

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Honorable Ralph King Anderson, III
Chief Administrative Law Judge

APPELLATE CASE NUMBER 2017-001311

N. Bobby Knight & Construction Group, LLC, Appellants

v.

South Carolina Department of Labor, Licensing and Regulation,
South Carolina Contractors Licensing Board Respondent

RECORD ON APPEAL

WILLIAM K. SWOPE, ESQUIRE

Swope Law Firm, P.A.
1525 Sam Rittenberg Blvd, Ste 208
Charleston, SC 29407
(843) 852-4925
Attorney for the Appellant

T. KYLE TENNIS

Assistant Disciplinary Counsel
S.C. Department of Labor,
Licensing and Regulation
P.O. Box 11329
Columbia, SC 29211-1329
(803) 896-4321
Attorney for Respondent

RECEIVED
MAY 03 2018
SC Court of Appeals

INDEX

ORDERS

United States District Court (January 2013) 001
SC LLR-CLB (November 4, 2016) 002
SC-ALC (February 6, 2017) 003 - 009

PLEADINGS

Notice of Complaint (January 9, 2015) 010

TRANSCRIPTS

Administrative Hearing (September 9, 2016) 011 - 050

MOTIONS & MISC.

Hearing Officers Recommendations 051 - 054
N.Bobby Knight SC-ALC BRIEF of APPELLANT 055 - 084
N.Bobby Knight SC-ALC MOTIONS TO CORRECT CAPTIONS 085 - 094
LLR-CLB MOTION TO DENY MOTIONS TO CORRECT CAPTIONS 095 - 099
SC-ALC LETTER (January 4, 2017) 100
SCLLR-CLB NOTICE OF FINAL HEARING 101 - 115

CERTIFICATE OF SERVICE END

(LATE) ROA INSERTED PAGE 116-136

AO 450 (SCD 04/2010) Judgment in a Civil Action

UNITED STATES DISTRICT COURT
for the
District of South Carolina

Atlantic Electric LLC
Plaintiff
v.
Construction Group LLC, Companion Property and
Casualty Insurance Company
Defendant

Civil Action No. 2:12-cv-00107-RMG

JUDGMENT IN A CIVIL ACTION

The court has ordered that (check one):

the plaintiff (name) Atlantic Electric LLC recover from the defendants (name) Construction Group LLC, Companion Property and Casualty Insurance Company, jointly and severally, the amount of Fifty-one thousand eight hundred five and 00/100 dollars (\$ 51,805.00), plus prejudgment interest at the rate established by 41 U.S.C. §611 from the time that notice was given to the contracting officer on 10/29/2011 until the amounts due under this judgment are paid by Defendants, plus all costs of this action.

the plaintiff recover nothing, the action be dismissed on the merits, and the defendant (name) _____ recover costs from the plaintiff (name) _____.

other:

This action was (check one):

tried by a jury, the Honorable _____ presiding, and the jury has rendered a verdict.

tried by the Honorable _____ presiding, without a jury and the above decision was reached.

decided by the Honorable Richard M Gergel, United States District Judge, presiding, on a motion of summary judgment.

Date: January 7, 2013

CLERK OF COURT

s/ S. Shealy

Signature of Clerk or Deputy Clerk

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

In the Matter of:
CONSTRUCTION GROUP LLC,
 License No. CLG. 103920,
 N. Bobby Knight,
 Certificate No. CQG.14035,

 Respondents

 Case No.: 2015-5

FINAL ORDER

This matter came before the South Carolina Contractor's Licensing Board ("Board"), for a Final Order hearing on October 20, 2016, as a result of the Notice of Hearing and Hearing Officer's Recommendation served upon the Respondents on September 14, 2016, and filed with the Board. The hearing was held pursuant to S.C. Code Ann. §§ 40-1-90, 40-11-90, 40-1-70(6), and the provisions of the Administrative Procedures Act, S.C. Code Ann. § 1-23-10 *et seq.* (1976, as amended), to review the attached Hearing Officer's Recommendation ("Recommendation") in the above referenced matter and to issue a Final Order.

ODC Atty:	Tracey Perlman	Respondents Counsel: No
Witnesses:	None	Respondent Appeared: No

Recusals: W. Franklin Walker: Hearing Officer and Legrand Richardson: prior professional relationship

The Board hereby takes the following action with respect to the Recommendation:

The Hearing Officer's Findings of Fact and Conclusions of Law are adopted in their entirety.

The Hearing Officer's recommended sanctions are adopted in their entirety.

AND IT IS SO ORDERED.

**SOUTH CAROLINA CONTRACTOR'S
LICENSING BOARD**


 Lewis M. Caswell, Chairman

November 4, 2016

TKT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

N. Bobby Knight and Construction Group,)
LLC,)
)
Appellants,)
)
v.)
)
South Carolina Department of Labor,)
Licensing and Regulation, South Carolina)
Contractor's Licensing Board,¹)
)
Respondent.)

Docket No. 16-ALJ-11-0467-AP

ORDER

FILED

February 6, 2017

SC ADMIN. LAW COURT

This matter comes before the South Carolina Administrative Law Court (ALC or Court) on a Motion to Correct or Amend Caption and a Motion for Stay filed by N. Bobby Knight, the qualifying party for Construction Group, LLC (LLC).² In response, the South Carolina Department of Labor, Licensing and Regulation, South Carolina Contractor's Licensing Board (LLR or Department) filed a "Motion to Deny Appellant's Motion to Correct or Amend Caption," in which it also requested that the Court hold Mr. Knight's Motion for Stay in abeyance pending the Court's ruling on whether Appellant has complied with Rule 8(A) of the Rules of Procedure for the Administrative Law Court (SCALC Rules) and grant the Department an additional thirty

¹ Notwithstanding the remainder of this Court's decision with respect to the caption in this case, the Court notes several errors in the current caption on file, the omission of "Department of" between South Carolina and Labor, and the use of "Residential" instead of "Contractor's" in reference to the Licensing Board. Accordingly, the Court hereby orders, *sua sponte*, that the caption be amended to reflect the caption as corrected above.

² The document that Mr. Knight filed was titled "Notice & Motion for: Rule 34.A. Automatic Stay." However, this document actually contained two motions, as it moved "the Court to provide an ORDER for the Clerk to correct or amend the case caption . . ." and "a[n] SC ALC ORDER under Rule 34.A. Automatic Stay . . ." Therefore, the Court will treat Mr. Knight's document as two separate motions. However, the Court will refer to Mr. Knight's second motion as a "Motion for Stay," since one cannot move for an "automatic stay," only to lift one, but can move for the imposition of a stay in an LLR case pursuant to SCALC Rule 34(A), since stays are not automatic in LLR cases pursuant to S.C. Code Ann. § 40-1-160 (2011)). To the extent Mr. Knight has also requested the Court to order the Department to provide him the renewal of the license and qualifying party certification, because the Court rules that Construction Group, LLC, being the licensee at the time this appeal was filed, is a necessary party to this appeal, the Court denies Mr. Knight's request to be provided the renewal of the license and qualifying party certification.

(30) days to file the Record on Appeal.³ On February 2, 2017, Mr. Knight filed a "Reply to Response: Correct or Amend Case Caption" (Reply).

Regarding Mr. Knight's Motion to Correct or Amend Caption, he first argues that the LLC should be listed in the caption as "a Respondent because it cannot hire an attorney to become an Appellant and for the court to adopt the caption above as presented" (underline omitted), i.e., to list the LLC as one of the respondents with Mr. Knight as the only appellant.⁴ He then references an order from Judge Norton of the United States District Court in which he dismissed Mr. Knight's *qui tam* claim and ordered the clerk of his court to change the caption to reflect Mr. Knight as the *pro se* plaintiff in that case. First, Appellant has provided no legal authority to support his assertion that counsel cannot be retained by an LLC and that the inability to retain counsel makes a party a respondent instead of an appellant in an appeal. Rather, SCALC Rule 8(A) states that with the exception of cases arising under the Occupational Safety and Health Act (which does not apply in this case), "[a]ny party which is not a natural person must be represented by an attorney." (Emphasis added). The Notes to 2016 Amendments to this rule further adds that "Rule 8(A) has been amended to clarify that any party which is not a natural person, such as corporations, partnerships, and other business entities, must be represented by an attorney in proceedings before the Court." (Emphasis added). An LLC qualifies as an "other business entit[y]" for purposes of SCALC Rule 8(A). Therefore, an attorney can and must be represent an LLC before this Court. Otherwise, the Court will not entertain any arguments on its behalf.

As to the order from Judge Norton, it has absolutely no bearing in this case and is not binding on this Court, even had the LLC originally been a party in that case (which is not evident);

³ First, the Court notes that the Department erred in its caption and in the text of its response by referring to the document filed by Mr. Knight as "Appellant's Motion" because the document was filed by Mr. Knight, and he is only one of the two appellants. Therefore, it should have specified which appellant's motion it was responding to. Second, the Court will be ruling on both of Mr. Knight's motions in turn and, therefore, need not hold Mr. Knight's Motion for Stay in abeyance. Consequently, the Department's request for abeyance is denied.

⁴ In his Reply, Mr. Knight asserts that the Department erred in its response by stating that his "request to remove a licensee from the caption would be inapposite to the Board's licensing statutes as well as SCALC Rule 8(A)," because he was not moving to remove the LLC, which is the licensee, from the caption; rather, he was seeking to make them a respondent, as reflected in the caption that he included in his document, to which he also referred. Mr. Knight also asserts that the LLC is a party in this case as defined by SCALC Rule 2(H) ("Party means each person or agency named or admitted as a party or properly seeking and entitled to be admitted as a party, including a license or permit applicant."). The Court agrees with Mr. Knight that the LLC is a party in this case because it is the licensee, and that the Department misstated Mr. Knight's position with respect to his request to correct or amend the caption. Nevertheless, for the reasons discussed above, the LLC cannot be included as a respondent in this case, and therefore cannot be reflected as such in the caption.

and Mr. Knight has cited no authority to the contrary.⁵ This appeal pertains to not only sanctions against the qualified party certificate issued to Mr. Knight and fines imposed upon him, but also to the sanctions imposed against the license issued to Construction Group, LLC and the fines imposed upon it. Therefore, this appeal must proceed with the current licensee, the LLC, as an appellant, not just Mr. Knight. Therefore, the Court denies Mr. Knight's Motion to Correct or Amend Caption.

Mr. Knight next argues that as a party, he has the right to file a request for a stay pursuant to SCALC Rule 34(A), and he argues that he should receive "a renewal of the Licenses and Qualifying Party Certifications." To support these arguments, Mr. Knight point out that there is ongoing litigation challenging an order issued by Judge Gergel of the United States District Court, and he cites to *Old Wayne Mut. L. Assoc. v. McDonough*, 204 U.S. 8, 27 S.Ct. 236 (1907) for the proposition that "[a] Court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. It is clear and well established law that a void order can be challenged in any court." He further provides details of this case in his Reply. Also in his Motion to Correct or Amend Caption and his Reply, Mr. Knight refers to Judge Norton's order and asserts in his motion that "SC ALC Appeal, Rule 34.A extends itself into the pending federal litigation and shows that Hon. USDC Judge Norton changed his Courts [sic] caption making Bobby Knight *pro se*" In his Reply, Mr. Knight also cites to a federal automatic stay statute and a local rule of the U.S. District Court to support his position.

First, the SCALC Rules, including SCALC Rule 34(A), do not apply to the U.S. District Court. and its rules (as well as federal automatic stay statutes) do not apply to this Court. Second, as stated above, Judge Norton's case in the U.S. District Court is not binding on this Court. Likewise, Judge Gergel's order has no bearing on the matter before this Court and is not binding on this Court. The lone case that Mr. Knight cites in support of a stay while his challenge to Judge Gergel's order is pending, *Old Wayne*, is also inapplicable in this case, as Mr. Knight has failed to

⁵ It is also noteworthy that Judge Norton's case was at the trial level as opposed to here, where the case is at the appellate level. The LLC, being the licensee, was already a party below and subject to part of the sanctions and fines from which this appeal arose, but Mr. Knight did not challenge the party status of the LLC below, and thus did not challenge the caption at the hearing below. Therefore, the parties and their issues are part of the law of the case, which cannot be altered at this point. See *Crossman Cmty. of N.C., Inc. v. Harleysville Mut. Ins. Co.*, 411 S.C. 506, 524, 769 S.E.2d 453, 463 (Ct. App. 2015) ("Under the law of the case doctrine, an unappealed ruling is the law of the case and requires affirmance. The doctrine of the law of the case applies to an order or ruling which finally determines a substantial right. The law of the case doctrine applies to issues explicitly decided and issues necessarily decided in the former case.") (internal citations and quotations omitted) (emphasis added).

establish how the hearing below in this case was void. If Mr. Knight wishes to challenge the validity of Judge Gergel's order, he will need to file an appeal with the Fourth Circuit Court of Appeals. Therefore, the Court denies Mr. Knight's Motion for Stay.

As to Mr. Knight's request for renewal of the license and qualifying party certification, the issue of whether the Department erred in conditionally declining to renew the LLC's license and Mr. Knight's qualifying party certification, and thus whether they are entitled to renewal, is not relevant to the requests to correct or amend the caption and for stay that are the subject of this motion. Rather, the issue of renewal is not ripe for review at this time and will have to be addressed by the parties during the briefing stage of this appeal.

Finally, as part of its response to Mr. Knight's motion, the Department requests an additional thirty days from the date of the Court's Order to file the Record on Appeal "in the event the Court deems Appellant's Appeal is in compliance with the SCALC Rules." Mr. Knight argues in his Reply that this request for continuance should be denied because "it serves only to delay the issuance of the license (renewal) application of [the LLC]." He also asserts that the South Carolina Contractor's Licensing Board prematurely "published and publically reprimanded and distributed their hearing order on their website" by doing so prior to the expiration of the appeal period.

First, in response to Mr. Knight's assertion concerning the actions of the South Carolina Contractor's Licensing Board, because there is no automatic stay provision in LLR cases, pursuant to S.C. Code Ann. § 40-1-160 (2011), as discussed in footnote 2. *supra*, the decision of the Board went into effect immediately and was thus properly published and distributed. Second, as to the Department's request for extension to file the Record on Appeal, because Appellant's brief is not due until thirty (30) days after the filing of the Record on Appeal, pursuant to SCALC Rule 37, and Appellant may have retained counsel by that time, the Court may grant an extension to the Department to file the Record on Appeal without regard to Appellant's compliance with the SCALC Rule 8(A) hitherto (the only rule-compliance issue in this matter at the moment). Accordingly, though the Court finds that Appellant LLC has thus far failed to comply with SCALC Rule 8(A) and must, therefore, retain counsel if it wishes to proceed on the appeal, the Court will grant the Department's request for extension because of the time that it necessarily expended to address Mr. Knight's motions.⁶

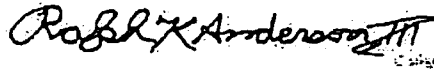
⁶ Though this ruling will delay the ultimate outcome of the appeal, the Court finds that this delay is a direct result of Mr. Knight's own motions.

IT IS THEREFORE ORDERED that Mr. Knight's Motion to Correct or Amend Caption is **DENIED**.

IT IS FURTHER ORDERED that Mr. Knight's Motion for Stay is **DENIED**.

IT IS FURTHER ORDERED that the Department's Motion for Extension to File the Record on Appeal is **GRANTED**.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

February 6, 2017
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).


E. Harvin Belser Fair
Judicial Law Clerk

February 6, 2017
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In The Administrative Law Court

APPEAL FROM THE SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION
SOUTH CAROLINA CONTRACTOR'S LICENSING BOARD

Docket No. 16-ALJ-11-0467-AP

N. Bobby Knight and Construction Group, LLC. Appellants,

v.

South Carolina Department of Labor, Licensing and Regulation,
South Carolina Contractor's Licensing Board Respondent.

CERTIFICATE OF SERVICE

^{24th} I hereby certify that I am an Attorney for Respondent in the above-captioned matter and that on the 24th day of February, 2017, in Columbia, South Carolina, I served a copy of **the Record on Appeal** onto the Court and Appellants in this matter by hand delivery and by mailing, respectively, to the addresses as follows:

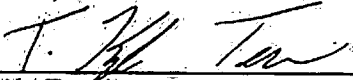
BY HAND DELIVERY

The Hon. Ralph King Anderson, III
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Ste. 224
Columbia, SC 29201-3731

BY MAILING

N. Bobby Knight and
Construction Group, LLC
3940 Hottinger Avenue
North Charleston, SC 29405
Appellants

**SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING AND REGULATION**


T. Kyle Tennis
Assistant Disciplinary Counsel
South Carolina Department of Labor,
Licensing and Regulation
Office of Disciplinary Counsel

Columbia, South Carolina
February 24th, 2017



Nikki R. Haley
Governor

Richele Taylor
Interim Director

South Carolina
Department of Labor, Licensing and Regulation

Division of Professional and Occupational Licensing
Office of Investigations and Enforcement



110 Centerview Drive
Post Office Box 11329
Columbia, SC 29211-1329
Phone: (803) 896-4470
FAX: (803) 896-4656

NOTICE OF COMPLAINT

January 9, 2015

Construction Group LLC
3940 Hottinger Avenue
Charleston, SC 29405

File #: 2015-005

Complaint Filed By:
Mr. Roger Lowe, CLB Administrator

Site Location:
SCDLLR
110 Centerview Drive
Columbia, SC 29211-1329

Listed are the particulars of a complaint filed against you for failing to disclose judgments on your 2014 renewal application. Please submit a written response addressing each of the items in the complaint within ten (10) days from receipt of this letter. You may mail your response to the address on this letter or fax it to 803-896-4656. Please include the case number on any correspondence and address it to my attention.

1. Section 40-11-110 (A-4) fraud or deceit in obtaining a license or certification

Please contact me at 803-896-5378.

The results of my investigation will be submitted to an Investigative Review Committee (IRC) for review to determine if you have violated any of the provisions of the license law with regard to building code or standards violations. If you have satisfactorily addressed and/or repaired the items that represent violations, prior to my inspection or filing of the IRC report, that fact will be taken into consideration by the IRC as long as proper documentation is received by this office.

Your cooperation in this matter is appreciated.

Respectfully,

Maurice Smith
Investigator III



SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING &
REGULATION BEFORE THE SOUTH CAROLINA CONTRACTOR'S
LICENSING BOARD

In the Matter of:)
)
 CONSTRUCTION GROUP, LLC)
 License No.: CLG.103920 GC))
 License No.: CLM.106217 MC))
 N. BOBBY KNIGHT,)
 Credential No.: CQG.14035)
)
 Respondents.)
)
 Case No.: 2015-5)
)

COPY

ADMINISTRATIVE HEARING

Friday, September 9, 2016
10:07 a.m. - 11:20 a.m.

