG

(Receipt not valid without Issuing Officer's Initials.)

OWNER: ESGUERRA JORGE MARY LYNNE
BUSINESS NAME:
APD #: B0501161
SITE ADDRESS: 62 PLANTATION DRIVE ****
ACCOUNT NUMBER: ??
NOTATION: SOUTHEASTERN SERVICES, 90 MCGILL LANE, RIDGELAND, SC 29936

TRANSACTION DATE: 04/19/2005

TOTAL PAYMENT: 481.25

TRANSACTION LIST:

Type	Method	Description	Amount
Payment	Check	6890	481.25

ACCOUNT ITEM LIST:

Item#	Fee Description	Account Code	Total Fee	Total Paid	Current Pmt
310	Comm Bldg Permit Plan Ck	11002-41100	206.25	206.25	206.25
370	Comm Misc Permit	11002-41102	275.00	275.00	275.00

ISSUED BY: ANNIEG
DATE: April 19, 2005 01:14 PM



Business Checking

01 2000002261353 031 130

0 40

28,897

WACHOVIA

00005366 1 AV 0.278 02 5DGS 27

ASSOCIATED CONSTRUCTION CONSULTANTS
306 CLEMONS RD
BRANDON FL 33510

CB

Business Checking

4/30/2005 thru 5/31/2005

Account number: 2000002261353
Account owner(s): ASSOCIATED CONSTRUCTION CONSULTANTS

Taxpayer ID Number: 593328427

Account Summary

Opening balance 4/30	\$46.09
Deposits and other credits	23,073.67 +
Checks	20,045.04 -
Other withdrawals and service fees	177.45 -
Closing balance 5/31	\$2,897.27

Deposits and Other Credits

Date	Amount	Description
	300.00	DEPOSIT
5/2	17,798.67	DEPOSIT
5/13	450.00	DEPOSIT
5/19	625.00	DEPOSIT
5/24	700.00	DEPOSIT
5/26	700.00	DEPOSIT
5/27	2,500.00	DEPOSIT
Total	\$23,073.67	

Checks

Number	Amount	Date posted	Number	Amount	Date posted	Number	Amount	Date posted
2943	48.75	5/27	3072	135.59	5/09	3082	150.00	5/16
3054*	1,756.69	5/09	3073	1,761.98	5/13	3085*	600.00	5/12
3059*	2,499.50	5/06	3074	380.00	5/09	3086	760.00	5/16
3065*	225.02	5/02	3075	3,241.28	5/11	3089*	100.00	5/31
3066	300.01	5/03	3076	1,500.00	5/11	3090	2,000.00	5/23
3067	329.53	5/03	3077	260.00	5/12	3091	179.55	5/20
3068	97.39	5/03	3078	350.61	5/13	3092	85.00	5/23
3069	8.82	5/03	3079	811.21	5/13	3093	268.50	5/20
3070	364.35	5/02	3080	141.15	5/16	3094	748.00	5/27
3071	117.26	5/12	3081	185.68	5/13	3096*	115.00	5/27

* Indicates a break in check number sequence

Checks continued on next page



Business Checking

WACHOVIA 02 2000002261353 031 130 0 40 28,898

Checks continued

Number	Amount	Date posted	Number	Amount	Date posted	Number	Amount	Date posted
3098*	250.00	5/31	3100	124.17	5/27			
3099	150.00	5/25	Total	\$20,045.04				

* Indicates a break in check number sequence

Other Withdrawals and Service Fees

Date	Amount	Description
5/02	35.00	NSF FEE FOR ITEM 000000003062, \$115.00
5/02	35.00	NSF FEE FOR ITEM 000000003063, \$248.37
5/10	4.49	AUTOMATED DEBIT STAMPS.COM SVC FEE CO. ID. 1323018718 050510 PPD MISC 000000030495802
5/10	47.96	COMMERCIAL SERVICE CHARGES FOR APRIL 2005
5/16	20.00	AUTOMATED DEBIT SMALL BUSINESS PREAUTHDBT CO. ID. 2431727976 050516 PPD MISC 274403248
5/26	35.00	NSF FEE FOR ITEM 000000003087, \$6394.73
	\$177.45	

Service Fees

Description	Quantity	Amount	Total
Total			\$0.00

Average balance	\$6,175.84
Minimum balance	\$568.19

Daily Balance Summary

Dates	Amount	Dates	Amount	Dates	Amount
5/02	17,485.39	5/12	6,206.87	5/24	1,268.19
5/03	16,749.64	5/13	3,547.39	5/25	1,118.19
5/08	14,250.14	5/16	2,476.24	5/26	1,783.19
5/09	11,977.86	5/19	3,101.24	5/27	3,247.27
5/10	11,925.41	5/20	2,653.19	5/31	2,897.27
5/11	7,184.13	5/23	588.19		