The Administrative Hearing before the South Carolina Board for Registration of Professional Engineers and Surveyors was taken at the Synergy Office Park, Kingstree Building, Room 108, 110 Centerview Drive, Columbia, South Carolina, on the 9th day of September, 2016 before Barbara S. Ham, Court Reporter and Notary Public in and for the State of South Carolina.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

APPEARANCES

BOARD MEMBERS:

Frank Walker, Hearing Officer

ADVISING THE BOARD:

Georgia L. Lewis, Esquire

Tracey R. Perlman, Staff Counsel
South Carolina Department of Labor,
Licensing and Regulations
Office of General Counsel
110 Centerview Drive
Post Office Box 11329
Columbia, South Carolina 29211-1329
Attorney for the South Carolina Department
of Labor, Licensing and Regulation

Also Present:

Officer David Spivey
Maurice Smith

INDEX

	<u>PAGE:</u>
<u>PRELIMINARY MATTERS:</u>	
Mr. Walker	4
<u>OPENING STATEMENT:</u>	
Ms. Perlman	6
<u>MAURICE SMITH:</u>	
Ms. Perlman	8
Hearing Officer	15
Ms. Perlman	21
<u>OLINDA MACK:</u>	
Ms. Perlman	24
Hearing Officer	25
<u>EXECUTIVE SESSION:</u>	
Certificate	32



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

EXHIBITS

State's Exhibit Number One 7
 (Notice of Hearing)

State's Exhibit Number Two 9
 (Notice of Complaint)

State's Exhibit Number Three 10
 (Letter to Mr. Maurice Smith from Bobby Knight)

State's Exhibit Number Four 11
 (Judgment in a Civil Action)

State's Exhibit Number Five 12
 (South Carolina Department of Labor & Licensing and Regulation Renewal Application of N. Bobby Knight)

State's Exhibit Number Six 14
 (Final Order signed by Judge Gergel)

State's Exhibit Number Seven 23
 (Affidavit of Costs - Maurice Smith)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the Administrative Procedures Act, the Practice Act and Regulations of the Board.



CREEL COURT REPORTING, INC.
 1230 Richland Street / Columbia, SC 29201
 (803) 252-3445 / (800) 822-0896

1 **HEARING OFFICER:** This hearing is called to order.
2 My name is W. Franklin Walker and I am the
3 Hearing Officer authorized by the South
4 Carolina Contractor's Licensing Board to hear
5 today's hearing. This is the matter of
6 Construction Group, LLC, License No.:
7 CLG.103920 and CLM.106217. And N. Bobby
8 Knight, Qualifying Party Certificate No.
9 CQG.14035, and CQM.14035. And this is case
10 number 2015-5.

11 **MS. PERLMAN:** Yes, sir.

12 **HEARING OFFICER:** Are you ready?

13 **MS. PERLMAN:** Yes, sir.

14 **HEARING OFFICER:** Okay. The purpose of this hearing
15 is to determine whether the General Mechanical
16 and General Mechanical Qualifying Party should
17 have disciplinary action taken against their
18 credentials. Everyone is reminded that these
19 proceedings are being recorded and that all
20 witnesses shall be sworn before they testify.
21 All remarks should be directed to me, the
22 Hearing Officer. Representing the State is
23 Tracey Perlman, Assistant Disciplinary Counsel.
24 Is the initial complainant present?

25 **MS. PERLMAN:** Sir, the State is the initial



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

complainant.

HEARING OFFICER: Is -- bear with me. Is the Respondent present?

MS. PERLMAN: No, sir. He is not.

HEARING OFFICER: Was the Respondent duly served with notice of today's proceedings?

MS. PERLMAN: Yes, sir. Respondent was sent a notice of hearing along with the formal complaint in this matter. It was sent to the address of record for Mr. N. Bobby Knight and his business, Construction Group, LLC. The address is 3940 Hottinger Avenue Charleston South Carolina 29405. As you will see on the certificate of service, the notice of hearing and the formal complaint were sent both certified and regular mail. We have not received -- and it was sent on -- or approximately July 28, 2016. We have not received a certified mail certificate in return. We have also not received any mail in return. Therefore, it would be our presumption that he did receive proper service. Also, as late as Thursday afternoon Mr. Knight filed some documents in Federal Court and on the heading of that document he used the same



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 address that I have just read into the record.
2 So, I fully believe that was the proper address
3 based on both his filing and the documentation
4 we have on file at LLR.

5 **(Discussion)**

6 **HEARING OFFICER:** Do you have anybody from the
7 Office of Disciplinary Counsel that can testify
8 to this -- to these facts?

9 **MS. PERLMAN:** Yes, sir. I do.

10 **HEARING OFFICER:** Once you present that case, we
11 will have that witness up to ---

12 **MS. PERLMAN:** Okay.

13 **HEARING OFFICER:** --- to testify.

14 **MS. PERLMAN:** Wait, do you want me to put that ---

15 **HEARING OFFICER:** You can do it now if you like.
16 Whatever ---

17 **MS. PERLMAN:** Whatever is best I can

18 **HEARING OFFICER:** Okay. Do your opening statement
19 and then we'll call this witness.

20 **(Opening Statement)**

21 **MS. PERLMAN:** Okay. Thank you, sir. As you stated
22 earlier, my name is Tracey Perlman. I'm with
23 the Office of Disciplinary Counsel. We are
24 here in the matter of Construction Group LLC.
25 License No: CLG.103920 GC. License No.:



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 CLM.106217 MC, and the Qualifying Party
2 Credential No.: CQG.14035, belonging to Mr. N.
3 Bobby Knight. Mr. Knight was served a notice
4 of hearing and a formal complaint in this
5 matter, which I would like to enter into the
6 record as Exhibit One, if I may.

7 **HEARING OFFICER:** So moved.

8 (State's Exhibit Number One was marked for
9 identification purposes.)

10 **MS. PERLMAN:** As you will see, Mr. McKnight -- Mr.
11 McKnight -- Mr. Knight was properly noticed.
12 In addition to that, prior to the very
13 beginning of this hearing, we did have a
14 members of the states, employee and Officer
15 Spivey who is here from Protective Services
16 today, go out in the hallway and call for Mr.
17 Knight three times. Also Officer Knight was
18 gracious enough to step outside and call for
19 him three times, and there was no answer and he
20 has not signed in into the building. Based on
21 the fact that notice was properly sent to Mr.
22 Knight at the address that he still uses, and
23 the address that LLR has on file, for both the
24 credential and the business license, I would
25 ask that this hearing proceed without his



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 presence.

2 HEARING OFFICER: We will proceed as scheduled.

3 MS. PERLMAN: Thank you, sir. I appreciate it. The
4 State would like to call Mr. Maurice Smith.

5 MAURICE SMITH, having been duly sworn, deposes and
6 testifies as follows:

7 MR. SMITH - EXAMINATION BY MS. PERLMAN:

8 Q: Good morning, Mr. Smith.

9 A: Good morning.

10 Q: Can you please state your full name for the
11 record please sir?

12 A: Maurice Smith.

13 Q: And where are you employed?

14 A: South Carolina Department of Labor, Licensing,
15 and Regulation the Office of Investigations and
16 Enforcement.

17 Q: And how long have you been with the Office of
18 Investigations and Enforcement?

19 A: With this agency, almost ten years.

20 Q: Okay. Now let me ask you something, sir. Were
21 you asked, as part of your regular course of
22 business to investigate a claim against
23 Construction Group, LLC and Mr. N. Bobby
24 Knight?

25 A: Yes I was.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Q: Okay. And do you know the allegations of which
2 your investigation was undertaken?

3 A: The original complaint, or the initial
4 allegations were application fraud.

5 Q: Okay. And I want to show you a document and
6 ask if you can identify it for me.

7 A: This is the standard notification or complaint
8 letter that I sent to the Respondent,
9 Construction Group, LLC as prescribed by
10 statute.

11 MS. PERLMAN: Okay. I'd ask that the Notice of
12 Complaint that was sent to the Respondent be
13 entered into evidence as State's Exhibit Two.

14 HEARING OFFICER: So moved.
15 (State's Exhibit Number Two was marked for
16 identification purposes.)

17 MS. PERLMAN: Thank you sir.

18 Q: Now Mr. Smith, this document is dated January
19 9, 2015.

20 A: Correct.

21 Q: Did you hear from the Respondent in return to
22 this document?

23 A: Yes, I did.

24 Q: I'd like to show you a document. Can you tell
25 me what that document is?

1 A: This would be his response to the allegations,
2 he addressed it to me and he used the
3 reference, the same case number 2015-005.

4 MS. PERLMAN: I'd like to put the Respondent's
5 written response of Notice of Complaint into
6 evidence as State's Exhibit Three.

7 HEARING OFFICER: So moved.

8 (State's Exhibit Number Three was marked for
9 identification purposes.)

10 MS. PERLMAN: Thank you, sir.

11 HEARING OFFICER: Give me just a second here.

12 MS. PERLMAN: Sure.

13 HEARING OFFICER: Okay.

14 Q: Now Mr. Smith, in his response to you is it
15 accurate to state that the Respondent admits to
16 making an error?

17 A: Yes, he did.

18 Q: Okay. And he does -- it was accidental.
19 Correct?

20 A: That was his understanding -- that's my
21 understanding.

22 Q: Okay.

23 A: Yes.

24 Q: But the written document itself says that he
25 did misrepresent himself on his application.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Is that correct?

2 A: That is correct.

3 Q: Okay. Now just to understand the underlying
4 issue, can you identify this document for me?

5 A: Yes. This is the United States District Court
6 of South Carolina Atlantic Electric LLC,
7 Plaintiff vs. Construction Group LLC, Companion
8 Property and Casualty Insurance Company.

9 Q: Okay. And what is this document?

10 A: A judgment, a civil action in -- was awarded to
11 Atlantic for \$51,805.00.

12 Q: Okay. And the date of this judgment?

13 A: January 7, 2013.

14 Q: Thank you.

15 MS. PERLMAN: I'd ask that this be moved into
16 evidence as State's Exhibit Four.

17 (State's Exhibit Number Four was marked for
18 identification purposes.)

19 HEARING OFFICER: So moved.

20 MR. PERLMAN: Thank you, sir.

21 Q: Now Mr. Smith, it's correct that there was a
22 renewal application due after the filing of
23 this judgment, correct?

24 A: That's correct.

25 Q: I'm going to hand you another document and I'm



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 going to ask you to identify it for me.

2 A: This is the South Carolina Department of Labor
3 Licensing and Regulations Renewal Application
4 Form for 2014-2016.

5 Q: Okay. And can you flip to the second and tell
6 you tell me who this renewal application is
7 for?

8 A: Construction Group LLC.

9 Q: Okay. And the qualifier name as stated on the
10 document?

11 A: Knight -- or N. Bobby Knight.

12 Q: Okay.

13 MS. PERLMAN: I'd ask that the application itself
14 be entered into evidence as State's Exhibit
15 Five.

16 HEARING OFFICER: So moved.

17 (State's Exhibit Number Five was marked for
18 identification purposes.)

19 Q: Now Mr. Smith, can you direct us to where the
20 information regarding the judgment should have
21 been disclosed to the board?

22 A: Yes. If you go to page three, discipline
23 questions and this is the fifth and last
24 question, since your last application or
25 renewal of your license, do you have any



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 outstanding monetary judgments related to
2 construction? He answered, no.

3 Q: Okay. And do you know whether the renewal
4 period would have been prior to the 2014
5 application?

6 A: It would have been 2012.

7 Q: And that would have gone from 2012 to 2014?

8 A: That is correct.

9 Q: Okay. So this January 7, 2013 judgment would
10 have fallen within the period between the 2012
11 renewing this renewal, correct?

12 A: That is correct.

13 Q: Okay. I would like to show you one more
14 document and ask if you can identify it for me.

15 A: United States District Court, Charleston, South
16 Carolina. United State of America for or on
17 behalf of Atlantic Electric LLC Plaintiff vs.
18 Construction Group LLC, Companion Property and
19 Casualty Insurance Company as the Defendants.

20 Q: Okay. And do you know what -- that's the
21 caption. Do you know what this document is?

22 A: This is the final order on the civil action
23 brought for judgment.

24 Q: And is this order signed a judge?

25 A: Yes, ma'am. On the very last page, Honorable



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Richard Mark -- I will butcher it as usual,
2 Gerrell ---
3 Q: Gergel.
4 A: --- Gergel, G-E-R --- G-E-R-G-E-L.
5 Q: And the date of this order?
6 A: January 4, 2013.
7 Q: And is it your understanding that this was the
8 actual Judge's order that set forth the
9 judgment that we have already discussed?
10 A: That is correct.
11 MS. PERLMAN: I would ask that this be moved into
12 evidence as State's Exhibit Six.
13 HEARING OFFICER: So moved.
14 (Six's Exhibit Number Six was marked for
15 identification purposes.)
16 Q: Now Mr. Smith, based on all the information
17 that I have given to you this morning. Should
18 Mr. Knight and his business, Construction Group
19 LLC, should they have answered yes to the
20 question five on the application for 2014?
21 A: Yes, ma'am.
22 Q: Regarding whether they had judgments?
23 A: Yes, ma'am.
24 Q: Okay. And in your opinion as an investigator,
25 was it a fraudulent application when they



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 checked no to that question?

2 A: By our statute, yes.

3 Q: Okay. And the statute says you must answer the
4 questions correctly and honestly. Is that
5 correct?

6 A: That is correct.

7 Q: And just for the record, can you go to the last
8 page of the application? And just tell us the
9 date and time that this application was
10 submitted.

11 A: This -- July 18, 2014 at 8:04 on the a.m.

12 Q: Okay. And the billing name on the credit card?

13 A: The billing name on the credit card was Norman
14 R. Knight.

15 Q: Thank you, sir. I have no further questions
16 for this witness. If the Hearing Officer has
17 any questions, I'd ask that you answer them.

18 MR. SMITH - EXAMINATION BY THE HEARING OFFICER:

19 Q: Could you tell me a little bit more about --
20 did you actually meet with him face to face?

21 A: Not face to face. No, sir.

22 Q: You spoke with him over the phone?

23 A: Over the phone and written correspondence.

24 Q: Okay. And your conversation on the phone, a
25 little bit more about that. You informed him



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 ---

2 A: I well when a -- normally when a Respondent
3 will call and say, hey I got your letter, can
4 you tell me what the -- more about what this is
5 all about. I go into a little bit more detail,
6 you know, on the phone conversation over the
7 phone interview that, you know, we do to the
8 application and that he should, you know, that
9 he answered no on a question where we had
10 evidence that he had a judgment against him in
11 2013. I always a lot of times try to get them
12 to confirm, you know, did you yourself actually
13 fill out the application or did you have
14 somebody in the office. I cannot remember
15 exactly the phone conversation and how he
16 answered that one. But we do go through it and
17 go through the different particulars of the
18 statute and the understanding of what a
19 judgment, lien, or claim is.

20 Q: Did -- was the license renewed?

21 A: Yes.

22 Q: It was renewed?

23 A: It is currently -- it is still current as of
24 today.

25 Q: Okay. I have no other questions. Excuse me.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Discussion)

Q: Do you recall the telephone conversation was it either before or after the written correspondence?

A: Oh, it would be after the correspondence.

(Discussion)

Q: In the letter that Mr. Knight sent you back, in the second paragraph it says he apologized and then in the fourth paragraph he says that it was not his intent and it was a mistake. Was there conversation about that or how did that come -- did your conversation with him go? Did he get into that that much or was it just a question of how it happened or?

A: It was pretty basic and generic. I forgot now but it was over two years ago. But it was very brief, very generic communications. And I told him I needed, you know, to give him the opportunity to send me his response so I could add it to the file so I could take it to the IRC, for the IRC to make its recommendations.

(Discussion)

Q: Yeah now, let me clear up in my mind. I thought the phone conversation was after his written response.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 A: Correct.

2 Q: And then you informed him that he should send
3 more?

4 A: It was -- lets see how I want to put it. If
5 there was going to be added additions or
6 subtractions, you know, this would be his time
7 to do it.

8 Q: It would be his time to do it ---

9 A: Yeah.

10 Q: --- but you had -- you would add this to his
11 file to start the ---

12 A: Yes, sir.

13 Q: --- at onset of the conversation?

14 A: If he was to add any additional information it
15 would also be scanned in and added into the
16 report.

17 Q: Okay.

18 A: On average, once I talked to a Respondent it
19 takes still another -- even after they send me
20 their response in writing, it's still two weeks
21 to maybe 30-days before I complete the report
22 about the investigation.

23 (Discussion)

24 Q: This application is for his general
25 contractor's license. Okay.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 A: Yes.

2 Q: And that's because you renew the general one
3 year and you renew the mechanical the following
4 year? They don't renew the same year.

5 A: No. Most of the time, well no. I can't answer
6 that question.

7 Q: Okay. I'm making a statement.

8 A: Okay.

9 Q: That's the way it works. If you're general --
10 if you have both licenses ---

11 A: Uh-huh (affirmative response).

12 Q: --- one year you renew the general and the
13 following year you renew mechanical. Do you
14 know if his mechanical license was filled out
15 properly the next year? Because he has both
16 licenses.

17 MS. PERLMAN: Give me one second to look in the
18 file.

19 Q: Yeah.

20 A: Look underneath that one, three.

21 MS. PERLMAN: There's nothing underneath there.

22 A: Nothing at all?

23 MS. PERLMAN: If I may, if it pleases the Hearing
24 Officer, I'd like to hand Investigator Smith
25 his file ---



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 HEARING OFFICER: Certainly.

2 MS. PERLMAN: --- to review. To refresh his
3 recollection of whether the mechanical license
4 ... May I say something for the record?

5 HEARING OFFICER: Yes, please.

6 MS. PERLMAN: The case as it was sent down to the
7 Office of Disciplinary Council was solely based
8 on his application for his general contractor's
9 license. The mechanical contractor's license
10 is listed on the caption for just clarity that
11 he has multiple licenses. But it was not
12 reviewed by me, and I'm sure Investigator Smith
13 will tell you if it was reviewed by him,
14 whether the mechanical license was completed
15 accurately because when the complaint came
16 down, it was only speaking to the application
17 for the general contractor's license.

18 A: There's nothing in the file that indicates that
19 we ran the qualifier license. Just the
20 construction -- just the CL, the CLG License,
21 for the CL only.

22 HEARING OFFICER: CLG?

23 A: Yes, sir.

24 HEARING OFFICER: Okay. And we can't act against
25 his mechanical since it's not part of it.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 MS. PERLMAN: That's correct sir.

2 HEARING OFFICER: All right. I have no further
3 questions.

4 MS. PERLMAN: May I ask a followup question?

5 HEARING OFFICER: Please.

6 MR. SMITH - RE-EXAMINATION BY MS. PERLMAN:

7 Q: Mr. Smith, if this case was handled in January
8 of 2015, and the mechanical license was due in
9 2015, is there a chance that the mechanical
10 license application would have come in some
11 time after this case had been closed by your
12 office?

13 A: Most licenses that I have seen in the past,
14 whether they be general, mechanical, or the
15 qualifier, always fall at the end of October.

16 Q: All right.

17 A: October 30 is usually their expiration date.
18 As with the residential builders, theirs is
19 always June -- September 30 -- June 30.

20 Q: So is there a chance that the mechanical
21 license is not part of this investigation
22 because it would not have been filed at the
23 time that this investigation was set in motion?

24 A: This case was investigated in January of 2015
25 ---



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 Q: Correct.

2 A: --- and it was closed. It had taken us -- or
3 basically it was off my desk sometime between
4 March and April.

5 Q: Okay. Thank you. No further questions.

6 **HEARING OFFICER:** Thank you. No further questions.

7 **MS. PERLMAN:** You can step down. That is the
8 State's case. I mean it was -- it is a very
9 basic case of someone not disclosing a judgment
10 against them and it is a case that we see
11 often. That people fail to, for one reason or
12 another, not report that they have a judgment
13 in the system. In this case, this is based on
14 both the date of the judgment, which was in
15 2013 and the correspondence between the
16 Respondent and the investigator, you know, it's
17 pretty clear that he knew that there was a
18 misrepresentation of the Respondent. He never
19 filed, as far as I can see, any type of
20 supplemental information. And we just went
21 forward on investigating it. So I would ask
22 that the Hearing Officer find that the State
23 has met its burden in this matter in proving
24 that the Respondent has failed to accurately
25 complete the renewal application and has



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 fraudulently -- whether inadvertent or, you
2 know, mistakenly it was not correct and he did
3 know that he had a judgment. In addition to
4 any sanctions set forth for that act, I would
5 ask that I be allowed to turn in a notarized
6 affidavit of costs for the time that officer --
7 I'm sorry. Investigator Smith took in
8 investigating this matter and ask that those
9 costs be considered as part of discipline.

10 MS. LEWIS: Well we would really like that. That's
11 not available at this point?

12 MS. PERLMAN: It is available.

13 MR. LEWIS: Do you have it?

14 MS. PERLMAN: Yes.

15 MS. LEWIS: Yeah. Okay.

16 MS. PERLMAN: Yes. That's what I was asking. Can I
17 turn it in?

18 MS. LEWIS: Sure.

19 HEARING OFFICER: Please do.

20 (State's Exhibit Number Seven was marked for
21 identification purposes.)

22 MS. PERLMAN: Okay. I'll get you a copy.

23 HEARING OFFICER: And has Mr. Smith gone to get your
24 witness for the ---

25 MS. PERLMAN: Yes.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 HEARING OFFICER: Okay.

2 MS. LEWIS: So this will be Exhibit ---

3 MS. PERLMAN: Seven.

4 MS. LEWIS: Seven.

5 (Off the Record)

6 HEARING OFFICER: This hearing is back in order. In
7 session.

8 MS. PERLMAN: I'd like to call Ms. Olinda Mack. Hi,
9 Ms. Mack. Please state your name for the
10 record.

11 MS. MACK: Olinda Mack.

12 MS. PERLMAN: And will you be sworn?

13 OLINDA MACK, having been duly sworn, deposes and
14 testifies as follows:

15 MS. MACK - EXAMINATION BY MS. PERLMAN:

16 Q: Ms. Mack, can you state for the record where
17 you are employed?

18 A: South Carolina Department of Labor, Licensing
19 and Regulation.

20 Q: And how long have you been employed with LLR,
21 Department of Regulation?

22 A: I would have to say as of next month, 27 years.

23 Q: Okay. Just a few days. I'd like to show a
24 document that has been marked as State's
25 Exhibit One. It is a notice of hearing and a



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 formal complaint in the current matter of
2 Construction Group LLC and the credential
3 holder N. Bobby Knight. Can you look through
4 this document? There's a certificate of
5 service on the last page and tell us if that is
6 your signature on the certificate of service?

7 A: It is.

8 Q: And can you tell us based on that document how
9 you sent the notice of hearing and certificate
10 of service?

11 A: I -- whenever it is a formal complaint, I --
12 and notice of hearing I always do it by
13 certified mail and by just regular mail.

14 Q: And to the best of your knowledge has any mail
15 been returned to us?

16 A: No.

17 Q: Okay. And can you tell us the date that you
18 sent those documents to the Respondent?

19 A: These were sent on July 28, 2016.

20 Q: Thank you, ma'am. I have no further questions.
21 Please answer the Hearing Officer's questions
22 if he has any.

23 A: Okay.

24 MS. MACK - EXAMINATION BY HEARING OFFICER:

25 Q: Is it your testimony that you did not receive



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 the green card, the signed green card back in
2 the mail either?

3 A: No, I don't think -- I can't recall. I really
4 -- I just can't recall. I hadn't looked
5 through the file and that's it, so no.

6 MS. PERLMAN: And if there was a green card, would
7 it have been included in the file?

8 A: Yes.

9 Q: Okay.

10 A: Definitely. Yeah. Yeah.

11 Q: Okay. Thank you.

12 (Discussion)

13 Q: Excuse me. Where did you get the address that
14 you sent this to as Bobby Knight, 3940
15 Hottinger Avenue, Charleston, South Carolina,
16 29405? Where did you ---

17 A: Oh, that came from our relays where, I guess
18 with the board that enters it in and this was
19 whatever information that is in relays is what
20 we go by saying that it has been updated and it
21 is supposed to be correct. Yeah.

22 Q: It is the address of record for the LLR?

23 A: Yes.

24 Q: Thank you.

25 A: Yes.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 MS. PERLMAN: Anything else?

2 HEARING OFFICER: I have no further questions.

3 MR. PERLMAN: Okay. Thank you, Ms. Mack.

4 A: Okay.

5 HEARING OFFICER: Thank you.

6 MR. PERLMAN: And with that the State will rest.
7 Thank you.

8 (Discussion)

9 HEARING OFFICER: Okay. Well we are going into --
10 this -- since this concludes the State's case,
11 we are going to go into Executive Session to
12 discuss any sanctions that we may be making and
13 we will call you back in as ---

14 MS. PERLMAN: To get legal advice sir?

15 HEARING OFFICER: Yeah. To get legal advice.

16 EXECUTIVE SESSION

17 HEARING OFFICER: Okay. We are out of Executive
18 Session at this time and this hearing is called
19 back to order. This is in the matter of
20 Construction Group LLC, License No.: CLG.103920
21 GC, Bobby Knight. Credential No.: CQG.14035.
22 As a matter of record we are not making any
23 judgments against Licence No.: CLM.106217 MC.

24 MS. PERLMAN: Correct.

25 HEARING OFFICER: This is Case No.: 2015-5. After



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 considering the evidence presented by the
2 State, in the absence of the Plaintiff, the
3 Respondent -- in the absence of Respondent the
4 State has met the burden of proof in that it --
5 that the Respondent failed to disclose
6 judgments and claims on a license application
7 and there was a subsequent discovery of facts,
8 which if known at the time of issuance of
9 renewal of licence or certificate would have
10 been grounds to deny the issuance and renewal
11 of the license or certificate in violation of
12 South Carolina Code 40-11-110(A)(1) as amended.
13 The second, the Respondent committed -- or the
14 Respondent submitted deceitful evidence in
15 obtaining a license or certification in
16 violation of South Carolina Code 140-11-
17 110(A)(4) as amended. And the last one, the
18 Respondent committed a dishonorable act that is
19 likely to deceive, defraud, or harm the public
20 in violation of Code 40-110-1(F) as amended.
21 I am recommending to the board, to the full
22 board of contractors, that there will be a fine
23 of \$2,500.00, plus \$2,000.00 -- correction,
24 plus \$200.00 in investigating and court costs
25 for the three violations and it will be due in



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 30-days. There will be a public reprimand for
2 the Respondent and the Respondent shall -- the
3 Respondent's license shall not be renewed until
4 such time that he has met a hearing -- met with
5 a full hearing of the board for the -- to the
6 -- for the -- an application hearing for this
7 judgment on -- I'm going to write it next time.

8 MR. LEWIS: Yeah. Sorry.

9 HEARING OFFICER: Yeah. And an explanation of the
10 efforts to pay the judgment.

11 MR. PERLMAN: Yes, sir.

12 (Discussion)

13 HEARING OFFICER: Did the court reporter get that
14 there's going to be a public reprimand?

15 MADAMCOURT REPORTER: Yes, sir.

16 MR. PERLMAN: Yes, sir. Public reprimand, \$2,500.00
17 fine, \$200.00 costs, for a total of \$2,700.00
18 due within 30-days. Non-renewal of the
19 license.

20 HEARING OFFICER: 30-days from the final order.

21 MS. PERLMAN: Final order, yes. No renewal until
22 the Respondent appears before the board to
23 address the judgment and payment arrangement
24 thereof. Is that correct?

25 MS. LEWIS: It would be the status of the judgment.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1 MS. PERLMAN: Status of the judgment.

2 MR. LEWIS: And the effort is for an application
3 hearing.

4 MS. PERLMAN: Okay.

5 MS. LEWIS: So that's what we are looking at.

6 HEARING OFFICER: Yes.

7 MS. PERLMAN: And it is actually a -- if I may --
8 the application is active in renewal so it
9 would be perfect timing for that.

10 HEARING OFFICER: Yeah. That's why we're going to
11 rush to get an application ---

12 MS. PERLMAN: Yes.

13 HEARING OFFICER: --- in time to notify. And I do
14 want to make a matter of record that I am quite
15 concerned that the Respondent did not show up
16 for this hearing and that -- and that he should
17 show up for the hearing with the full board on
18 his application, or it will not -- or his
19 application will be denied.

20 MS. LEWIS: The other thing is that this is in
21 regards to his CLG license and renewal at this
22 point.

23 MS. PERLMAN: Correct.

24 MS. LEWIS: Thank you.

25 MS. PERLMAN: Thank you.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HEARING OFFICER: No further testimony, this hearing
is concluded.
MS. PERLMAN: Thank you.
(There being no further questions, the hearing
concluded at 11:20 a.m.)



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

CERTIFICATE

This is to certify that the within hearing consisting of thirty one (31) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on September 22, 2016.

Barbara S. Ham

Barbara S. Ham
Court Reporter

Notary Public for South Carolina
My Commission Expires: April 13, 2026



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

IN THE MATTER OF: CONSTRUCTION GROUP, LLC
N. Bobby Knight on 10/20/2016

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
SOUTH CAROLINA CONTRACTORS LICENSING BOARD

In the Matter of:
CONSTRUCTION GROUP, LLC
License No.: CLG.103920
N. BOBBY KNIGHT
Credential No.: CQG.14035
Respondents.
Case Nos. 2015-5

TRANSCRIPT OF TAB J
Final Order Hearing for Construction Group, LLC
and N. Bobby Knight
Columbia, South Carolina
October 20, 2016

REPORTED BY: Cathy L. Young, CVR-M
Dallas Reporting, A Huseby Company

1 APPEARANCES:

2 Lewis M. Caswell, Chairman

James E. Lady

3 Scott C. Appleton

Charles A. White

4 Daniel B. Lehman

Kimberly L. Lineberger

5

Georgia Lewis, Advice Attorney

6

Rhonda Jackson

Melissa Burroughs

7

Tracey Perlman, Esquire

8

Assistant Disciplinary Counsel

Representing the State

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CHAIRMAN CASWELL:

2 This hearing is called to order. This is a
3 Final Order Hearing in the matter of
4 Construction Group, LLC, and N. Bobby Knight.
5 My name is Lewis M. Caswell. I am Chairman of
6 the South Carolina Contractors Licensing Board.
7 The other members who are present are W.
8 Franklin Walker, James Lady, Legrand Richardson,
9 Scott Appleton, Charles White, Daniel Lehman,
10 and Kimberly Lineberger. And I just note that
11 Mr. Walker was the hearing officer, and he has
12 recused himself. Mr. Richardson has recused
13 himself because of a business relationship. The
14 attorney assigned to advise us during the
15 hearing is Georgia Lewis, Advice Counsel with
16 LLR. W. Franklin Walker, as I said, was the
17 hearing officer and recused himself. Tracey
18 Perlman, Office of Disciplinary Council with
19 LLR, represents the State. Everyone is reminded
20 that these proceedings are being recorded and
21 all witnesses must be sworn before they testify.
22 All remarks should be directed to the Board.
23 Were the Hearing Officer's recommendation,
24 transcript, notice of hearing and other relevant
25 documents furnished to each member of the Board?

1 MS. JACKSON:

2 Yes, Mr. Chairman, you can find those in Tab
3 Letter J.

4 CHAIRMAN CASWELL:

5 Thank you, ma'am. Is the Respondent present?

6 MS. PERLMAN:

7 No, sir.

8 CHAIRMAN CASWELL:

9 Was the Respondent served with notice of this
10 hearing?

11 MS. PERLMAN:

12 Yes, sir, he was.

13 CHAIRMAN CASWELL:

14 The State shall present its case. The
15 information presented at this hearing is limited
16 to the transcript from the evidentiary hearing
17 with the Hearing Officer. The parties may
18 present mitigating evidence as any recommended
19 sanctions and penalties. After all the evidence
20 is presented, the parties may make closing
21 statements if they wish. The State will have
22 option of being first to make a closing
23 statement. Everyone is reminded that these
24 proceedings are being recorded, all witnesses
25 must be sworn in before they testify. We will

1 hear from the State now.

2 MS. PERLMAN:

3 Thank you, sir. Once again, my name is Tracey

4 Perlman with the Office of Disciplinary Counsel.

5 We are currently here in the matter of

6 Construction Group, LLC, License Number

7 CLG.103920 and N. Bobby Knight, Credential

8 Number CQG.14035, OIE Case Number 2015-5. This

9 matter was heard before Mr. W. Franklin Walker

10 on September the 9th, 2016. The Respondent did

11 not appear at that hearing. At the hearing, the

12 Hearing Officer took testimony from Ms. Belinda

13 Mack, my administrative assistant, who testified

14 regarding the proper service of the Notice of

15 Hearing and Formal Complaint, the Respondent as

16 well as Maurice Smith, an investigator, charged

17 in this matter for LLR. After hearing the

18 testimony and receiving the documents into

19 evidence, the Hearing Officer found that the

20 State had met its burden of proof. It

21 recommended that the Respondent Construction

22 Group, LLC, and the qualifying party, Mr. N.

23 Bobby Knight, be publicly reprimanded. It found

24 that the Respondent should pay a total of \$2,500

25 for the three violations, an investigative cost

1 of \$200, for total penalty of \$2,700 to be paid
2 within 30 days of the Final Office -- Final
3 Order, I'm so sorry. Respondent's license and
4 the Respondent's Qualifying Certificate Number
5 shall not be renewed for the period of 2016,
6 2018, until the Respondent appears for the
7 Renewal Application Hearing before this Board to
8 determine the efforts to pay the judgment that
9 was the underlying concern in this matter. If
10 the Respondent fails to follow the term of the
11 Board's Order, the Board may issue an order
12 suspending Respondent's license and Respondent's
13 qualifying certificate pending compliance with
14 the Board to Order. As Mr. Walker did hear the
15 testimony and see the evidence in this matter,
16 you've seen it in the transcript, I would ask
17 that you uphold his recommendation and find that
18 his findings were appropriate and correct.

19 CHAIRMAN CASWELL:

20 Okay. Thank you, ma'am.

21 MS. PERLMAN:

22 Thank you.

23 CHAIRMAN CASWELL:

24 We've heard the State's case. Do we have a
25 motion?

1 MR. WHITE:

2 I move we uphold the Hearing Officer's
3 recommendation.

4 CHAIRMAN CASWELL:

5 We have a motion. Do we have a second?

6 MR. LEHMAN:

7 Second.

8 CHAIRMAN CASWELL:

9 A motion and a second. Any discussion?

10 (No discussion.)

11 CHAIRMAN CASWELL:

12 All those in favor, aye? Opposed no? Ayes have
13 it, so ordered.

14 (Whereupon, the Motion was carried unanimously.)
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

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

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

In witness my hand and official seal this the 26th day of December, 2016, Fort Mill, South Carolina, State of South Carolina.

Cathy L. Young

Cathy L. Young, CVR-M
Court Reporter/Notary Public
My Commission Expires:
February 19, 2019

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

In the Matter of:

**CONSTRUCTION GROUP LLC,
License No. CLG. 103920,**

**N. Bobby Knight,
License No. CQG.14035,**

Respondents

OIE Case # 2015-5

**HEARING OFFICER'S
RECOMMENDATION**

This matter came before W. Franklin Walker, a Hearing Officer appointed by the Contractor's Licensing Board (the "Board"), for hearing on September 9, 2016, as a result of the Notice of Hearing and Formal Complaint served upon the Respondents on July 28, 2016, and filed with the Board. The hearing was held pursuant to S.C. Code Ann. §§ 40-11-90, 40-1-90, 40-1-70(6), and the provisions of the Administrative Procedures Act, S.C. Code Ann. § 1-23-10 *et seq.* (1976, as amended), for a recommendation to the Board as to the violations alleged in the Formal Complaint and whether sanctions should be imposed upon the Respondents. Tracey Perlman, Esq., Assistant Disciplinary Counsel, represented the State. Respondent Construction Group LLC and Respondent N. Bobby Knight, qualifying party for Construction Group LLC, did not appear and were not represented by counsel. O'Linda Mack, Administrative Assistant with the Office of Disciplinary Counsel, testified that she served the Respondents at the address of record via certified and regular mail on July 28, 2016. She testified that the green card for the certified mail was not returned, but neither was the certified mail envelope. Further, the regular mail envelope was also not returned. The Hearing Officer determined that there was proper service of the Notice of Hearing and Formal Complaint to the Respondents at the address of record and the hearing was allowed to proceed without the Respondents present.

The Respondents were charged with violations of S.C. Code Ann. §§ 40-11-110(A)(1) and (4) and 40-1-110(1)(f) (1976, as amended).

WITNESSES AND EXHIBITS

Testifying on behalf of the State were O'Linda Mack, Administrative Assistant for the Office of Disciplinary Counsel, and Maurice Smith, Investigator for the South Carolina Department of Labor, Licensing and Regulation ("LLR").

The following Exhibits were introduced by the State and accepted into evidence without objection:

- State's Exhibit 1: Notice of Hearing, Formal Complaint and Certificate of Service.
- State's Exhibit 2: Notice of Complaint letter dated January 9, 2015.

- State's Exhibit 3: Respondent's response dated January 16, 2015.
State's Exhibit 4: Judgment recorded by the Clerk of Court dated January 7, 2013.
State's Exhibit 5: Respondent's 2014-2016 renewal application submitted July 18, 2014.
State's Exhibit 6: Order issued by the United States District Court of South Carolina dated January 4, 2013.
State's Exhibit 7: Affidavit for investigative costs dated September 9, 2016.