Customer Service Information

**For questions about your statement
or billing errors, contact us at:**

Phone number**Address**

Business Checking, CheckCard & Loan Accounts
TDD (For the Hearing Impaired)
Commercial Checking & Loan Accounts

800-566-3862
800-388-2234
800-222-3862

WACHOVIA BANK, NATIONAL ASSOCIATION
NC8502
P O BOX 563986
CHARLOTTE NC 28262-3986

To Balance Your Account

1. Compare your account register to your account statement for unrecorded transactions (such as ATM, CheckCard, interest earned, fees, etc.) Your new account register total should match the adjusted balance in line 6 below.

2. Write in the closing balance shown on the front of account statement.

3. Write in any deposits you have made since the date of this statement.

4. Add together amounts listed above in steps 2 and 3.

5. In the section to the right, list and total all checks and withdrawals that you have made that are not reported on your account statement. Write in the total here.

6. Subtract the amount in line 5 from the amount in line 4. This is your adjusted balance and should match the balance in Step 1

List Outstanding Checks and Withdrawals

[illegible]

In Case of Errors or Questions About Your Electronic Transfers: Telephone us at 800-222-3862 or write to us at WACHOVIA BANK, NATIONAL ASSOCIATION, NC8502, P.O. BOX 583966, CHARLOTTE NC 28262-3966, as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer on the statement or receipt. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error or problem appeared.

1. Tell us your name and account number (if any).

2. Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe there is an error or why you need more information.

3. Tell us the dollar amount of the suspected error.

We will investigate your complaint and will correct any error promptly. If we take more than 10 business days to do this, we will credit your account for the amount you think is in error. You will have use of the money during the time it takes us to complete our investigation.

WACHOVIA BANK, N.A. IS MEMBER FDIC



WACHOVIA

Business Checking

04 2000002261353 031 130

0 40 28,900

04/30/2005 thru 05/31/2005

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
44-5546 499973
Capital Materials
Freight 5/05
\$48.75
WACHOVIA BANK

REF#5317385972 PAID 5/27 48.75

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
44-5546 499973
Capital Materials
Freight 5/05
\$1756.69
WACHOVIA BANK

REF#3816677252 PAID 5/09 1756.69

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
44-5546 499973
H.H. Plaster
Freight 5/06
\$2499.50
WACHOVIA BANK

REF#6331098361 PAID 5/06 2499.50

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
44-5546 499973
H.H. Plaster
Freight 5/02
\$225.02
WACHOVIA BANK

REF#6339078345 PAID 5/02 225.02

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
44-5546 499973
Home Depot
Freight 5/03
\$300.01
WACHOVIA BANK

REF#1136648215 PAID 5/03 300.01

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
44-5546 499973
Home Depot
Freight 5/03
\$329.53
WACHOVIA BANK

REF#3411570085 PAID 5/03 329.53

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
44-5546 499973
Home Depot
Freight 5/03
\$97.39
WACHOVIA BANK

REF#6533735983 PAID 5/03 97.39

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
44-5546 499973
Home Depot
Freight 5/03
\$8.82
WACHOVIA BANK

REF#6339798344 PAID 5/03 8.82



Business Checking

05 2000002281353 031 130

0 40 28,901

WACHOVIA

04/30/2005 thru 05/31/2005

ASSOCIATED CONSTRUCTION
CHECK # 1011 2072

Pay to the order of James J. Turner \$ 364.35

Three hundred sixty four and 35/100

WACHOVIA BANK

REF#6339078346 PAID 5/02 364.35

ASSOCIATED CONSTRUCTION
CHECK # 1011 2072

Pay to the order of James J. Turner \$ 117.26

One hundred seventeen and 26/100

WACHOVIA BANK

REF#1432475485 PAID 5/12 117.26

ASSOCIATED CONSTRUCTION
CHECK # 1011 2072

Pay to the order of R.F.G. \$ 135.59

One hundred thirty five and 59/100

WACHOVIA BANK

REF#1431244166 PAID 5/09 135.59

ASSOCIATED CONSTRUCTION
CHECK # 1011 2072

Pay to the order of H.H. Hill \$ 1761.98

One thousand seven hundred sixty one and 98/100

WACHOVIA BANK

REF#6333060089 PAID 5/13 1761.98

ASSOCIATED CONSTRUCTION
CHECK # 1011 2072

Pay to the order of Joseph Charles \$ 380.00

Three hundred eighty and 00/100

WACHOVIA BANK

REF#6430122972 PAID 5/09 380.00

ASSOCIATED CONSTRUCTION
CHECK # 1011 2072

Pay to the order of James J. Turner \$ 3241.28

Three thousand two hundred forty one and 28/100

WACHOVIA BANK

REF#7236857984 PAID 5/11 3241.28

ASSOCIATED CONSTRUCTION
CHECK # 1011 2072

Pay to the order of James J. Turner \$ 1500.00

One thousand five hundred and 00/100

WACHOVIA BANK

REF#3817522006 PAID 5/11 1500.00

ASSOCIATED CONSTRUCTION
CHECK # 1011 2072

Pay to the order of James J. Turner \$ 260.00

Two hundred and 00/100

WACHOVIA BANK

REF#6332711062 PAID 5/12 260.00



WACHOVIA

Business Checking

06 2000002261353 031 130

0 40 28,902

04/30/2005 thru 05/31/2005

ASSOCIATED CONSTRUCTION
CONSULTANTS INC.
MEMPHIS, TN 38103

5/10/05

None Deposit

Share Purchase fifty 4 60/100

350.61

WACHOVIA

PO1019P C083107512C000002261353P F0000015000P

REF#3716849512 PAID 5/13 350.61

ASSOCIATED CONSTRUCTION
CONSULTANTS INC.
MEMPHIS, TN 38103

5-10-05

ESPY

Eight Hundred Eleven

811.21

WACHOVIA

PO1019P C083107512C000002261353P F000001511P

REF#6333060090 PAID 5/13 811.21

ASSOCIATED CONSTRUCTION
CONSULTANTS INC.
MEMPHIS, TN 38103

5/16/05

LOWE'S

One Hundred Forty-one and 1/2

141.15

WACHOVIA

PO1019P C083107512C000002261353P F000001415P

REF#1433400346 PAID 5/16 141.15

ASSOCIATED CONSTRUCTION
CONSULTANTS INC.
MEMPHIS, TN 38103

5/13/05

Architect Supply

One Hundred Eighty-five and 68/100

185.68

WACHOVIA

PO1019P C083107512C000002261353P F000001856P

REF#3516226407 PAID 5/13 185.68

ASSOCIATED CONSTRUCTION
CONSULTANTS INC.
MEMPHIS, TN 38103

5-10-05

Joe's

One Hundred Fifty

150.00

WACHOVIA

PO1019P C083107512C000002261353P F000001500P

REF#6431087908 PAID 5/16 150.00

ASSOCIATED CONSTRUCTION
CONSULTANTS INC.
MEMPHIS, TN 38103

5-10-05

Joe's

Six Hundred

600.00

WACHOVIA

PO1019P C083107512C000002261353P F000006000P

REF#3316171051 PAID 5/12 600.00

ASSOCIATED CONSTRUCTION
CONSULTANTS INC.
MEMPHIS, TN 38103

5-10-05

Joe's

Seven Hundred

760.00

WACHOVIA

PO1019P C083107512C000002261353P F000007600P

REF#6431084652 PAID 5/16 760.00

ASSOCIATED CONSTRUCTION
CONSULTANTS INC.
MEMPHIS, TN 38103

5/31/05

Joe's

One Hundred

100.00

WACHOVIA

PO1019P C083107512C000002261353P F000001000P

REF#6433047560 PAID 5/31 100.00

Record on Appeal

Page No.