FINDINGS OF FACT

Based upon the preponderance of the evidence on the whole record, the facts of the case are found to be as follows:

1. Respondent Construction Group LLC was duly licensed by the Board at all times relevant to this matter as a general contractor with Building-3, Glass and Glazing-3 and Public Utility-Electrical-1 classifications, and Respondent N. Bobby Knight was certified as the qualifying party at all times relevant to this matter. Respondent Construction Group LLC and Respondent N. Bobby Knight will be referred to collectively as "Respondent" in the Findings of Fact. The Board has jurisdiction over the Respondents and the subject matter in this case pursuant to S.C. Code Ann. § 40-1-115 (1976, as amended).
2. Investigator Smith testified that on July 18, 2014, Respondent submitted the license renewal application for 2014-2016 for the general contracting license. On the application, Respondent answered "no" to the question "[S]ince your last application or renewal of your license, do you have any outstanding monetary judgments related to construction?"
3. Investigator Smith testified that this response on the renewal application was not correct. On or about January 10, 2012, a claim was filed against Respondent in the United States District Court for the District of South Carolina, Charleston Division for breach of a federal contract of over Twenty-Five Thousand Dollars (\$25,000). On or about January 7, 2013, the Court entered a judgment against Respondent in the amount of Fifty-One Thousand, Eight Hundred and Five Dollars (\$51,805.00) plus prejudgment interest from October 29, 2011 until paid as well as all of the costs related to the action. Investigator Smith testified that this judgment was related to a construction contract and Respondent should have answered "yes" on the 2014-2016 renewal application. The renewal application was approved based on the responses provided by Respondent.
4. Investigator Smith testified that he contacted Respondent by letter dated January 9, 2015 and Respondent submitted a response to Investigator Smith on January 16, 2015. He testified that Respondent admitted to the incorrect response on the 2014-2016 renewal application and explained that it was a mistake and was not intended to be deceitful. Respondent stated that the judgment was on appeal and that the bonding company had not requested repayment.
5. Investigator Smith testified that he spoke to the Respondent on the phone after receiving the written response and told him to send any further information. No other information was received from Respondent.
6. The State submitted an affidavit of investigative costs.

CONCLUSIONS OF LAW

Based upon careful consideration of the facts in this case, it is found and concluded as a matter of law that:

1. The Board has jurisdiction in this matter pursuant to S.C. Code Ann. §§ 40-11-70 (1976, as amended).
2. Upon finding that a licensee has violated any of the provisions of S.C. Code Ann. §§ 40-1-110 and/or 40-11-110, the Board may issue a public reprimand; revoke a license; or, place a licensee on probation or restrict or suspend the individual's license for a definite or indefinite time and prescribe conditions to be met during probation, restriction, or suspension including, but not limited to, satisfactory completion of additional education, or a supervisory period, or of continuing education programs. Additionally, the Board may require a licensee, certificate holder, or other entity or individual to pay a civil penalty of up to five thousand dollars for each violation. S.C. Code Ann. § 40-11-110(C). The Board may also require a person found in violation of the applicable licensing act or the regulations of this Board to pay costs associated with the investigation and prosecution of the case. S.C. Code Ann. §§ 40-1-170 and 40-11-170.
3. The Hearing Officer reviewed the evidence presented by the State and noted that Respondents did not attend the hearing.
4. The State met its burden of proving a violation of S.C. Code Ann. §40-11-110(A)(1) in that Respondents failed to disclose judgments and claims on a license application, and a subsequent discovery of facts which, if known at the time of issuance or renewal of a license or certificate, would have been grounds to deny the issuance or renewal of a license or certificate.
5. The State met its burden of proving a violation of S.C. Code Ann. §40-11-110(A)(4) in that Respondents committed deceit in obtaining a license or certification.
6. The State met its burden of proving a violation of S.C. Code Ann. § 40-1-110(1)(f) in that Respondents committed a dishonorable, unethical, or unprofessional act that was likely to deceive the public by submitting an incorrect renewal application.
7. The action recommended is consistent with the purpose of these proceedings, and has been made after weighing the public interest and the need for the continued services of qualified general contractors against the countervailing concern that society be protected from professional ineptitude and misconduct.
8. The action recommended is designed to protect the welfare of the people at large.

NOW, THEREFORE, IT IS RECOMMENDED THAT:

1. Respondent, Construction Group, LLC, license number CLG.103920 and Respondent, N. Bobby Knight, qualifying party certificate number CQG.14035 shall be publicly reprimanded.

2. Respondents shall pay a total penalty Two Thousand, Five Hundred Dollars (\$2,500.00) for the three (3) violations and investigative costs of Two Hundred Dollars (\$200.00) for a total penalty of Two Thousand, Seven Hundred Dollars (\$2,700.00), to be paid within thirty (30) days of the Board's Final Order.

3. Respondent's license number CLG.103920 and Respondent's qualifying certificate number CQG.14035 shall not be renewed for the 2016-2018 renewal period until the Respondents appear for a renewal application hearing before the Board for a determination of the status of the judgment dated January 4, 2013, and an explanation of Respondents' efforts to pay the judgment or to repay the bonding company.

4. If Respondents fail to follow the terms of the Board's Final Order, the Board may issue an order suspending Respondent's license and Respondent's qualifying party certificate pending compliance with the Board's Final Order. Further, failure to comply with the terms of the Board's Final Order may affect renewal and/or reinstatement of Respondents' license and qualifying party certificate.

RESPECTFULLY SUBMITTED,

S.C. CONTRACTOR'S LICENSING BOARD

W. Franklin Walker

W. Franklin Walker
Hearing Officer

September 9, 2016

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

APPEAL FROM THE SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION
SOUTH CAROLINA CONTRACTORS LICENSING BOARD

Honorable. Ralph King Anderson, III
Chief Administrative Law Judge

DKT NO. 16-ALJ-11-0467-AP

N. Bobby Knight & Construction Group, LLC Appellants,

v

South Carolina Department of Labor, Licensing and Regulation,
South Carolina Contractors Licensing Board Respondent.

BRIEF OF APPELLANT

(Qualifying Party - Bobby Knight)

Bobby Knight
3940 Hottinger Avenue
North Charleston, S.C. 29405

for: Appellant - B. Knight
(843) 735-0814

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

APPEAL FROM THE SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION
SOUTH CAROLINA CONTRACTORS LICENSING BOARD

Honorable. Ralph King Anderson, III
Chief Administrative Law Judge

DKT NO. 16-ALJ-11-0467-AP

N. Bobby Knight & Construction Group, LLC Appellants,

v

South Carolina Department of Labor, Licensing and Regulation,
South Carolina Contractors Licensing Board Respondent.

BRIEF OF APPELLANT

(Qualifying Party - Bobby Knight)

Bobby Knight
3940 Hottinger Avenue
North Charleston, S.C. 29405

for: Appellant - B. Knight
(843) 735-0814

Common Law(s) and Decisions/Opinions by/of the United States Supreme Court and South Carolina Legislative INTENT - a party must first be served simultaneously with a Summons and Complaint before Personal Jurisdiction and Subject Matter Jurisdiction will/can attach to Mr. Knight, a person; and

- j. ... Fifth Amendment & Fourteenth Amendment & Equal Protections have been denied Mr. Knight about his "intellectual property -- his licensure"; and
- k. ... the Takings Clause as it applies to the SCLLR-CLB violating the Board's Online brochure "How to file a complaint" See APPENDIX V, the yellow highlighted provisions; and
- l. ... the Eight Amendment -- as the Board orders Mr. Knight to pay the GERGEL COURT when the Board has not the authority to invoke additional extensive, cruel and unusual punishment formed into a new sentence and burden attempting to enforce the District Court Order that will suffer an enrichment for the Board Member Legrand Richardson, Jr. - the admitted copper thief about the federal contract in question here; and
- m. . . . Oral Argument; Scheduling Order and s Reply Brief time reserved as ALC pleadings can be amended at any time.

II. STATEMENT OF THE CASE

The Appellant, Bobby Knight, filed timely on December 8, 2016 his **Contested Case**¹ form with the Clerk for the South Carolina Administrative Law Court about the South Carolina Labor, Licensing and Regulation, South Carolina Contractors Licensing Board (SCLLR-CLB) Hearing Officer's Recommendation and Formal Complaint hearing held September 9, 2016 in Lexington County, South Carolina and again while under the U.S. District Court Automatic STAY about Mr. Knight Motion for Removal of the matter until that United

¹ I. GENERAL PROVISIONS 2. Definitions. . . .

E. **Contested Case** is defined in Section 1-23-505. It is a case for which a hearing is conducted pursuant to Article 3, Chapter 23 of Title 1, the South Carolina Administrative Procedures Act, and includes hearings conducted by the Administrative Law Court pursuant to Section 1- 23-600(A), hearings required by due process under the South Carolina or United States Constitutions, or as otherwise provided by law.

States of America Judge Norton's denial order dated November 3, 2016. The SCLLR-CLB signed [i]ts Final Decision/Order by [i]t Chairman Lewis Caswell on November 4, 2016. The SCLLR-CLB General Counsel and the South Carolina Attorney General has been served all pleadings relevant to this dispute. The identical matter is inclusive in pending Bobby Knight vs. Jeh C. Johnson, et al; 2:15-cv-01399 DCN MGB sorted causes that include U.S. Code §3730(h) **Retaliation**. These Respondents, SCLLR-CLB are defendants to this ongoing civil action.

Mr. Knight seeks a reversal of the SCLLR-CLB Decision/Order and for the allegation of "deceit" against his person and the taking of his license(s) to be Expunged entirely for the following good rationale, a lack of Venue, a lack of Jurisdiction, a lack proper notice to Mr. Knight in a consistent and proper form, and a lack of such processes that would have allowed this SC-ALC to have found that Mr. Knight's SC-ALC Motions are the cause of "delays the ultimate outcome of the appeal . . ." [ROA pg166 @FN No. 6] .

The DISCUSSION & ARGUMENT follows to beg deference to this perception by this Court and seeks to have his license renewal reinstated immediately for the following good, just and proper that support Mr. Knight's position going forward:

III. ARGUMENT

DISCUSSION & ARGUMENT:

SCLLR-CLB's website publishes the Contractor Complaint process and tells "What one is to expect when a complaint is filed against you;" It talks through, however the Board's first failure was to obtain and present the **complaint form** when requested January 8 2015 FAX and their email devaluating the process on January 15 2015 from Rhonda Jackson; and then there is the website brochure use of the terms '*court like*' procedure.

SCLLR-CLB testimony that the Appellant was served his Notice(s) by mail and that no

letters were returned ... is that the Notice(s) were mailed to 108 Wilson St., Summerville and this is not the mailing address of Bobby Knight. *See* SCCA Opinion 4581 - *Trowell v. SC Department of Public Safety*... [a fax is not proper notice] and so here is that mailed notices to an incorrect address too is not notice upon Appellant Bobby Knight. Service by mail upon and received by Knight for Construction Group, LLC does not satisfy the 'mailing requirements'; nor can the mailing admittedly not returned sent to a wrong address that the Board testified about on the Record as stated in the Board Final Order, and that this alleged "mail was not returned by the United States Postal Service" will not constitute or satisfy the service and notice requirements of any '*court like*' Formal Complaint's Due Process - Our Fifth and Fourteenth Amendments to the U.S. Constitution, State Constitution and Common Laws and Common Knowledge that we live under, but were not adhered to by the Agency.

Every person U.S. Code at §1654 has his/her **Substantive Law Rights** in America, which is to receive, along with any **Complaint, the Summons, that ORDER which gives any Court [or 'court like' formal complaint] authority over the person.** Without this Personal Jurisdiction Due Process, the '*court like*' actions are nullities'. *See* **END NOTES - APPENDIX OF REFERENCES** below at V-I **State LLR publication states:** "*Higher levels of performance can be enforced only by civil courts or binding arbitration when such arbitration is agreed to by the parties to a contract**." Ongoing still and filed before this SCLLR-CLB discipline action esstopped by their Email January 15, 2016 then was cultured into a Formal Complaint & Final Order and Decision of a State Agency created after Bobby Knight's U.S. District Court civil action know as Bobby Knight vs Jeh C. Johnson, Sec DHS: 2:15-cv-03199 DCN MGB about the federal contract*.

In the absence of service of process (or waiver of service by the defendant), a court ordinarily may not exercise power over a party the complaint names as defendant. *See* *Omni Capital Int'l, Ltd. v. Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987) ("Before a . . . court may exercise personal jurisdiction over a defendant, the procedural requirement of service of summons must be satisfied."); *Mississippi Publishing Corp. v. Murphree*, 326 U.S. 438, 444-445 (1946) ("[S]ervice of summons is the procedure by which a court . . . asserts jurisdiction over the person of the party served."). Accordingly, one becomes a party officially, and is required to take action in that capacity, only upon service of a summons or **other authority-asserting measure** stating the time within which the party served must appear and defend. *See* Fed. Rule

Civ. Proc. 4(a) ("[The summons] shall . . . state the time within which the defendant must appear and defend, and notify the defendant that failure to do so will result in a judgment by default against the defendant."); Fed. Rule Civ. Proc. 12(a)(1)(A) (a defendant shall serve an answer within 20 days of being served with the summons and complaint). **Unless a named defendant agrees to waive service**, the summons continues to function as the sine qua non directing an individual or entity to participate in a civil action or forgo procedural or substantive rights.

"Appellant Knight has not ever received a Summons² with Formal SCLLR-CLB Complaint

THIS SPACE IS INTENTIONALLY BLANK

In their report to the South Carolina bar, the Summons Subcommittee cited the following case: McLain v. Ingram, 314 S.C. 359, 444 S.E.2d 512 (1994) (per curium). The McLain Court held as follows: "The language of Rule 5(d) is clear: the summons and complaint must be filed prior to their service. Here, service preceded filing and thus this action was not properly commenced before expiration of the statute of limitations. *We recognize the harsh result reached in this case, and take this opportunity to remind practitioners that the*

2

interrelationships between various court rules are not always readily apparent.” McLain at 360 [*emphasis added*]. See, Summons in Probate Court, at 5 Id. (R.p. 284)

The major conclusion of the Summons Subcommittee Report is as follows: since 1985 the South Carolina Rules of Civil Procedure, through Rules 1 and 81 and pursuant to S.C. Code sec.14-23-280 as well as S.C. Code sec. 62-1-304, have always required the filing of a summons and complaint in Probate Court matters. See, In.Re: Estate of Timmerman, 331 S.C. 455, 502 S.E. 2d 920, 922 (Ct.App. 1998); Weeks v. Drawdy, 495 S.E. 2d 454 (Ct. App. 1997); Truluck v. Snyder, 362 S.C 108, 606 S.E.2d 792 (Ct.App. 2004); LaFaye v. Timmerman, 502 S.E. 2d 920 (Ct.App. 1998).

Before a ...court may exercise personal jurisdiction over a defendant, the procedural requirement of service of summons must be satisfied. Omni Capital Int’l Ltd. V. Rudolf Wolff & Co., 484 U.S. 97,104 (1987); Service of summons is the procedure by which a court...asserts jurisdiction over the person of the party served. Mississippi Publishing Corp. v. Murphree; 326 U.S. 438, 444-445 (1946). “Where a court has jurisdiction, it has a right to decide any question which occurs in the cause, and whether its decision be correct or otherwise, its judgments, until reversed, are regarded as binding in every court. But if it acts without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void, and form no bar to a remedy sought in opposition to them, even prior to a reversal. They constitute no justification, and all persons concerned in executing such judgments or sentence are considered in law as trespassers. Elliott v Perisol, 1 Pet. 328, 340, 26 U.S. 328, 340, 7 L.Ed. 164 (1828).

The McLain decision sets the tone for applying these precepts. The orderly, fair operation of the courts is extremely important to the fundamental constitutional protections required by the Federal and State constitutions;

up to and including the Formal Complaint set before the CLB on September 2016 before Hearing Officer Walter Franklin Walker, and again progressing before the CLB Hearing on October 20, 2016 which was heard and sustained for the Board's Formal Complaint. And signed into an Final Order on November 4th 2016. Any person at any time before any court of competent jurisdiction can assert a defense of lack of subject matter jurisdiction when there does not exist a Summons & Complaint. No Summons for this Formal Complaint [cloaked as a Disciplinary] Action was issued or filed to attach this Appellant to the September or October 2016 Formal Complaint, a 'court like' jurisdiction. See the DeAngelo Report and the S.Ct Summons citations to suit. **retyped in part at FN 1**

Venue would not attach as the Defendant-Appellant is more than 100 miles from Columbia, Lexington County, lives and works in Charleston County and has never waived any rights thereabout. See S.C. S.Ct Opinion No. 25935 - Whaley v. CSX Transportation

" . . . Based on this evidence, we find that CSX made a prima facie showing that Hampton County was not a convenient place for trial. Moreover, we hold that the ends of justice were not promoted by having this case tried in Hampton County. See Varnadoe v. Hicks, 264 S.C. 216, 213 S.E.2d 736 (1975) (convenience of the witnesses is a factor the court may consider in deciding whether a change of venue would promote the ends of justice); Holden v. Beach, 228 S.C. 234, 89 S.E.2d 433 (1955) (the ends of justice are promoted by having a jury from the same area as the witnesses evaluate witness credibility).. . .)

and harsh consequences may accompany the failure to recognize certain requirements.

This claim must be dismissed because it never was properly filed and served, and that requirement existed before July 2010. (R.p. 279)

A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. It is clear and well established law that a void order can be challenged in any court. Old Wayne Mut. L. Assoc. v McDonough, 204 U.S. 8, 27 S. Ct. 236 (1907). The Law provides that once State and Federal jurisdiction has been challenged, it must be proven. Main v. Thiboutot, 448 U.S. 1, 100 S.Ct.2502, 65 L.Ed.2d 555 (1980).

APPELLANT'S NOTE No. 1: Other State Agencies have hearing officers that travel to the home county of the citizens requiring hearings. See Knight's January 8, 2016 DEMAND letter for a VENUE consideration, which was not only ignored, but the SCLLR-CLB attorneys did not include his letter/FAX into the ROA.