230



Business Checking

07 2000002261353 031 130

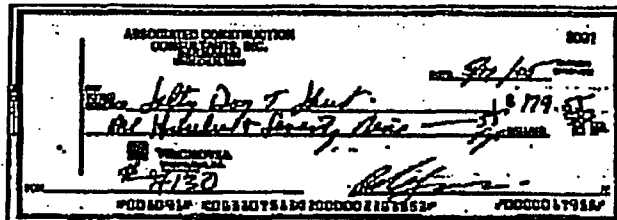
0 40 28,903

WACHOVIA

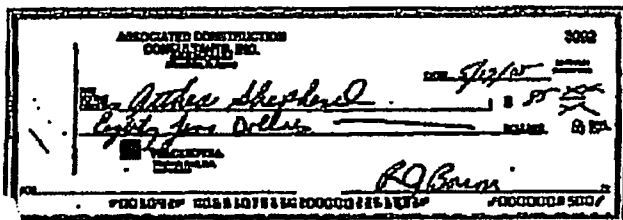
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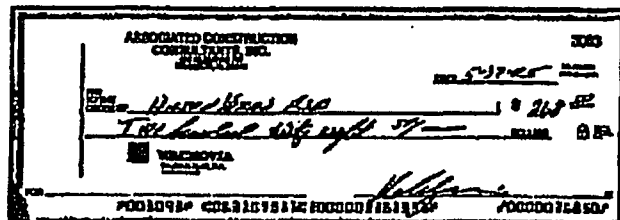
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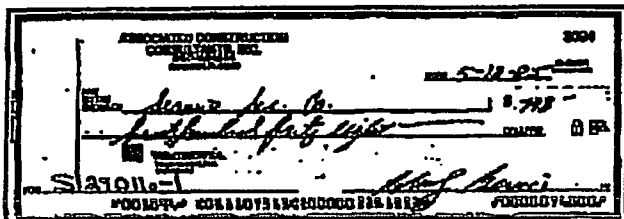
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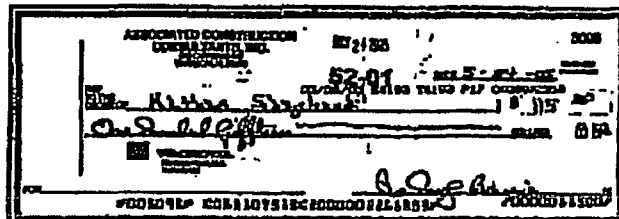
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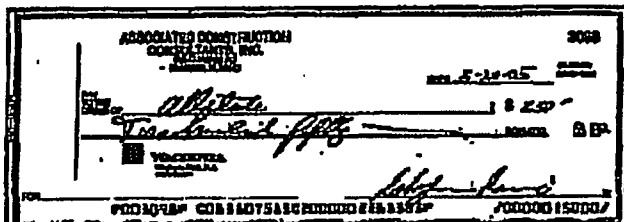
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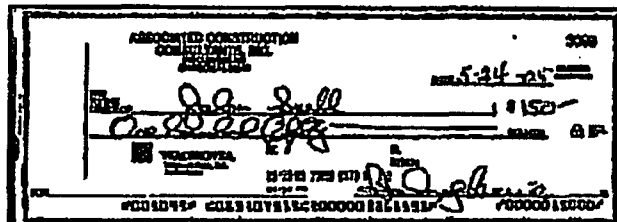
REF#6336677521 PAID 5/27 748.00



REF#6336664422 PAID 5/27 115.00



REF#6433087295 PAID 5/31 250.00



REF#1718919930 PAID 5/25 150.00



WACHOVIA

Business Checking

08

2000002261353 031 130

0 40

28,904

04/30/2005 thru 05/31/2005

ACH		5100
5/25/05		
BAKER DIST		124.17
ONE TWENTY FOUR & 17/100		124.17
178040		

REF01437797439 PAID 5/27 124.17



ACHOVIA

Business Checking

01 2000002261353 031 130

0 40

68,743

00012839 1 AT 0.292 02 3DG 53



ASSOCIATED CONSTRUCTION CONSULTANTS
306 CLEMONS RD
BRANDON FL 33510

CB

Business Checking

4/01/2005 thru 4/29/2005

Account number: 2000002261353
Account owner(s): ASSOCIATED CONSTRUCTION CONSULTANTS

Taxpayer ID Number: 593328427

Account Summary

Opening balance 4/01	\$104.69
Deposits and other credits	20,927.01 +
Checks	20,774.08 -
Other withdrawals and service fees	211.53 -
Closing balance 4/29	\$46.09

Deposits and Other Credits

Date	Amount	Description
4/01	4,109.01	DEPOSIT
4/05	275.00	DEPOSIT
4/06	300.00	DEPOSIT
4/12	700.00	DEPOSIT
4/13	1,150.00	DEPOSIT
4/15	13,500.00	DEPOSIT
4/20	293.00	DEPOSIT
4/26	275.00	DEPOSIT
4/27	325.00	DEPOSIT
Total	\$20,927.01	

Checks

Number	Amount	Date posted	Number	Amount	Date posted	Number	Amount	Date posted
2919	660.45	4/08	2937	532.32	4/07	3044	1,421.83	4/18
2929*	115.00	4/01	2938	954.38	4/13	3045	1,341.60	4/18
2930	203.54	4/04	2939	132.00	4/08	3046	407.40	4/22
2932*	220.66	4/04	2940	124.00	4/08	3047	5,000.00	4/28
2933	832.98	4/08	2941	282.58	4/15	3048	3,000.00	4/18
2934	607.83	4/06	3041*	78.02	4/14	3049	595.00	4/25
2935	175.00	4/21	3042	115.00	4/14	3050	415.72	4/20
2938	1,984.04	4/14	3043	18.33	4/20	3051	123.80	4/19