APPELLANT'S NOTE No. 2: The question as to SC-ALC Rule 8A that Construction Group, LLC must hire an attorney to be heard &c. that Appellant Knight would have the money to hire some attorney for this business had the copper not been admittedly stolen by SCLLR-CLB Board Member Legrand Richardson, Jr. -- which is a **paradox** as [i]f Richardson, Jr., as owner of Atlantic Electric, had not stolen the copper in the first place - then - most likely this contract dispute would not now be ongoing since February 2011. AS of '*court like*' administrative law is entitled to a judicial review, yet attorneys are required for Construction Group LLC - then the Formal Complaint process warrants a Summons to attach Personal Jurisdiction to this non-separateable matter. Construction Group LLC has become a *frozen entity* since the theft and fraud at the District Court by Atlantic and its attorneys. The terms of the federal contract follow the federal contract: See

Procedural

A. Venue

Whaley v. CSX Transportation, Inc. sparked dramatic changes regarding residency for venue purposes of corporate defendants in South Carolina. Under that case, for purposes of determining venue, a defendant corporation, foreign or domestic, resides in any county where it (1) maintains its principal place of business, or (2) maintains an office and agent for the transaction of business. This case specifically ended the "owns property and transacts business" test for determining venue. Merely owning property and transacting business in a county are no longer sufficient to find venue in that county. Shortly thereafter, the South Carolina Legislature passed tort reform legislation incorporating the change in *Whaley* and further modifying the law concerning venue. Under this legislation, initial venue is determined on the basis of the status of the defendant as a resident individual, nonresident individual, domestic corporation, foreign corporation with certificate of authority, and other foreign corporation. Specifically, as to a resident individual defendant, venue is proper in the county where the defendant resides at the time the cause of action occurred or where the most substantial part of the alleged act giving rise to the cause of action occurred. As to nonresident individual defendants, venue is proper in the county where the plaintiff resides or has its principal place of business at the time the cause of action occurred or where the most substantial part of the alleged act giving rise to the cause

of action occurred. As to domestic corporations and partnerships or foreign corporations and partnerships with a certificate of authority, venue is proper in the county where the defendant corporation or partnership has its principal place of business at the time the cause of action occurred or where the most substantial part of the alleged act giving rise to the cause of action occurred. Venue is proper as to all other foreign corporations and partnerships in the same two locations, in addition to a third possibility, the county where the plaintiff resides or has its principal place of business when the cause of action occurred.

In addition, this tort reform legislation changed the date at which venue is to be determined. As to causes of action arising after July 1, 2005, venue is determined at the time the cause of action occurred. As for all causes of action arising before this date, prior South Carolina law requires the determination of venue at the time of commencement of the action.

Also, the statute defines a corporation's principal place of business first where its home office is located; second, if there is no home office, where its manufacturing, sales, or purchasing center is located; or third, if there is no home office but more than one manufacturing, sales, or purchasing centers, the one in which the majority of corporate activity takes place. This requires an analysis of the number and authority of employees at each center and the amount of assets located at each.

Further, is discussion about the SCLLR-CLB lacking proper **Subject Matter Jurisdiction** and **Venue** over the person Appellant Bobby Knight about overreaching and ordering him to satisfy the GERGEL COURT ORDER is a Chutzpah at best. Proof has been provided to this SC-ALC that an ongoing federal litigation exists. Too, included therewith is a cause of action for a Writ of Mandamus about the GERGEL COURT ORDER -- which is the fruit of the entire SCLLR-CLB action against this Appellant. **The Board members meet in Executive Session** and one Board Member, Legrand Richardson, Jr., who is the party that is as evidence in these DHS-USCG Contract Documents an OFFICIAL Federal Law Enforcement Training Center (FLETC) Investigation Report dated February 17, 2011 wherein Board Member Richardson's and his company, Atlantic Electric admitted to the theft of copper from this Appellant. This is too, a defense of Selective Prosecution. Ask -- *Why Knight in 2015 and not Atlantic Electric in 2013 when the SCLLR-CLB Administrator Roger Lowe, knew of the FLETC Investigation Report via his staff at the Appellants fall mechanical renewal?* The

Public is not permitted to the 'exchanges' or 'minutes' inside a State Agency Board Room while the Board moves into an **Executive Session(s)**, and for even the simplest minded victims of disciplinary actions alike, in-there lies a *disallowed Apparent Impropriety*. The Appellant filed to the Board two Motions before October 20, 2016 hearing, both were ignored with no responses; one Motion for them to recues themselves [*see* ROA pg 44] and one Motion Rule 12(b)(8) [*see* ROA pg 45] to stand down as the facts are now and were then, the same at SC State as for the District Courts. AND for the SCLLR-CLB to allow the USDC civil action to go forward without forcing this Appellant to 'serve two masters' as their complaints were about the fall 2014 renewal of a general license and not about the fall 2013 mechanical license renewal. The conversation and the letter from the Appellant with the CLB investigator (January 2015) clearly spoke that the lady, "Tracy" in the CLB offices was shown the January 2013 Order and told of the ongoing GERGEL ORDER pending actions to vacate same, and that she (Tracy) told this Appellant that IT was not applicable until it was final. Still to this date, the GERGEL ORDER (January 2013) is not and can never be final. Pending before the District Court at the time of this writing, is the Appellant's Motion to Disqualify Counsel [William Scott ESQ and his law firm] for Atlantic Electric for 'extrinsic fraud' e.g. the FLETC Investigation Report that was hidden from the Court and this Appellant unit April 26, 2013.

Furthermore, attorney misconduct, is that it does not take more than a feather to draw the inferences between the SCLLR-CLB being represented at this SC-ALC by their contracted General Counsel(s) and the SCLLR-CLB and its Individual Members being represented in the District Court by Anderson, Reynolds and Stephens Law Firm of Charleston - to know by Common Knowledge that misconduct by these attorneys is also misconduct by the Client(s). The SCLLR-CLB held the September 9, 2016 Evidence Hearing without Notice mailed to the Appellant Bobby Knight. The SCLLR-CLB held the October 20, 2016 trial while the District Court was entertaining this Appellant's Motion for Removal from State to the District Courts. The SCLLR-CLB was served a copy of all motions and pleadings at District Court. At the time of this writing, the Appellant has filed with District Court a reconsideration and re-investigative misconduct motion about the SCLLR-CLB General Counsel whom

proceeded in violations of the **Supremacy Clause's Statutory STAY** in place at 28 §1441(c) *et seq* . The District Court entered its denial of the Removal on November 3, 2016 and the Final Order at SCLLR-CLB was signed by Lewis Caswell on November 4th 2016. The October 20 2016 hearing was taken in violation of the **Supremacy Clause - the Automatic STAY** imposed upon these General Counsel Attorneys and their Client(s) at the SCLLR-CLB was one Statutory STAY Restriction that they were as well aware of as the SC Attorney General copied as well of the REMOVAL to District Court pleading.

As such, the CLB hearing on the **Formal Complaint** held on **October 20, 2016** was/is *lacking the following*: (1) **Notice** to the Appellant Bobby Knight *by mail* at his home address as was used for the past 17+ years to renew his SCLLR-CLB licenses every single year [general or mechanical]; and (2) **Venue**; and (3) **lacking the Summons**, equates to a lack of Subject Matter Jurisdiction over Appellant Bobby Knight; and (4) for **attorney misconduct** about the District Court **Automatic STAY** by the Client(s) of the SCLLR-CLB, which contracted with the General Counsels AND with their contracted District Court Attorneys, Anderson, Reynolds and Stephens Law Firm of Charleston, SC whom have inherited this Board's misconduct and have pending before the District Court their own SET OF violations about the **Laws of the Court, Rules** violations. The SCLLR-CLB at State 'court like' actions; too are items 1-4 above a departure from the local rules that affects substantial rights ... **a reversal** of the SCLLR-CLB Final Order (November 4th 2016) **is required** . . .

A. Local rules are “**laws of the United States**,” *United States v. Hvas*, 355 U.S. 570, 575 (1958), “**have the force of law[,] are binding upon the parties and upon the court, and a departure from local rules that affects substantial rights requires reversal.**” *Professional Programs Group v. Department of Commerce*, 29 F.3d 1349, 1353 (9th Cir. 1994) (internal quotation marks omitted). “A departure is justified only if the effect is so slight and unimportant that the sensible treatment is to overlook [it].” *Id.* **Significantly, the district court is under an obligation to construe local rules so that they do not conflict with federal rules and statutes.** *Marshall v. Gates*, 44 F.3d 722, 725 (9th Cir. 1995); Rule 83(a)(1), Fed.R.Civ.P.

Certainly, there is an overreaching beyond laws that when attorney misconduct existed - there are victims to this wrong behavior - [i]t is a form of gambling - gaming with the livelihoods and the futures and the reputations of licensed persons like this Appellant, a

federal Whistleblower, ousted for monetary losses and for ridicule and causing character assassinations; . . . the South Carolina Administrative Law Court simply cannot be *funneled like a tool* into this kind of continuing misuse of OUR laws. **Further Analysis** - SCLLR-CLB has been caught gambling with the lives of others. . . the chips have been stacked and the cards have been marked against this Appellant ... the underhanded behavior is forcing a gambling-game upon the unsuspecting Public by this SC State Agency:

B. Abrogation of the Doctrine of *In Pari Delicto*.

The doctrine of *in pari delicto* is grounded in the "general principle that a person cannot base a cause of action upon an illegal or immoral act, transaction or contract." 4 S.C. Jur. *Action* § 21 (1991 & Supp. 2015). "It has been succinctly stated that no court will lend its aid to a man who founds his cause of action upon an immoral or an illegal act." *Id.* (*internal quotation marks and alterations omitted*). "The policy is reflected in the general rules providing that where parties are *in pari delicto*, that is, equally in the wrong, no affirmative relief will be given to one against the other and that no one shall be permitted to profit by his own wrong." *Id.* (*footnote omitted*). "On the other hand, there may be an overriding policy consideration that permits relief to be granted." *Id.*

Appellant Knight is due such an overriding policy consideration that permits relief; and

HISTORY of American trade Licensing; characters the person and is an individual's identity -- like does being a author with a copyright, a spouse in a marriage, a drivers, a sportsman, a pilot and yes, a contractor - each an branch of copyright transplanted into our commercial laws that intrinsically belongs to the person like this Appellant . . . Mr. Knight's **Intellectual Property** that he has enjoyed and sustained his livelihood and reputation with since his first Charleston County Contractors License was issued in 1980 nearly 36 years ago Grandfathered into the CLB license after testing about 17 years ago.

" . . . On the other hand, one should expect more successful, resistance free transplantation in fields that tend to be relatively less entangled in such local context, such as commercial law.' Arguably, the Statute of Anne pushed the English copyright regime from one end of the scale to the other. A regime that was once deeply embedded in local political-ideological power structures (*the licensing system*) and in local social-economic institutions (*the Stationers' Company*) was severed from all of those entanglements and thus became particularly suitable for transplantation

*elsewhere. This explanation is partial at best. To be sure, detaching the English copyright regime from the censorship and guild context was a necessary condition for making it an even plausible source of inspiration for late eighteenth century Americans. Nevertheless, in many respects, the Statute of Anne remained deeply rooted in its local social, political, and institutional context. . . ."*³

B1. Legislative Pronouncements:

Despite the well-established doctrine of *in pari delicto*, In 1712, the South Carolina Legislature adopted **the English Statute of Anne**, which included the gambling loss recovery provisions. *Berkebile v. Outen*, 311 S.C. 50, 52-54, 426 S.E.2d 760, 762-63 (1993) (chronicling the history of the gambling loss statutes).

The Respondent, SCLLR-CLB, A State Agency should not be allowed to obfuscate the trial process in this way. {*See above starting at "As such. . . ."*} The trial court {(Emphasis added:) both on hearing September 9, 2016 & on October 20, 2016} did not protect the truth-finding process. The jurisprudence of South Carolina protects 'trial on the merits', not pro forma machinations designed to thwart the full and comprehensive examination of the facts. **Knight v Lee**, 262 S.C. 17, 202 S.E.2d 19 (1974).

The Courts exist to referee the laws, not to be biased, but to seek out and expose misconduct, to be fair and just and proper. [I]t is not an arena for forcing games-of-chance by distant courts over victims of events where the State Board Member(s) 'struck the first match' and blames another for Calling Out a Fire Warning - as a Whistleblower does and did in this whole matter. WE, as the People must not be forced by courts of any kind to play life destroying games with cards, chips, or game about the ownership of our trade licenses. When State Board's Client(s) violate the **Laws of the Courts, the Rules**, they cheat justice. They must be found and exposed and disgorged and then, this Appellant can made whole again.

³ The argument could be recast in terms of the legal transplants literature. An important 154. Printing Act 1739, 8 Geo. 2, c. 36 (Gr. Brit.). 155. 8 Ann., c. 19, § 7. 156. Act of May 31, 1790, ch. 15, 1 Stat. 124 § 5. 157. Compare 8 Ann., c. 19, § 11, with H.R. 10, supranote 144, at 4. 158. 1 Stat. 124 § 1. 1456 **THE LIFE OF A LEGAL TRANSPLANT.**

This SC-ALC should find in favor of this Appellant and order that his trade licenses be immediately reinstated at no fees charged. See Hudson vs SLED, *Id.*

The **Record on Appeal** [ROA] was received by Appellant Knight on February 25, 2017. It contains the email for Construction Group LLC on the cover page. Knight sent a STIPULATION (ignored) to the Respondents that he did not elect to accept notices and pleading via email. The Appellant's Brief is due in 30 days which is Sunday March 26, 2017 which conformed his Brief is due mailed and postmarked by the close of business on Monday March 27, 2017 at the Clerk for the SC-ALC.

The **Record on Appeal** timeline is missing two documents that came after the Notice Letter [ROA pg 83] addressed only to Construction Group, LLC. This Letter from Roger Lowe SCLLR-CLB Administrator named NOTICE OF COMPLAINT was not addressed to Bobby Knight. The two missing documents are from the USDC pending matter filed and certified to the State Attorney General and SCLLR-CLB by Knight August 10, 2016. {Dkt Entry 76-1 Page 2 of 35 and Dkt Entry 76-1 Page 4 of 35} [are below as APPENDIX VI and APPENDIX VII.] Notwithstanding that the District Court denied that Motion in Limine at that time, yet the SCLLR-CLB did not include them in their responsibility to the Record on Appeal. Odd is that the Notice Letter [ROA pg 83] is dated January 9, 2016; while Knights Letter [Dkt Entry 76-1 pg 2 of 35] about the January 21, 2016 Notice to Appear asked clearly and properly to be given . . . "*all evidence received or to be considered by the Board on all issues involved, and your statement of matters officially noticed.*" This FAX request was not complied with by the SCLLR-CLB. Next, on January 15th 2016, SCLLR-CLB Rhonda Jackson of their General Counsel office sent Knight an email [Dkt Entry 76-1 pg 4 of 35] thereby canceling the January 21, 2016 notice.

It was not until July 28, 2016 that the SCLLR-CLB issued the Notice of the Hearing Officer for September 9, 2016. Bobby Knight does not live at or receive mail at 108 Wilson Street. The SCLLR-CLB used this wrong address for notices and services to Knight at ROA pages 1-6; at ROA page 43 { note that this certified mail has not been officiated by the postage rates and dates entered by a United States Post Office Official} ; next at ROA pg 70 Ms.

Mack testifies at T.pg 25 Line 11 -16, she says: " I -- whenever it is a formal complaint, I -- and notice of hearing I always do it by certified mail and by just regular mail." Ms Perlman, General Counsel asks: "And to the best of your knowledge has any mail been returned to us?" . . Ms. Mack stated, "No." ... Ms Perlman asks, "Okay, And can you tell us the date that you sent those documents to the Respondent?" . . . Ms Mack states, "These were sent on July 28, 2016." Again the ROA pg 142 is another copy of ROA pg 6 and Tim Havens, not Ms Mack, signed the Certificate of Service by Mail to Bobby Knight at 108 Wilson Street. Mr. Tim Havens did not testify at this hearing.

The Board publishes that Complaints are 'court like' ... calls for attorneys to be hired ... calls for State citizens to travel outside their counties, to bring counsel and witnesses to Lexington County, South Carolina. Appellant Knight's January 8, 2016 [Dkt 76-1 pg 2] and then having been dropped from the Board Agenda for January 21, 2016 with the email sent to Appellant Knight on January 15, 2016 -- this Agenda Docket drop, however DID NOT CANCEL Knight's January 8, 2016 DEMAND for material facts... not until after this time did Knight learn that Board Member Legrand Richardson, Jr., owner of Atlantic Electric, was appointed by SC Governor Haley to this Board. Knight filed his Second Amended District Court Complaint for §3730(h) Retaliation for his Whistleblower of Atlantic Electric for copper theft from the DHS-USCG federal contract.

IV. CONCLUSION

IN FACT, by the ROA pg 6 and pg 43 and pg 142 means that Knight, himself, has not been properly and timely NOTICED about the results entered on November 4, 2016 about the September 9, 2016 hearing and then about the October 20, 2016 Formal Complaint. Technically, the 30 days to file an appeal from the FINAL ORDER, FINAL DECISION, the FORMAL COMPLAINT (without a Summons) has not even yet begun to run. {equitable tolling} It is the State Agencies sworn duty to follow a lawful due process. Otherwise continued, violates the **Eight Amendment Rights** to protections belonging to Bobby Knight.

The SC-ALC Order in this matter and dtd February 6, 2017 at page 4 paragraph 4 Line 3 - 4,

Court says: "... the decision of the Board went into effect immediately properly published and distributed." [ROA pg166] After a review of the title to Appellant Knight at an erroneous address and after making the income that Notice(s) and Service(s) had been perfected -- when it had not been perfected Appellant Knight, while to the contrary, the SCLLR-CLB ... decision could into effect immediately and was not properly published (errors in addresses, properly distributed as [i]t went to 108 Wilson St., Summerville, SC vice 39 Ave., N. Charleston for Appellant Bobby Knight. To Wit; blunders by the assumptions and prosecutorial errors must be reversed in favor of this Appellant. S

The SC-ALC's Final Order and Decision in Hudson vs. SLED, Docket No. 20-0019-CC (Filed March 20, 2015); [i]t states: "... In a contested case *he* *novo*, the ALC is the fact finder and the final agency decision maker, assuming agency's discretion to determine the qualifications of an applicant for a license permit. Engaging & Guarding Laurens County's Env't (EAGLE) v. S. Carolina of Health & Env't. Control, 407 S.C. 334, 345, 755 S.E.2d 444, 450 (2014). *case at hand*, SLED did not perform a thorough investigation into Petitioner's suitability for registration prior to denying the application. No inquiry whatsoever was made into the circumstances underlying Petitioner's entry on the Register. Rather, SLED made a cursory determination..."

FOR the Respondents, SCLLR-CLB to have never provided the DEMAND and to have deliberately skipped the (January 8, 2016) Knight FAX Letter [APPENDIX VI] along with their own email (January 15 2016) canceling the original Notice to Appear before the Board on January 21 and never renewing the Notice timely while replacing [i]t with a Formal Complaint after the District Court Second Amended Complaint was Ordered by the Board Court; and for Appellant Knight to be informed by the website publications that his Substantive Law Rights were being subjected to appear and respond outside of Venue and of Personal Jurisdiction as he was not noticed in the ROA pg 83, in a 'court like' requirements upon Appellant Knight; while Knight's Substantive Law Rights are being obfuscated. Misconduct is apparent because Knight was never provided what is required by the SC Administrative Law process statement in his January 8, 2016 FAX to the Board AND these VITAL documents were deliberately not included into the Record on Appeal filed by these Respondents. Improper it was is obvious for the Respondents to have crossed the i's and to have dotted the t's to justify an Agency Decision.