* Indicates a break in check number sequence

Checks continued on next page



Business Checking

WACHOVIA

02

2000002261353 031 130

0 40

68,744

Checks continued

Number	Amount	Date posted	Number	Amount	Date posted	Number	Amount	Date posted
3052	371.77	4/19	3057	115.00	4/25	3061	150.00	4/27
3053	65.31	4/21	3058	90.00	4/27	Total	\$20,774.08	
3056*	580.52	4/25	3060*	100.00	4/26			

* Indicates a break in check number sequence

Other Withdrawals and Service Fees

Date	Amount	Description
4/11	4.49	AUTOMATED DEBIT STAMPS.COM SVC FEE CO. ID. 1323018718 050411 PPD MISC 000000029719346
4/11	47.04	COMMERCIAL SERVICE CHARGES FOR MARCH 2005
4/12	35.00	NSF FEE FOR ITEM 000000002938, \$1184.04
4/15	20.00	AUTOMATED DEBIT SMALL BUSINESS PREAUTHDBT CO. ID. 2431727976 050415 PPD MISC 274403248
4/28	35.00	NSF FEE FOR ITEM 000000003054, \$1756.69
	35.00	NSF FEE FOR ITEM 000000003055, \$1509.65
4/29	35.00	NSF FEE FOR ITEM 000000003064, \$450.00
Total	\$211.53	

Service Fees

Description	Quantity	Amount	Total
Total			\$0.00

Average balance
Minimum balance\$4,381.43
\$11.95

Daily Balance Summary

Dates	Amount	Dates	Amount	Dates	Amount
4/01	4,098.70	4/13	2,169.01	4/22	6,161.81
4/04	3,874.50	4/14	11.95	4/25	4,891.09
4/08	3,841.87	4/15	13,209.37	4/26	66.09
4/07	3,109.35	4/18	7,445.94	4/27	151.09
4/08	1,359.92	4/19	6,950.37	4/28	81.09
4/11	1,308.39	4/20	6,809.32	4/29	48.09
4/12	1,973.39	4/21	6,569.01		



03

2000002261353 031 130

0 40

68,745



VACHOVIA

Business Checking

04 200002261353 031 130

0 40 68,746

04/01/2005 thru 04/29/2005

ASSOCIATED CONSTRUCTION CONSULTANTS INC. 2005
 DATE 4/8/05
 PAY TO THE ORDER OF Salvador Lopez \$ 660.45
For Number 14. Lopez Dallas
 VACHOVIA
 MICHAEL + 4024
 REF#1334847479 PAID 4/08 660.45

ASSOCIATED CONSTRUCTION CONSULTANTS INC. 2005
 DATE 4/1/05
 PAY TO THE ORDER OF Alfred S. Hatten \$ 115.00
For Number 14. Hatten Dallas
 VACHOVIA
 MICHAEL + 4024
 REF#6330425334 PAID 4/01 115.00

ASSOCIATED CONSTRUCTION CONSULTANTS INC. 2005
 DATE 3-30-05
 PAY TO THE ORDER OF ESPY \$ 203.54
Two Hundred Three
 VACHOVIA
 MICHAEL + 4024
 REF#6331031559 PAID 4/04 203.54

ASSOCIATED CONSTRUCTION CONSULTANTS INC. 2005
 DATE 3-21-05
 PAY TO THE ORDER OF ESPY \$ 220.66
Two hundred twenty
 VACHOVIA
 MICHAEL + 4024
 REF#6331032094 PAID 4/04 220.66

ASSOCIATED CONSTRUCTION CONSULTANTS INC. 2005
 DATE 4-8-05
 PAY TO THE ORDER OF ESPY \$ 832.98
Eight hundred thirty two
 VACHOVIA
 MICHAEL + 4024
 REF#6332636748 PAID 4/08 832.98

ASSOCIATED CONSTRUCTION CONSULTANTS INC. 2005
 DATE 05-4-05
 PAY TO THE ORDER OF ESPY \$ 607.83
Six hundred seven
 VACHOVIA
 MICHAEL + 4024
 REF#6531139648 PAID 4/06 607.83

ASSOCIATED CONSTRUCTION CONSULTANTS INC. 2005
 DATE 4/21/05
 PAY TO THE ORDER OF MURPHY BROTHERS \$ 175.00
One Hundred Seventy Five
 VACHOVIA
 MICHAEL + 4024
 REF#3711336172 PAID 4/21 175.00

ASSOCIATED CONSTRUCTION CONSULTANTS INC. 2005
 DATE 4/14/05
 PAY TO THE ORDER OF APRIL \$ 1964.04
One thousand nine hundred
 VACHOVIA
 MICHAEL + 4024
 REF#6634606057 PAID 4/14 1964.04

Record on Appeal

ACHOVIA

04/01/2005 . thru 04/29/2005

[illegible]

REF#3611236516 PAID 4/07 532.32

[illegible]

REF#6437627870 PAID 4/13 954.38

[illegible]

REF#5312599542 PAID 4/08 132.00

[illegible]

REF#1711619082 PAID 4/08 124.00

ASSOCIATED CONSTRUCTION
COMPANY, INC.
10418 Middle-
School Rd
7-20-64
4/14/65
212-58
Two thousand eight hundred and fifty
THOMSON
10418 Middle-
School Rd
7-20-64
4/14/65
212-58
Two thousand eight hundred and fifty

REF#1434573180 PAID 4/15 282.58

[illegible]

REF#6634620752 PAID 4/14 78.02

[illegible]

REF#6634666619 PAID 4/14 115.00

ASSOCIATED DISTRIBUTION
COMMERCIAL MAIL
REGISTERED MAIL

NO 6

April 15 02

To: Egyptian Chamber \$ 18.25

To: Eighteen - 7400 THREE 00

RECEIVED
APR 15 1902

FOR: Nat'l Bank

#001043# 4011107513C H000026154# #000001011#

REF#6336012132 PAID 4/20 18.33



Business Checking

08 2000002261353 031 130

0 40 68,748

04/01/2005 thru 04/29/2005

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
04/18/05
1421.83
On the 18th day of April 2005 I have paid to the order of WACHOVIA the sum of Four hundred twenty one and 83/100 dollars.

REF#6334916347 PAID 4/18 1421.83

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
04/18/05
1341.60
On the 18th day of April 2005 I have paid to the order of WACHOVIA the sum of One thousand three hundred forty one and 60/100 dollars.

REF#6334916346 PAID 4/18 1341.60

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
04/22/05
407.40
On the 22nd day of April 2005 I have paid to the order of WACHOVIA the sum of Four hundred seven and 40/100 dollars.

REF#6532906204 PAID 4/22 407.40

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
04/26/05
5000.00
On the 26th day of April 2005 I have paid to the order of UNITED STATES ARMY the sum of Five thousand and 00/100 dollars.

REF#1915431877 PAID 4/26 5000.00

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
04/18/05
3000.00
On the 18th day of April 2005 I have paid to the order of WACHOVIA the sum of Three thousand and 00/100 dollars.

REF#6335056272 PAID 4/18 3000.00

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
04/25/05
595.00
On the 25th day of April 2005 I have paid to the order of WACHOVIA the sum of Five hundred ninety five and 00/100 dollars.

REF#6337114838 PAID 4/25 595.00

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
04/20/05
415.72
On the 20th day of April 2005 I have paid to the order of WACHOVIA the sum of Four hundred fifteen and 72/100 dollars.

REF#6336012131 PAID 4/20 415.72

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
04/19/05
123.80
On the 19th day of April 2005 I have paid to the order of WACHOVIA the sum of One hundred twenty three and 80/100 dollars.

REF#3811883149 PAID 4/19 123.80



Business Checking

07 200002261353 031 130

0 40 68,749

WACHOVIA

04/01/2005 thru 04/28/2005

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
WACHOVIA BANK, N.A.
MEMBER FDIC

DATE 4-19-05

Pay to the order of Shirley Williams \$ 371.77

Three hundred seventy one and 77/100

WACHOVIA BANK, N.A.

Signature: *[Signature]*

ACCOUNT NO. 0000019777

REF#3417705212 PAID 4/19 371.77

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
WACHOVIA BANK, N.A.
MEMBER FDIC

DATE 4-19-05

Pay to the order of Sea Island Supply, LLC \$ 65.31

Sixty five and 31/100

WACHOVIA BANK, N.A.

Signature: *[Signature]*

ACCOUNT NO. 0000019777

REF#3711369618 PAID 4/21 65.31

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
WACHOVIA BANK, N.A.
MEMBER FDIC

DATE 4-25-05

Pay to the order of Lowe's \$ 560.52

Five hundred sixty and 52/100

WACHOVIA BANK, N.A.

Signature: *[Signature]*

ACCOUNT NO. 0000019777

REF#1437371035 PAID 4/25 560.52

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
WACHOVIA BANK, N.A.
MEMBER FDIC

DATE 4-21-05

Pay to the order of Cricket Campbell \$ 115.00

One hundred fifteen

WACHOVIA BANK, N.A.