Wrong Box vs. Wrong Mailbox:

This is a simple matter of the **Wrong Box vs Wrong Mailbox** (DOCTRINE OF *IN PARI DELICTO*) and that The SCLLR-CLB Team outright and adamantly asserts and claims that Appellant Knight is just a big fat liar⁴... and while Knight checks the wrong box based upon advice from the CLB "Tracy" [*see beginning at the last paragraph ROA pg 84 to pg 85*]... Yet, checking the **wrong box** is a much less of a Moral Turpitude's human error than is the SCLLR-CLB Team's sworn duty as Employees of the State of South Carolina and as Officers of the Courts in South Carolina in this 'court like' (with captions, with hearings and trials, with witnesses and transcriptions and exhibits about the Laws of the State of South Carolina, . . . the foundations for this arena of their mailing notices to the **wrong mailbox** and claiming a fabulous justified victory While both are **box errors**, Appellant's Knights is far less intense than the Team saying; one did (blank)_____, when, actually one did not (blank)_____. e.g. 108 Wilson mailbox is not 3940 Hottinger mailbox by even the best of CLB's assumptions and presumptions. The **SCRCP** and the **Standard for Review** about our **Rules of Evidence** would allow a most elementary of challenges to ROA pg 42 & pg 43 as USPS PS #3800 is only a copy of a blank USPS form, not one processed by a postal clerk or one showing that the SCLLR-CLB paid for these required postal services Ms Mack for the Board testified [ROA pg 2] that this was mailed, yet she has no receipt for this testimony. "*The Hearing Officer concluded that there was proper service of the Notice of the Hearing and Formal Complaint to the Respondents at the address of record adn the hearing was allowed to proceed without the Respondents being present.*" [ROA pg 2] This is like submitting to the Court of competent jurisdiction a copy blank check asking to be paid or given a credit for a monetary transaction that **was not processed through the USPS document transaction system.** Clearly an "Intent to mail" and "certifying an actual proof of mailing" are different things for the SC-ALC to ponder and to balance in favor of Appellant Bobby Knight. The SCLLR-CLB must be ordered to immediately remove their November 4th 2016 ORDER and DECISION and to EXPUNDGE their records about Appellant Bobby

⁴ It is an undisputable fact that the person, Bobby Knight pressed the Wrong Box button at the online renewal form and that he used his personal debit card to pay the renewal fee. [See ROA pg 92].

Knights' Wrong Box, finding [i]t as merely a ministerial error and from a monetary dispute⁵ ongoing with Board Member Legrand Richardson, Jr., owner of Atlantic.

V. **PROOF OF SERVICE** (at last page: after END NOTES & APPENDIX . . .)

March 24, 2017
North Charleston, S.C.



Bobby Knight
3940 Hottinger Avenue
North Charleston, S.C. 29405
for Appellant - B. Knight
(843) 735-0814

⁵ The SCLLR-CLB. The Board cannot address contractual disputes, monetary disputes, cosmetic issues, or require a licensee to make repairs or monetary restitution found at APPENDIX V-I. below. The FINAL ORDER overreaches this restriction in favor of Richardson, Jr.

END NOTES & APPENDIX OF REFERENCES

IV. WHY THE STATUTE OF ANNE?

What accounts for this massive duplication on the state and federal level? Why would Americans, at a moment of great national enthusiasm, turn to an almost century old British Statute deeply rooted in the context of the English book trade, despite America's lack of the constraints of previously existing institutions and norms? One possible answer is based on a denial of the last premise of this question. The Statute of Anne arguably represented a moment of universalization. Its main innovation was exactly in detaching the copyright regime from its entanglement with the guild institutional context and the censorship apparatus, thereby creating a general template for the protection of authors' rights. Such a general template, being free from the specifics of a particular society and culture, was highly transportable. That is to say, it was particularly suited for being borrowed and implemented in other societies, even those with very different social and cultural conditions. The argument could be recast in terms of the legal transplants literature: An important 154. Printing Act 1739, 8 Geo. 2, c. 36 (Gr. Brit.). 155. 8 Ann., c. 19, § 7. 156. Act of May 31, 1790, ch. 15, 1 Stat. 124 § 5. 157. Compare 8 Ann., c. 19, § 11, with H.R. 10, supranote 144, at 4. 158. 1 Stat. 124 § 1. 1456 THE LIFE OF A LEGAL TRANSPLANT argument from this literature is that the likelihood of a transplantation of a legal institution and the likelihood of the success of such transplantation is correlated with the extent to which that legal institution is embedded in local social, cultural, and political structures." Thus, by way of generalization, one should expect less transplantation and more resistance to transplantation in fields, like family law, that tend to be highly immersed in local social-cultural context. On the other hand, one should expect more successful, resistance free transplantation in fields that tend to be relatively less entangled in such local context, such as commercial law.' Arguably, the Statute of Anne pushed the English copyright regime from one end of the scale to the other. A regime that was once deeply embedded in local political-ideological power structures (the licensing system) and in local social-economic institutions (the Stationers' Company) was severed from all of those entanglements and thus became particularly suitable for transplantation elsewhere. This explanation is partial at best. To be sure, detaching the English copyright regime from the censorship and guild context was a necessary condition for making it an even plausible source of inspiration for late eighteenth century Americans. Nevertheless, in many respects, the Statute of Anne remained deeply rooted in its local social, political, and institutional context. As explained, the Statute expressed a compromise between the specific conflicting interests and ideological forces of early eighteenth century England: the demands of powerful members of the Stationers' Company; the interests of smaller members of the book trade; hostility towards monopolies and the concentrated power of the Company; the decline of the censorship system; a new interest in the well-being and rights of authors; and a rising concern for the encouragement of learning.' 6' Furthermore, the means of implementing the compromise incorporated much of the preexisting institutional framework and retained much of the prior arrangements in the field. What was not in the Statute is just as important. It did not create the conceptual vocabulary necessary for the new authors' rights framework, but simply relied on the traditional form of the publisher's economic privilege. In short, the Statute of Anne was still deeply embedded in the peculiarities of the society and culture that produced it. Two other elements may help to explain America resorting to the British Statute. First is the mere fact that it was there. The existence of a detailed and 159. 0. Khan-Freund, On Uses and Misuses of Comparative Law, 37 MOD. L. REV. 1 (1974). 160. Ron Harris and Michael Crystal, Some Reflections on the Transplantation of British Company Law in Post-Ottoman Palestine, 10 THEORETICAL INQUIRIES IN LAW, 561, 562 (2009). 161. See supra text accompanying notes 43-55. 2010]1 1457 BERKELEY TECHNOLOGY LAW JOURNAL [Vol. 25:1427 accessible template that could be

taken "off the shelf" and implemented in a field whose regulation was desired was not a trivial thing. Despite any anti-British sentiments, the new states relied heavily on British law in general. The common law was broadly adopted,¹⁶² and various strategies were employed for revising and implementing British statutes.¹⁶³ There were a variety of reasons for this, including inertia, the need for continuity, demand for the English liberties that were denied beforehand, and the overwhelming task of governing and managing the many aspects of a new nation. ¹⁶⁴ Having an organized, ready-made, and somewhat familiar body of law for dealing with the many immediate needs at hand was extremely valuable, whether it was simply implemented or used as a platform for modifications and revisions. Against this backdrop of widespread reliance on British law, the wholesale copying of the Statute of Anne appears a little less remarkable. The second relevant element was Americans' vision of England as a bastion of culture and civilization. Comparative law scholars have long identified "prestige" as an important influence on the likelihood of legal transplantation. To the extent the nation in which a particular legal institution originates is perceived as successful, advanced, superior, or enviable, the higher the chance that other nations will transplant that legal institution into their own laws.¹⁶⁵ In the field of literature, culture, and learning, England was the ultimate object of admiration and aspiration for early Americans. When Americans expressed their thoughts about this subject, two themes kept recurring: looking up to the established European nations that were seen as the peak of cultural cultivation and the need for the new nation to achieve its own status among those old powerhouses. In the 1779 preface of his *United States Magazine*, Hugh Henry Brackenridge declared the need to disprove the predictions that Americans would "sink down to so many Ouran-Outans of the wood, lost to the light of science which, for the other side of the Atlantic, had just began to break upon us."¹⁶⁶ Barlow, in his letter to the Continental Congress, observed that "America has convinced the world of her importance in a political & military line by the wisdom, energy & ardor ¹⁶². LAWRENCE M. FRIEDMAN, *A HISTORY OF AMERICAN LAW* 109-15 (2d ed. 1985); William B. Ewald, *The American Evolution and the Evolution of Law*, 42 *AM. J. COMP. L. SUPP.* 1, 13 (1994). ¹⁶³. ELIZABETH GASPAR BROWN, *BRITISH STATUTES IN AMERICAN LAW, 1776-1836*, at 23-45 (1964). ¹⁶⁴. *Id.* at 23-24; FRIEDMAN, *supra* note 162, at 109-10. ¹⁶⁵. See Michele Graziadei, *supra* note 5, at 457-59. ¹⁶⁶. *THE UNITED STATES MAGAZINE: A REPOSITORY OF HISTORY, POLITICS AND LITERATURE* 3-4 (1779). 1458 *THE LIFE OF A LEGAL TRANSPLANT* for liberty which distinguish the present era. A literary reputation is necessary in order to complete her national character." Early Americans saw establishing the place of their republic among the civilized and cultivated nations as a project of high national priority. They were looking up to the old world nations in this respect, and their foremost target for envy and imitation was England. This helps explain why, when these hopes were translated to legal means, the British legislation associated with the nourishment of the cultural and scholarly field enjoyed a high status in America

V. OnLine Brochure:

South Carolina Contractor's Licensing Board

How to File a Complaint

INSTRUCTIONS AND INFORMATION

CONSUMER COMPLAINT INFORMATION, FILING AND PROCESS PROCEDURES

(PLEASE READ BEFORE COMPLETING THE COMPLAINT FORM)

I. Summary of the Role and Authority of the Contractors' Licensing Board Regarding Complaints:

As a licensing body, the Board has the authority to take disciplinary action against a licensee only by proving a violation of the licensing law governing the practice of general, mechanical, alarm, and fire sprinkler contractors. The Board cannot address contractual disputes, monetary disputes, cosmetic issues, or require a licensee to make repairs or monetary restitution. The Board does require a licensee to conform his/her practice to statutory standards of licensure, published building codes, and published construction standards and may discipline any licensee who fails to do so. Discipline may range from a reprimand, fine, or up to revocation of the license. Statutory standards are minimum requirements. Higher levels of performance can be enforced only by civil courts or binding arbitration when such arbitration is agreed to by the parties to a contract.

II. Filing a Complaint against a Licensee:

Please complete the **Online complaint form**, affix your notarized signature, and return to the Contractors' Licensing Board office. You should attach copies of any support documents, including your contract and building permit. The Board office will retain material submitted. The licensee becomes the Respondent in your complaint.

III. Processing Your Complaint:

1. Your complaint will be reviewed. If it falls within the scope of statutory responsibility and authority of the Contractors' Licensing Board, it will be assigned a case number, and scheduled for investigation. If it does not fall within the Board's jurisdiction, you will be notified
2. If the complaint is valid, an inspection of the property will be scheduled.

The Board's investigator will view and address only those items listed in your complaint to determine if there are code violations, deviations from manufacturer's recommendation for installation or construction standards. A written report will be submitted later with copies to Complainant and Respondent. If there are no observed code violations, construction standards deviations, or other facts to support a possible violation of the licensing statutes, the investigation and case will be closed following submission of the written report. If the report indicates possible violations, it will be submitted to the Board's Investigative Review Committee (IRC) for an evaluation of the evidence and disposition of the complaint, which could include closure, letter of caution, sanction of the license by Consent Agreement, citation or a contested case hearing before the full Board.

IV. Your Role in the Complaint Process:

After you have filed your complaint and jurisdiction is established, the State will investigate in order to obtain facts, which support a charge of a violation(s) and then must prove any allegation of a violation(s) by the Respondent. Your role is to provide facts and be prepared to act as a witness if called by the State's attorney in a contested hearing before the full Contractors' Licensing Board.

Rev. date: 08/01/05

VI. RESPONDENTS DID NOT INCLUDED IN ROA:

Appellant Knight's LETTER (January 8, 2016) FAX

(see next page)

Friday, January 08, 2016

Roger K. Lowe, CP CBO
Administrator
South Carolina Contractor's Licensing Board
PO Box 11329
Columbia, SC 29211-1329

(803) 896-4686
FAX (803) 896-4814

DELIVERY VIA FAX (803) 896-4814

RE: Bobby Knight NOTICE to appear Thursday, January 21, 2016 @10AM
Subject: NOTICE – e.g. Mechanical Lic. M106217 & General Lic G103920

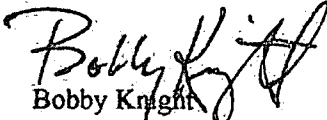
Dear Mr. Lowe,

This letter is to request from your office (if any) one copy of "all evidence received or to be considered by the Board "on all issues involved"; and your statement of matters officially noticed."

Since your meeting is more than 100 miles from my home, it is a great burden to get witnesses to Columbia. I will keep your office informed of changes or questions.

You may E-Mail me personally at bobby.usal@comcast.net with a pdf file and or mail to my home, whichever you elect.

Thank you for your time and considerations as we proceed.


Bobby Knight
3940 Hottinger Avenue
North Charleston, SC 29405

(843) 735-0814

VII. RESPONDENTS DID NOT INCLUDED IN ROA:

Respondent SCLLR-CLB (January 15, 2016) R.Jackson's Email to Mr. Knight cancelling Board Agenda in lieu of Appellant Knight's January 8, 2016 DEMAND TRIGGERING A DOUBLE JEOPARDY ADMINISTRATIVE DEFENSE TO THE HEARING OFFICER DECISION & FORMAL COMPLAINT FINAL ORDER from the Agency.

(see next page)

8/2/2018

Gmail - Status regarding 1/21/2016 Board Meeting



Bobby Knight <constgrp@gmail.com>

Status regarding 1/21/2016 Board Meeting

2 messages

Rhonda Jackson <rhonda.jackson@lir.sc.gov>
To: "CONSTGRP@COMCAST.NET" <CONSTGRP@comcast.net>
Cc: Roger Lowe <roger.lowe@lir.sc.gov>, Georgia Lewis <georgia.lewis@lir.sc.gov>

Fri, Jan 15, 2016 at 10:50 AM

Mr. Knight,

Re: CONSTRUCTION GROUP LLC
N BOBBY KNIGHT

At this time, your appearance to our January 21, 2016 board meeting has been cancelled and we have removed your name from the board agenda. If any further information becomes available, we will contact you at our earliest convenience; however, after a discussion with our legal advice counsel, the board is no longer requiring you to appear. If you have any questions, please do not hesitate to contact me.

Thank you.

----- Sincerely -----

Rhonda C. Jackson

Program Coordinator



Please click here: **Customer Service Survey** to take a quick 30-second survey regarding the service I provided to you today. It is greatly appreciated! ☺

SCLLR - SC Contractor's Licensing Board
110 Centerview Drive, Columbia, SC 29210 (overnight mail)
PO Box 11329, Columbia SC 29211 (normal mail)
PH: (803) 898-4627, FAX: (803) 898-4814

Licensee Lookup: <https://verify.llronline.com/LicLookup/LookupMain.aspx>
Website: www.llronline.com/pol/contractors
www.llronline.com/pol/contractors/Index.asp?file=licensure.htm

<https://mail.google.com/mail/u/0/?ui=2&ik=72c11462b4&view=pt&c=rhonda&q=true&search=query&th=15245f6d9cbe70b&siml=15245f6d9cbe70b&siml=1524622081868c3d>

2:15-cv-03199-DCN-MGB Date Filed 08/11/16 Entry Number 76-1 Page 4 of 35

26

082

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

APPEAL FROM THE SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION
SOUTH CAROLINA CONTRACTORS LICENSING BOARD

Honorable. Ralph King Anderson, III
Chief Administrative Law Judge

DKT NO. 16-ALJ-11-0467-AP

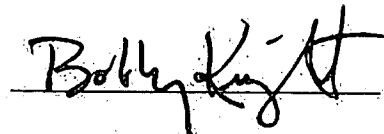
N. Bobby Knight & Construction Group, LLC Appellants,

v

South Carolina Department of Labor, Licensing and Regulation,
South Carolina Contractors Licensing Board Respondent.

PROOF OF SERVICE

I hereby certify that I have served the BRIEF OF APPELLANT (Bobby Knight) (Description of the document) in the above-captioned matter by depositing it in the United State Mail, postage prepaid, on March 24 2017 (Month/Day/Year) to the below named parties at their address of record to Tracey Perlman, Esq. or T. Kyle Tennis, Esq., SCLLR Office of General Counsel, PO Box 11329, Columbia, S.C. 29211-1329. Phone (803) 896-4321.



Bobby Knight
3940 Hottinger Avenue
North Charleston, S.C. 29405

for: Appellant - B. Knight
(843) 735-0814

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

N. Bobby Knight,
Certificate No. CQG. 14035, Appellant.

v.

South Carolina Contractor's
Licensing Board, Respondent,

And,

In the matter of:
Construction Group LLC Respondent,
License No CLB 103920. (not appearing)

AMENDED

**REPLY TO RESPONSE:
CORRECT OR AMEND
CASE CAPTION**

DKT NO. 16-ALJ-11-0467-AP

FILED

FEB - 4 2017

SC ADMIN. LAW COURT

REPLY TO RESPONSE: TO CORRECT OR AMEND CASE CAPTION

The Appellant, Bobby Knight CQG 14035, has requesting the Court FILE January 19 2017 to provide an ORDER for the Clerk to correct or amend the case caption to show that Construction Group, LLC License No. CLB 103920 is a Respondent because [i]t cannot hire an attorney and become an Appellant and to adopt the caption above as presented.

The Respondent SC LLR-CLB has filed their Response to this motion attempting to connect three issues: "(1) to deny this Motion to Correct or Amend the Case Caption to comply with SCALCR 2.H. Definition. Party; (2) asks to provide a continuance to the Appellant Bobby Knight's Motion to enforce the Statutory Automatic Stay under SCALCR 34.A., denying the application for the renewal of the licensure; and (3) to grant the Respondents a continuance in favor of the Respondent's to obtain more time conditional upon their Responses to the Motion to Correct or Amend.

The Appellant's Motion contains the statement that Appellant Bobby Knight, a

"natural person", is a Party. Found in the SCALC General Conditions at SCALCR 2. Definition. 2.H. it states ... " ... including a license or permit applicant ... An applicant or licensee whose application or license is subject of a request for a contested case hearing shall be deemed a party and shall be served with copies of all papers filed in the case." the same intent can be found below this Rule as the 2009 Revised Notes.

The Respondent's RESPONSE at page 2 paragraph 3's last line is misspoken, Construction Group is in the caption request as above . . . Mr. Tennis states; ". . . Appellant's (Bobby Knight) request to remove a licensee from the caption would be inapposite to the Board's licensing statutes as well as SCALCR 8(A)." Mr. Tennis makes no statement about SCALCR 2.H. Definition and that 2009 Footnote.