Signature: *[Signature]*

ACCOUNT NO. 0000019777

REF#6337040219 PAID 4/25 115.00

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
WACHOVIA BANK, N.A.
MEMBER FDIC

DATE 4-25-05

Pay to the order of John Deere \$ 90.00

Ninety

WACHOVIA BANK, N.A.

Signature: *[Signature]*

ACCOUNT NO. 0000019777

REF#6338026353 PAID 4/27 90.00

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
WACHOVIA BANK, N.A.
MEMBER FDIC

DATE 4-25-05

Pay to the order of Field Station \$ 100.00

One hundred

WACHOVIA BANK, N.A.

Signature: *[Signature]*

ACCOUNT NO. 0000019777

REF#3712388288 PAID 4/26 100.00

ASSOCIATED CONSTRUCTION CONSULTANTS, INC.
WACHOVIA BANK, N.A.
MEMBER FDIC

DATE 4-25-05

Pay to the order of Ben Allen \$ 150.00

One hundred fifty

WACHOVIA BANK, N.A.

Signature: *[Signature]*

ACCOUNT NO. 0000019777

REF#1438303510 PAID 4/27 150.00

SOUTHEASTERN SERVICES

90 McGill Lane
Ridgeland, South Carolina 29936
Phone (843)290-3282
Fax (843)726-5975
sbrown5@hargray.com

November 11, 2004

PROPOSAL

Submitted to:

George ~~Esquivel~~ Esquivel

Job Name:

147 Harborwood Villas

The following is our proposal for the work to be completed at the above address as discussed in our previous meeting.

BATHROOM #1

Remove and replace vanity.
Replace vanity top and sink with cultured marble.
Replace faucet.
Replace mirror.
Replace light fixture with new light bar.
Replace shower doors.
Remove bathtub and replace with custom tile shower.
Replace shower valve.
Replace toilet.
Tile bath floor.

BATHROOM #2

Same items as bath #1

MASTER BEDROOM

Replace carpet.
Add seating area onto rear of villa.
Replace sliding doors with Pella Brand.

FRONT BEDROOM

Replace carpet.
Replace sliding glass doors with Pella Brand.

KITCHEN

Remove and replace cabinets and counter tops.
Add tile to backsplash.
Redesign kitchen to open area up to living room.
Replace all appliances with ones chosen by you from Lowe's

LAUNDRY ROOM

Change layout to fit stackable W/D.
Replace W/D.

REAR PORCH

Construct addition on right side.
Close in existing porch with Pella Brand door and windows.
Finish interior.

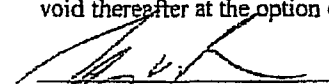
ENTIRE VILLA

Install can lights in living room.
Paint all walls, ceilings and trim.
Remove and replace existing trim. (baseboard and door casings)
Add crown moulding to all rooms.
Change all doorknobs.
Tile all areas not carpeted.
Replace front door.
Replace all electrical outlets and switches with white ones.
Install gutters front and rear of villa.

We hereby propose to furnish all *labor and materials* to complete this job in accordance with the attached specifications for the sum of: Eighty Six Thousand Five Hundred Dollars (\$86,500.00) with payments to be made as follows: 25% down upon signing with weekly draws based on job progression.

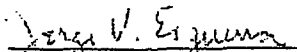
All work to be completed in a workmanlike manner according to standard practices.

Any alteration or deviation from the attached specifications involving extra cost will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon accidents or delays beyond our control. This proposal subject to acceptance within 15 days and is void thereafter at the option of the undersigned.


Jamie V. Brown

ACCEPTANCE OF PROPOSAL

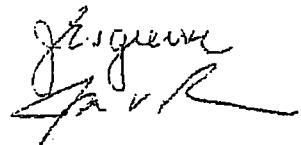
The above prices, specifications and conditions are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

 11-15-04
Authorized Signature

2-15-05

Finish date - 16 weeks

Last Payment to be made following inspection of work.
(97,000)



Countertop

Square edge
Impala Black Granite

Cabinets

Kraftmaid / Cross Creek Maple Finish - Toffees or Maple
Gloss Topdoors - include mesh pullout

Isle

Paints Beige

Disposal

Stove

48356 - whirlpool - 3/6 50
cat

Microwave

21329 - whirlpool - 9 298
cat.