The Respondent's assert no connection between the federal case of which the CLB Board Members are defendants; however, to the contrary the undisputable material facts and evidences of False Claim ACT ~~Restitution~~ Retaliations §3730(h) are the denial of the application dated December 1, 2016. The theft by Member Legrand Richardson and his company, having admitted to the FLETC Investigator, Lt. Davis, that he stole the copper from Knight; that Legrand Richardson has suffered an unjust enrichment not only for the 3,000 pounds of copper scrap, but also an enrichment for wrongfully using the United States as a working subcontractor on his subcontract with Knight. This subcontracting by the United States, not only is prohibited by the Contract assigned to Knight as an SBA DBE, but thereby results is the USDC immunities are waived by the United States for its physical hands on gifts to Legrand Richardson. These acts are unlawful. The FLETC Investigator report was not released by GLYNCO DHS Directors under the FOIA, or obtained by Knight until after April 26, 2013 when the USDC GERGEL COURT ORDER as used by the CLB Board was issued in January 2013. The appeal brief will detail other attorney misconducts about how the GERGEL ORDER was obtained to protect the appointment of Legrand Richardson by the States Chief Magistrate, Governor Haley.

The Respondent's do not assert as to their rationale for not using that ORDER for the renewal of Knight's Mechanical License in the fall of 2013. Clearly, the CLB Discipline Complaint came after the SC Attorney General and the General Counsel for the CLB learned that the Amended Complaint at USDC No. 03199 caption which contained the CLB Members as defendants for harboring an admitted copper thief Member.

The Appellant's motion(s) were each accompanied with the \$25 filing fee as noted in Rule 71 and the SCALC Clerk has provided two receipts for payment to filed these motions.

The Appellant's Motion to Correct and Amend is good, just, proper and fair to be impoverishly granted; and

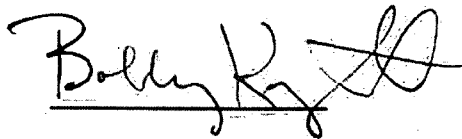
The Respondents did not timely file any specific "Response to the Appellant's Motion SCALCR 34.A. Automatic Stay" since their CLB Hearing October 20, 2016. This hearing was held in violation of the United States Code 28 §1447(c) Automatic Stay. The LLR-CLB provided, based upon information and belief, a proposed order to the USDC via ECF system and the denial for a REMOVAL was signed by Judge Norton on November 3rd 2016 and then email to Tracey Perlman of the Respondent's General Counsel for their Order signed by Lewis M. Caswell, CLB Chairman, on November 4th, 2017. USDCSC Local Rule 16-07 7.10(B)(4) Copies of Proposed Orders required a copy of proposed orders to be copied to all parties, and this was not done, and the 14 days USDCLR 7.10(b)(5) to provide a response and comments was denied. The CLB hearing of October 20, 2016 was held in violation of the Federal Statutory Automatic Stay and as such, is improperly mechanized being a single 'suspect of Prosecutorial Misconduct'. The Motion SCALCR 34.A should be impoverishly improvidently granted; and

The Respondents did not file a proper Motion requesting any "continuance" of any matter. The continuance should be denied as it serves only to delay the issuance

of the license (renewal) application of the Appellant. The CLB did not wait for the appeal period to expire. IT published and publically reprimanded and distributed their hearing order on their website prematurely. The Appellant has been denied due process rights and equal protections. This routine habit and practice and behavior is to be included in the Appellant's BRIEF.

The Respondents RESPONSE covers up a misconduct and creates a delay tactic about SCALCR 34.A. , the SCALC is herein being asked to order that the Appellants' application processed and issued immediately and further, without the payment of the licensing fees (\$285) being paid.

February 2, 4th 2017



Bobby Knight
3940 Hottinger Avenue
North Charleston, S.C. 29405

for Appellant - B. Knight (843) 735-0814

DKT NO. 16-ALJ-11-0467-AP

**AMENDED REPLY TO RESPONSE: TO CORRECT OR AMEND CASE
CAPTION**

Other Counsel of Record:

Tracey Perlman, Esq. & T. Kyle Tennis, Esq.
SCLLR Office of General Counsel
PO Box 11329
Columbia, S.C. 29211-1329
(803) 896-4321

&

Roger Lowe, Administrator CLB
110 Centerview Drive
Columbia, S.C. 29210

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

N. Bobby Knight,
Certificate No. CQG. 14035, Appellant.

**REPLY TO RESPONSE:
CORRECT OR AMEND
CASE CAPTION**

v.

DKT NO. 16-ALJ-11-0467-AP

South Carolina Contractor's
Licensing Board, Respondent,

And,

In the matter of:
Construction Group LLC Respondent,
License No CLB 103920. (not appearing)

FILED

FEB - 2 2017

SC ADMIN. LAW COURT

REPLY TO RESPONSE: TO CORRECT OR AMEND CASE CAPTION

The Appellant, Bobby Knight CQG 14035, has requesting the Court FILE January 19 2017 to provide an ORDER for the Clerk to correct or amend the case caption to show that Construction Group, LLC License No. CLB 103920 is a Respondent because [i]t cannot hire an attorney and become an Appellant and to adopt the caption above as presented.

The Respondent SC LLR-CLB has filed their Response to this motion attempting to connect three issues: "(1) to deny this Motion to Correct or Amend the Case Caption ~~(to~~ comply with SCALCR 2.H. Definition. Party; (2) asks to provide a continuance to the Appellant Bobby Knight's Motion to enforce the Statutory Automatic Stay under SCALCR 34.A., denying the application for the renewal of the licensure; and (3) to grant the Respondents a continuance in favor of the Respondent's to obtain more time conditional upon their Responses to the Motion to Correct or Amend. **ABOUT SCALCR 34.A.**

The Appellant's Motion contains the statement that Appellant Bobby Knight, a "natural person", is a Party. Found in the SCALC General Conditions at SCALCR 2.

Definition. 2.H. it states ... " ... *including a license or permit applicant ... An applicant or licensee whose application or license is subject of a request for a contested case hearing shall be deemed a party and shall be served with copies of all papers filed in the case.*" the same intent can be found below this Rule as the 2009 Revised Notes.

The Respondent's RESPONSE at page 2 paragraph 3's last line is misspoken, Construction Group is in the caption request as a above . . . Mr. Tennis states; ". . . Appellant's (Bobby Knight) request to remove a licensee from the caption would be inapposite to the Board's licensing statutes as well as SCALCR 8(A)." Mr. Tennis makes no statement about SCALCR 2.H. Definition and that 2009 Footnote.

The Respondent's assert no connection between the federal case of which the CLB Board Members are defendants; however, to the contrary the undisputable material facts and evidences of False Claim ACT Restitution §3730(h) are the denial of the application dated December 1, 2016. The theft by Member Legrand Richardson and his company, having admitted to the FLETC Investigator, Lt. Davis, that he stole the copper from Knight; that Legrand Richardson has suffered an unjust enrichment not only for the 3,000 pounds of copper scrap, but also an enrichment for wrongfully using the United States as a working subcontractor on his subcontract with Knight. This subcontracting by the United States, not only is prohibited by the Contract assigned to Knight as an SBA DBE, but thereby results is the USDC immunities are waived by the United States for its physical hands on gifts to Legrand Richardson. These acts are unlawful. The FLETC Investigator report was not released by GLYNCO DHS Directors under the FOIA, or obtained by Knight until after April 26, 2013 when the USDC GERGEL COURT ORDER as used by the CLB Board was issued in January 2013. The appeal will detail other attorney misconducts about how the GERGEL ORDER was obtained to protect the appointment of Legrand Richardson by the States Chief Magistrate, Governor Haley.

The Respondent's do not assert as to their rationale for not using that ORDER for the renewal of Knight's Mechanical License in the fall of 2013. Clearly, the CLB

Discipline Complaint came after the SC Attorney General and the General Counsel for the CLB learned that the Amended Complaint at USDC No. 03199 caption which contained the CLB Members as defendants for harboring an admitted copper thief Member.

The Appellant's motion(s) were each accompanied with the \$25 filing fee as noted in Rule 71 and the SCALC Clerk has provided two receipts for payment to filed these motions.

The Appellant's Motion to Correct and Amend is good, just, proper and fair to be impoveryshly granted.; and

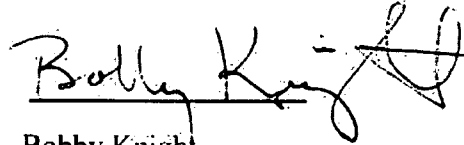
The Respondents did not timely file any specific "Response to the Appellant's Motion SCALCR 34.A. Automatic Stay" since their CLB Hearing October 20, 2016. This hearing was held in violation of the United States Code 28 §1447(c) Automatic Stay. The LLR-CLB provided, based upon information and belief, a proposed order to the USDC via ECF system and the denial for a REMOVAL was signed by Judge Norton on November 3rd 2016 and then email to Tracey Perlman of the Respondent's General Counsel for their Order signed by Lewis M. Caswell, CLB Chairman, on November 4th, 2017. USDC Local Rule 16.07 required a copy of proposed orders to be copied to all parties, and this was not done, and the 14 days to provide a response and comments was denied. The CLB hearing of October 20, 2016 was held in violation of the Federal Statutory Automatic Stay and as such, is improperly mechanized being a single 'suspect of Prosecutorial Misconduct'. The Motion SCALCR 34.A should be impoveryshly granted; and

The Respondents did not file a proper Motion requesting any "continuance" of any matter. The continuance should be denied as it serves only to delay the issuance of the license (renewal) application of the Appellant. The CLB did not wait for the appeal period to expire. IT published and publically reprimanded and distributed their hearing order on their website prematurely. The Appellant has been denied due process rights and equal protections. This routine habit and practice and behavior is to

be included in the Appellant's BRIEF.

The Respondents RESPONSE covers up a misconduct and creates a delay tactic about SCALCR 34.A. , the SCALC is herein being asked to order that the Appellants' application processed and issued immediately and further, without the payment of the licensing fees (\$285) being paid.

February 2, 2017



Bobby Knight
3940 Hottinger Avenue
North Charleston, S.C. 29405

for Appellant - B. Knight (843) 735-0814

DKT NO. 16-ALJ-11-0467-AP

REPLY TO RESPONSE: TO CORRECT OR AMEND CASE CAPTION

Other Counsel of Record:

Tracey Perlman, Esq. & T. Kyle Tennis, Esq.
SCLLR Office of General Counsel
PO Box 11329
Columbia, S.C. 29211-1329
(803) 896-4321

&

Roger Lowe, Administrator CLB
110 Centerview Drive
Columbia, S.C. 29210

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

BOBBY KNIGHT,

Appellant/Petitioner,

vs.
SOUTH CAROLINA LABOR, LICENSING AND
REGULATION, SOUTH CAROLINA CONTRACTORS
LICENSING BOARD,
Respondents &
CONSTRUCTION GROUP, LLC (NOT REPRESENTED)
Respondent.

Docket No. 18-ALJ- 11 - 0467 - AP

**AMENDED
PROOF OF SERVICE**

Appellant's: **AMENDED** REPLY TO RESPONSE:
Notice & Motion to Correct or Amend the Case Caption

I hereby certify that I have served the (Description of the document) in the above-captioned matter by depositing it in the United State Mail, postage prepaid, on February 4th, 2017 (Month/Day/Year) to the below named parties at their address of record:

Tracey Periman, Esq. & T.Kyle Tennis
SCLLR-Office of General Counsel
Name PO Box 11329
Address Columbia, S.C. 29211-1329
City/State/Zip

Name

Address

City/State/Zip

Roger Lowe, Administrator CLB
Name 110 Centerview Drive
Address Columbia, S.C. 29210
City/State/Zip

Name

Address

City/State/Zip

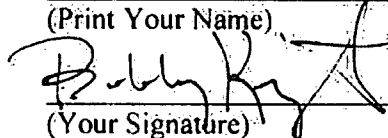
FILED

FEB - 4 2017

SC ADMIN. LAW COURT

Bobby Knight

(Print Your Name)



(Your Signature)

3940 Hottinger Ave

(Street)

North Charleston, S.C. 29405

(City, State, Zip Code)

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

BOBBY KNIGHT,

Docket No. 18 -ALJ- 11 - 0467 - AP

Appellant/Petitioner,

PROOF OF SERVICE

VS.
SOUTH CAROLINA LABOR, LICENSING AND
REGULATION, SOUTH CAROLINA CONTRACTORS
LICENSING BOARD,
Respondents &
CONSTRUCTION GROUP, LLC (NOT REPRESENTED)
Respondent.

Appellant's: REPLY TO RESPONSE:

I hereby certify that I have served the Notice & Motion to Correct or Amend the Case Caption
(Description of the document) in the above-captioned matter by depositing it in the
United State Mail, postage prepaid, on February 2, 2017 (Month/Day/Year) to the
below named parties at their address of record:

Tracey Perlman, Esq. & T.Kyle Tennis
SCLLR-Office of General Counsel

Name PO Box 11329
Address Columbia, S.C. 29211-1329
City/State/Zip _____

Name _____
Address _____
City/State/Zip _____

Roger Lowe, Administrator CLB

Name 110 Centerview Drive
Address Columbia, S.C. 29210
City/State/Zip _____

Name _____
Address _____
City/State/Zip _____

FILED

FEB - 2 2017

SC ADMIN. LAW COURT

Bobby Knight

(Print Your Name)

(Your Signature)

3940 Hottinger Ave

(Street)

North Charleston, S.C. 29405

(City, State, Zip Code)

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

N. Bobby Knight and Construction Group,
LLC,

Appellants,

vs.

South Carolina Department of Labor,
Licensing and Regulation, South Carolina
Contractor's Licensing Board,

Respondent.

MOTION TO DENY APPELLANT'S
MOTION TO CORRECT OR AMEND
CAPTION

Docket No. 16-ALJ-11-0467-AP

Respondent, South Carolina Department of Labor, Licensing and Regulation, South Carolina Contractor's Licensing Board (hereinafter "the Board"), pursuant to SCALC Rule 8(A), moves this Court for an order denying Appellant's Motion to Correct or Amend Caption. In support of its Motion, Respondent shows the following to the Court:

The Board licenses entities, which includes Construction Group, LLC.

As provided for in S.C. Code Ann. § 40-11-20(12) (1976, as amended), the Board licenses entities. ("Licensee" means an entity which has been issued either a general or mechanical contractor's license by the department.") "Entity" is defined as a "a sole proprietorship, partnership, limited liability partnership, *limited liability company*, association, joint venture, cooperative, corporation, or other legal entity authorized by law and approved by the [B]oard." S.C. Code Ann. § 40-11-20(7) (1976, as amended) (emphasis added). In order for the entity to be issued a contractor's license, the entity must be qualified for the license. An entity becomes qualified for each license classification by having a qualifying party associated with it. A qualifying party is the individual that qualifies the licensee to engage in contracting

FILED

JAN 27 2017

work. See S.C. Code Ann. § 40-11-20(20) (1976, as amended) (“‘Qualifying party’ means an individual who has been issued a certificate to qualify an entity for a license by way of examination in a license classification or subclassification.”) A licensee must have a credentialed qualifying party to sustain its license; the licensee cannot stand alone. Here, Construction Group, LLC is the licensed entity in the underlining disciplinary matter. Construction Group, LLC’s qualifying party is N. Bobby Knight.

SCALC Rule 8(A) requires that entities — including Construction Group, LLC — be represented by an attorney before this Court.

SCALC Rule 8(A) specifically provides that, other than for OSHA cases, “[a]ny party which is not a natural person must be represented by an attorney.” Further, the Notes to 2016 Amendments for Rule 8 provide that Rule 8(A) was “amended to clarify that any party which is not a natural person, such as corporations, partnerships, and other *business entities*, must be represented by an attorney in proceedings before the Court.” (emphasis added). Construction Group, LLC, the licensed entity, is a business entity by virtue of being an LLC, and is not a natural person.

Accordingly, Construction Group, LLC, whose license is directly affected by the disciplinary matter, would need to be represented by an attorney to perfect its appeal. Appellant’s request to remove a licensee from the caption would be inapposite to the Board’s licensing statutes as well as SCALC Rule 8(A).

Appellant’s separate federal litigation has no bearing on either the present disciplinary matter on appeal or compliance with the SCALC Rules.

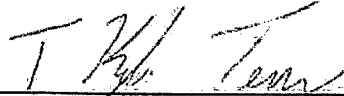
Included in Appellant’s concurrently filed Motion for Automatic Stay is an Order from the United States District Court dismissing a *qui tam* claim Appellant filed. In the Order, the

Honorable David C. Norton directed the clerk to change the caption of the case to indicate that the plaintiff is solely "Bobby Knight." While the plaintiff in the *qui tam* action may be solely Bobby Knight, that separate litigation has no bearing on the licensing issue currently before this Court on appeal and should have no effect on Appellant's compliance with SCALC Rule 8(A).

WHEREFORE, Respondent respectfully requests that Appellant's Motion to Correct or Amend Caption be denied. Respondent would also request that any decision regarding Appellant's Motion for Automatic Stay be held in abeyance until this Court decides this threshold issue regarding Appellant's compliance with SCALC Rule 8(A). Further, Respondent would request an extension to file the Record on Appeal in the matter providing an additional 30 days from the date of the Order in the event the Court deems Appellant's Appeal is in compliance with the SCALC Rules.

Respectfully Submitted,

South Carolina Department of Labor,
Licensing and Regulation
South Carolina Contractor's Licensing Board



T. KYLE TENNIS
Attorney for Respondent
Post Office Box 11329
Columbia, South Carolina 29211-1329
(803) 896-4321
Kyle.tennis@llr.sc.gov

1/27, 2017

THE STATE OF SOUTH CAROLINA
In The Administrative Law Court

APPEAL FROM THE SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION
SOUTH CAROLINA CONTRACTOR'S LICENSING BOARD

Docket No. 16-ALJ-11-0467-AP

N. Bobby Knight and Construction Group, LLC. Appellants,

v.

South Carolina Department of Labor, Licensing and Regulation,
South Carolina Contractor's Licensing Board Respondent.

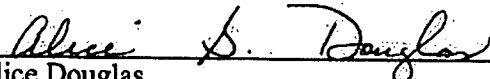
CERTIFICATE OF SERVICE

I hereby certify that I am a Paralegal for Respondent in the above-captioned matter and that on the 27 day of January, 2017, in Columbia, South Carolina, I served a copy of **Respondent's Motion to Deny Appellant's Motion to Correct or Amend Caption** onto the Court and Appellants in this matter by mailing to the addresses as follows:

The Hon. Ralph King Anderson, III
Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Ste. 224
Columbia, SC 29201-3731

Construction Group, LLC
and N. Bobby Knight
3940 Hottinger Avenue
North Charleston, SC 29405
Appellants

SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING AND REGULATION


Alice Douglas
Paralegal
South Carolina Department of Labor,
Licensing and Regulation
Office of Disciplinary Counsel

Columbia, South Carolina
January 27, 2017

FILED

JAN 27 2017

SC ADMIN. LAW COURT

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

N. Bobby Knight,
Certificate No. CQG. 14035, Appellant.

] **NOTICE & MOTION TO:
] CORRECT OR AMEND
] CASE CAPTION**

v.