W/P

56778 DRYER
56714 washer

Refrigerator

149170 - Frigidaire 2 door
947

Undermount Sink
205830 KOHLER

Faucet
Faucet - 191485

Shower

Guest Bath

61811 - MOEN Rubbed Bronze Shower Valve
61897 - Sink Faucet
79104 - Showers -

Master Bath

27418 MOEN -
Add Rain Head.

Vanity top - 79104 Showers Vanity top

Vanities

203597
UPTON CHERRY

Additions

Ratio in front Series and
Parity tips upward - \$700 more

~~John~~^{Nick} Kelly - President

Dr M Maierman - Property Manager

2421 Brookwood

BUILDING PERMIT
Town of Hilton Head Island
Beaufort County, South Carolina



B0501161

Date: April 26, 2005	Type of Permit: Renovation Multi Family	Cost of Construction:	\$25,000.00
Date: 04/19/2005	Type of Occ.: Residential	Permit Fee:	\$481.25
R55001700010820008	Lot #:	Fl.Zone/Min.Finished Flr.El.	A7(14)
62 PLANTATION DRIVE ****		Subdivision:SEA PINES	
147		Building #:	

IT 147 - REMOVE SCREENING AND INSTALL WINDOWS TO ENCLOSE AREA

ESGUERRA JORGE MARY LYNNE 2421 BRENTWOOD ROAD NW CANTON OH 44708 330-933-0235
for: ASSOCIATED CONSTR CONSULTANTS INC 5 TURRETT SHELL LANE HILTON HEAD ISLAND SC 29926 1-800-828-0001
t: ASSOCIATED CONSTR CONSULTANTS INC JAMIE BROWN 5 TURRETT SHELL LANE HILTON HEAD ISLAND SC 29926 1-800-828-0001
t:
: HARBOUR WOOD VILLAS - UNIT 147 - ESGUERRA

2003 IBC 1/05

Heated Sq. Ft.:	0	Unheated Sq. Ft.:	0	Total Square Feet:	0
Number of Units:	0	Type of Construction:		Sq.Ft. Swimming Pool:	0
Number of Stories:	0	Type of Exterior:		Type of Sewage:	
Number of Bedrooms:	0	Type of Roofing Material:		Septic Tank #:	0
Number of Baths:	0	Type of Heating/Air:			
Total # of Res.Rooms:	0	Type of Fuel:			
Number of Elevators:	0	Gas Appliances:			
Number of Fireplaces:	0	Size of LP Tank:	0		
Fire Alarm System:		Sprinklered:			

WORK MUST COMPLY WITH TOWN OF HILTON HEAD ISLAND CODES.

ame: JAMIE V. BROWN

ire: *J. V. Brown*

Date: 5/6/05

Owner or Agent of Owner

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

The Honorable Marvin H. Dukes, III

Case No. 2007-CP-07-1547

Jorge V. Esguerra Appellant,

v.

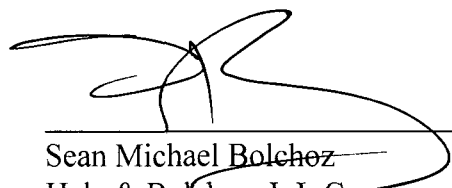
Jamie V. Brown, individually and d/b/a Southeastern Services,
Robert Baroni, Boyd R. Laughlin and Associated Construction
Consultants, Inc., Defendants

Of whom Robert Baroni, Boyd R. Laughlin and Associated
Construction Consultants, Inc. are Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

December 15, 2011



Sean Michael Bolchoz
Hale & Bolchoz, L.L.C.
1533 Fording Island Road, Suite 294
P.O. Box 22561
Hilton Head Island, S.C. 29925
(843) 837-3000
Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

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DEC 20 2011

The Honorable Marvin H. Dukes, III

SC Court of Appeals

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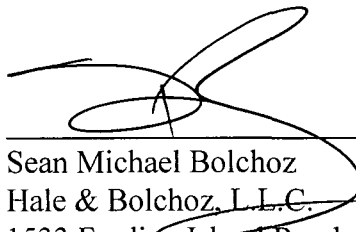
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Robert Baroni, Boyd R. Laughlin and Associated Construction
Consultants, Inc., Defendants

Of whom Robert Baroni, Boyd R. Laughlin and Associated
Construction Consultants, Inc. are Respondents.

PROOF OF SERVICE

I certify that I have served the Record on Appeal by depositing a copy of the same in the United States Mail, postage prepaid on December 16, 2011, addressed to the other attorney of record James F. Berl, Esquire.

December 16, 2011


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Attorney for Appellant

Other Counsel of Record:

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Law Offices of James F. Berl, P.C.
PO Box 22626
Hilton Head Island, SC 29925

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