] **DKT NO. 16-ALJ-11-0467-AP**

South Carolina Contractor's
Licensing Board, Respondent,

And

In the matter of: Respondent,
Construction Group LLC (not appearing)
License No CLB 103920.

NOTICE OF MOTION & MOTION TO CORRECT OR AMEND CASE CAPTION

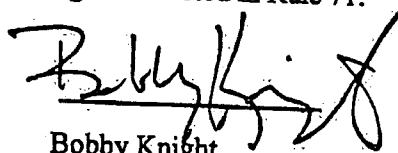
The Appellant, Bobby Knight, is requesting the Court to provide an ORDER for the Clerk to correct or amend the case caption to show that Construction Group, LLC License No. CLB 103920 is a Respondent because [i]t cannot hire an attorney and become an Appellant and to adopt the caption above as presented.

Construction Group, LLC was noted a Respondent in the captioned Notice of Appeal to the SC Court of Appeal that was returned as prematurely filed at the wrong appeal court December 5th.

The SC ALC sent a letter to Bobby Knight allowing 10 days from January 4th, 2017 and upon his personal visit to the Clerk's counter by Bobby Knight on January 12th, the clerk verbally granted no more than 10 additional days to inform the court of the situation of Rules compliance about representation for the Appellant's company to hire an attorney.

This motion is accompanied with the \$25 filing fee as noted in Rule 71.

January 16, 2017



Bobby Knight
3940 Hottinger Avenue
North Charleston, S.C. 29405

for Appellant - B. Knight (843) 735-0814

STATE OF SOUTH CAROLINA

Administrative Law Court

Ralph K. Anderson, III
Chief Judge

Jana E. Cox Shealy
Clerk



January 4, 2017

PHONE: (803) 734-0550
FAX: (803) 734-6400
WEB: WWW.SCALC.NET

Bobby Knight
3940 Hottinger Avenue
North Charleston, South Carolina 29405

Re: N. Bobby Knight and Construction Group, LLC v. South Carolina Labor, Licensing and Regulation, South Carolina Residential Licensing Board, Docket No. 16-ALJ-11-0467-AP

Dear Mr. Knight:

The above-captioned case is pending before the South Carolina Administrative Law Court. Pursuant to the information contained in the file in the above-referenced matter, it has come to the Court's attention that Construction Group, LLC, is not represented by an attorney in this matter. Please note that effective on or about April 30, 2009, Rule 8(A) of the Rules of Procedure for the Administrative Law Court, entitled "Right of Parties to Participate: Parties and Their Representatives," was amended to prohibit the unauthorized practice of law in the State of South Carolina. Rule 8(A) now provides that an entity party may only be represented by an attorney admitted to practice in South Carolina, either permanently or pro hac vice. A copy of the amended rule with an explanatory "Note to 2004 Amendments" is enclosed for your convenience.

It appears that pursuant to ALC Rule 8(A) Construction Group, LLC must be represented by an attorney. Please contact this office within ten (10) days from the date of this letter to let Judge Anderson know how you plan to proceed with this contested case. If you should have any questions, please do not hesitate to contact me.

Sincerely,

E. Harvin Belser Fair
E. Harvin Belser Fair

Judicial Law Clerk to The Honorable Ralph King Anderson, III

Enclosure

cc: SC LLR (w/enclosures)

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

IN THE MATTER OF:

**CONSTRUCTION GROUP LLC,
License No. CLG. 103920**

**N. Bobby Knight,
License No. CQG. 14035
Respondent(s).**

**NOTICE OF FINAL
ORDER HEARING**

Case No.: 2015-5

TO THE RESPONDENT(S) ABOVE NAMED:

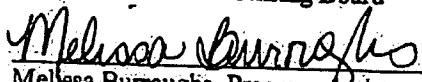
YOU ARE HEREBY NOTIFIED that the South Carolina Contractor's Licensing Board (hereinafter "the Board") will consider the attached Hearing Officer's Recommendation from the evidentiary Hearing held September 9, 2016. The Final Order Hearing in the above matter will be held at 10:00 A.M.* on Thursday, October 20th, 2016, at 110 Centerview Drive, Kingstree Building, Room 105, in Columbia, South Carolina. The Hearing Officer's Recommendation and a certified copy of the Hearing Transcript have been filed with the Administrator of the Board.

The Board will consider the Hearing Officer's Recommendation for the purpose of determining its action thereon. Hearings are held in accordance with the South Carolina Administrative Procedures Act, S.C. Code Ann. § 1-23-310, *et seq.* (1976, as amended), which describes your procedural rights. You have the right to be represented by counsel in this matter to more fully understand, protect, and assert your legal rights. Testimony and discussion is limited to the evidence presented in the September 9, 2016 Hearing. The Board may accept, reject, or revise the Hearing Officer's Recommendation. A written Final Order will be issued to Respondent(s) and counsel, if any, stating the final decision of the Board and disciplinary action, if any, to be administered.

In the event Respondent(s) is/are represented by counsel, Notice of counsel's intent to appear at the Final Order Hearing shall be given to the State's counsel for the Board.

IF YOU DO NOT APPEAR AT THE FINAL ORDER HEARING, THE BOARD WILL CONDUCT THE HEARING IN YOUR ABSENCE.

**SOUTH CAROLINA DEPARTMENT OF LABOR,
LICENSING AND REGULATION
S. C. Contractors' Licensing Board**


Melissa Burroughs, Program Assistant

Post Office 11329
Columbia, SC 29211-1329

September 14, 2016

*Hearing times are subject to change; you will be notified if the time is changed.

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

IN THE MATTER OF:

**CONSTRUCTION GROUP LLC,
License No.: CLG. 103920**

**N. Bobby Knight,
License No.: CQG. 14035**

Respondent.

OIE Case No.: 2015-5

CERTIFICATE OF SERVICE

The undersigned hereby certifies that s/he is an employee of the South Carolina Department of Labor, Licensing and Regulation and is a person of such age and discretion as to be competent to serve papers. I have this day caused a copy of the below listed document(s) to be served upon the attorneys for the parties, or individuals shown below by depositing two copies of the same in the United States Mail, one copy sent certified mail, return receipt requested and the second sent by regular first class U. S. mail, all of which with proper postage affixed thereto, addressed to the last known address:

Mailed to:

**Construction Group, LLC
3940 Hottinger Avenue
Charleston, SC 29405**

**N Bobby Knight
108 Wilson Street
Summerville, SC 29483**

Document(s) mailed: Hearing Officer's Recommendation and Notice of Final Order Hearing

**SOUTH CAROLINA DEPARTMENT OF LABOR,
LICENSING AND REGULATION**



**Melissa Burroughs, Program Assistant
LLR-SC Contractor's Licensing Board
Post Office Box 11329
Columbia SC 29211-1329**

September 14, 2016

EXHIBIT #1

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING & REGULATION
BEFORE THE SOUTH CAROLINA CONTRACTOR'S LICENSING BOARD**

In the Matter of:

CONSTRUCTION GROUP, LLC
License No.: CLG.103920 GC
License No.: CLM.106217 MC

N. BOBBY KNIGHT
Credential No.: CQG.14035

Respondents.

Case No.: 2015-5

NOTICE OF HEARING

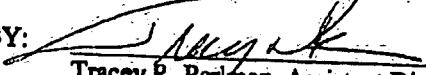
TO: MR. BOBBY KNIGHT, CONSTRUCTION GROUP, LLC, Respondent(s)

YOU ARE HEREBY NOTIFIED THAT:

1. A hearing before the State Contractors' Licensing Board ("Board") with respect to the above-captioned matter is scheduled for September 9, 2016, at 10:00 a.m. in Room 108 of the Kingstree Building, located in the Synergy Business Park, 110 Centerview Drive, Columbia, SC 29210.
2. The hearing has been set to consider the charges in the Complaint against you, a copy of which is attached hereto and served upon you. Hearings are held in accordance with the South Carolina Administrative Procedures Act, S.C. Code Ann. § 1-23-310, *et seq.* (1976, as amended), which describes your procedural rights, including, but not limited to, the right to respond and present evidence and testimony on all issues involved and cross-examine witnesses against you. You may also have legal counsel to represent you in this matter to more fully understand, protect, and assert your legal rights.
3. If the Board finds that you have violated the statutes, standards, or regulations of the Board, the Board may reprimand, suspend, revoke, or otherwise restrict your license in this State, in accordance with S.C. Code Ann. § 40-1-110 (1976, as amended), or impose an appropriate civil penalty in conformance with the provisions of S.C. Code Ann. § 40-1-120 (1976, as amended).
4. **IF YOU DO NOT APPEAR AT THE HEARING, THE BOARD WILL CONDUCT THE HEARING IN YOUR ABSENCE. AFTERWARDS, THE BOARD MAY TAKE SUCH DISCIPLINARY ACTION AS IS APPROPRIATE FOR THE CHARGES DESCRIBED AND AS IS ALLOWED BY LAW.**

**SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING & REGULATION
CONTRACTORS' LICENSING BOARD**

BY:


Tracey R. Perlman, Assistant Disciplinary Counsel
LLR - Office of General Counsel
P.O. Box 11329
Columbia, SC 29211-1329
(803) 896-4312

7/28, 2016.

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

In the Matter of:

**CONSTRUCTION GROUP LLC
License No. CLG.103920 GC,
License No. CLM.106217 MC,**

**N. BOBBY KNIGHT
Credential No. CQG.14035**

Respondents.

FORMAL COMPLAINT

Case No. 2015-5

IT IS HEREBY ALLEGED:

I.

Construction Group, LLC (hereinafter referred to as "Respondent-GC") is licensed by the South Carolina Contractor's Licensing Board (hereinafter referred to as the "Board") as a general contractor with a BD-3, GG-3 and 2U-1 classification. Respondent-GC also maintains grandfathered mechanical contractor licensee with a EL-1 and PK-1 classification. N. Bobby Knight serves as the qualifying party for the Respondent-GC. For purposes of this Agreement, Respondent-GC and N. Bobby Knight (Respondent-Qualifying Party) will be referred to collectively as "Respondents". Respondents' general contractor licenses were first issued on August 30, 2000 and the mechanical contractor license was first issued on May 2, 2003.

II.

The Board has personal jurisdiction over Respondents and jurisdiction over the subject matter in this case pursuant to S.C. Code Ann. § 40-1-115 (1976, as amended).

III.

1. On or about January 10, 2012, a claim was filed against Respondent in the United States District Court for the District of South Carolina, Charleston Division for breach of a federal contract of over \$25,000. On or about January 7, 2013, the Court entered a judgment against Respondent in the amount of \$51,808.00 plus prejudgment interest from October 29, 2011 until paid as well as all of the costs related to the action. A copy of the Order and Judgment dated January 7, 2013 and filed with United States District Court for the District of South Carolina is attached hereto and incorporated herein as Exhibit #1.

2. On or about July 18, 2014, Respondent submitted his license renewal application for 2014-2016. On his application, Respondent answered "no" to the question "Have you had any judgments, liens or claims filed against you or do you have any unpaid judgments of debt outstanding against you or any business you were associated with?" A copy of Respondent's renewal application for 2014-2016 is attached hereto and incorporated herein as Exhibit #2.

IV.

That upon information and belief, and as a result of the above, Respondent's conduct violates the following provisions of the laws governing contracting in this State:

- A. Respondent failed to disclose judgments and claims on a license application and there was a subsequent discovery of facts which if known at the time of issuance or renewal of a license or certificate would have been grounds to deny the issuance or renewal of a license or certificate, in violation of S.C. Code Ann. §40-11-110(A)(1) (1976, as amended).
- B. Respondent committed fraud or deceit in obtaining a license or certification, in violation of S.C. Code Ann. §40-11-110(A)(4) (1976, as amended).
- C. Respondent committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public, in violation of S.C. Code Ann. § 40-1-110(1)(f) (1976, as amended).

V.


PURSUANT to S.C. Code Ann. §§ 40-1-110 and 40-1-120 (1976, as amended), and S.C. Code Ann. §§ 40-11-110 and 40-11-120 (1976, as amended), the Board may take disciplinary action against a contractor if it finds the contractor has engaged in negligence, incompetence, substandard work performance, or misconduct in its practice. Further, the Board may seek equitable relief to enjoin violations of the Board's Practice Act pursuant to S.C. Code Ann. §§ 40-1-100 and 40-11-210 (1976, as amended). If Respondent is found in violation, the Board may impose a civil penalty of up to five thousand dollars (\$5,000) for each violation and may require Respondent to pay the costs of investigation and prosecution pursuant to S.C. Code Ann. §§ 40-11-110(C) and 40-11-170 (1976, as amended).

WHEREFORE, the Contractor's Licensing Board shall consider these allegations and make such disposition as may be appropriate. Respondent may respond and present evidence and argument on all issues involved. Respondent may appear alone or with legal counsel.

(signatures on following page)

SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING AND REGULATION

BY:



TRACEY R. PERLMAN, ESQ.

Assistant Disciplinary Counsel
Post Office Box 11329
110 Centerview Drive, Kingtree Building
Columbia, South Carolina 29211-1329
(803) 896-4312

2/25, 2016

Mr. Maurice Smith - SC LLR
110 Centerview Drive
Columbia, SC 29405
Phone: (803) 896-4470
FAX: (803) 896-4656

RE: #2015-005
January 16, 2015

Dear Mr. Smith:

Thank you for returning my call yesterday about your letter. It is dated January 9th and I received it on the 15th. The USDC judgment was on a DHS-USCG Contract #HSCG82-11-C-PMVA04 and did not require my State LLR License to perform the work.

(History) --

I appreciate this opportunity you provided to explain my *misinterpretation of the section* about my answering "NO" in the box when the judgment in the USDC about a federal contract dispute. My efforts to clear that matter up have been a State civil action to obtain a RECISSION of my bond contract that paid the judgment to Atlantic Electric LLC. That issue is now pending three higher jurisdictions. First is a Writ of Certiorari at the South Carolina Supreme Court, and second is at the Civilian Contract Appeal Board; and third is USDC MOTION.

I knew it would be some time before the bond company would rescind that federal contract claim. The insurance company has not to date made any claims against me to pay them money. Document 175 says I should have checked YES even though the case(s) were continuing higher reviews. I understand now, I apologize.

I can send you all the papers; if you like, for now I am attaching the cover pages at each jurisdiction. First is my MOTION at USDC CA No. 2-12-CV-00107-RMG. It remains unanswered. Second is the Writ now S.Ct No. 2014-002304 pending. Third is the cover for the Civilian Contract Appeal Board (CAB) with the gov't police report (redacted) but self explanatory. (I got this from DHS-GLYNCO Director via a FOIA after the USDC judgment was entered by the bond company agents) This admission of theft was withheld from the USDC court proceedings that began in January 2012 and had it been disclosed then: the Clean Hands Doctrine would have dismissed the USDC Mille ACT case altogether. (see Enclosures)

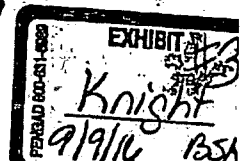
Ultimately, this LLR renewal misinterpretation is mine alone. It was not my intent to violate the code section. When I renewed the Mechanical License that year, I visited with the LLR office and spoke to I believe Tracy (?). I gave her the copy of the original of the suit that I filed for RECISSION to reverse the one at USDC. Again, I thought I understood her that as long as this was not really finalized; it would not keep me from my licensure. It was my mistake to have carried that LLR visit thought over to the renewal of last year's GC license. A mistake I hope

RECEIVED

2015 JAN 16 P 4 06

LLR
ENVIRONMENTAL SVCS

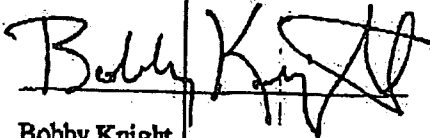
1 of 7



your office and investigation will determine that I did not intend to be deceitful. Somehow, I was thinking that both my licenses were in the same files and the ongoing legal matter was available as continuing information. That assumption was my error.

The government contract remains administratively open until the CAB makes a Decision. I did an extra \$40,000 of work after the subcontractor. My company's work brought the contract into compliance with the specifications of the contract. The government customer has remained unharmed and stated in the Contract Officer's letter that the work is accepted and complete to the specifications.

Thank you and I appreciate your time and consideration.



Bobby Knight
3940 Hottinger Avenue
North Charleston, SC 29405
(843) 735-0814

Enclosures (4)

NOTARY SEAL

DATE: January 16, 2015



My Commission Expires on 6/15/15

2 of 7

Online Renewals



South Carolina Department of Labor, Licensing and Regulation

CONSTRUCTION GROUP LLC's Renewal Summary

Please review all information you have provided. Click on the 'Edit my Answers' link to change any information given or click on the 'I Agree' button to verify that all information posted below is correct and to proceed to payment options.

Please note that knowingly providing false information may result in denial of registration.

Instructions

Requirements:

1. All licensees, Groups 1-5, can renew online. However, if you are a Group 5-\$unlimited licensee, after renewing your license online, you must submit a copy of your reviewed or audited financial statement to the board by March 1, 2015 (not compiled). Reviewed or audited financials not received by that time will result in the license being dropped to Group 4-\$750,000 per contract. Financials can be submitted to our board by mail, fax (803-896-4814), or email (clbhelp@llr.sc.gov). Your Group number is the number behind your 2-letter classification: i.e. BD5, GD3, SP2.
2. Renewal is for 2014 & 2016.
3. Renewal is allowed through March 1, 2015. The renewal fee is \$135. However, late fees will be added to all renewals processed after October 31, 2014.

Late Fees: November - \$100; December - \$150; January - \$200

4. Based on the financial statement requirements, you will not be able to upgrade your license during this renewal. To upgrade, download revision application, DOC#180, from our website.
5. No company name change can be made during this online renewal process. If you have a company name change, download and submit a Revision Application, DOC#180, from our website. If you are changing the style of business or Fed ID, do not complete this renewal; download and submit DOC#165 from our website with your financial statement and fee.
6. You cannot renew online if you do not have a qualifier. You will need to download and submit a Revision Application, DOC#180, from our website.
7. **IMPORTANT:** This renewal requires you to enter the Total Asset and Total Liabilities amounts from your financial balance sheet. Please have the figures from your financial balance sheet in front of you before you attempt this renewal. If you have questions, please consult your accountant or CPA. The Contractors & TM Licensing Board cannot answer questions pertaining to financial statements.
8. If your Total Net Worth is less than \$6,000, you can not renew.
9. Please carefully read all of the notes/messages displayed during this renewal, as they are important to helping you correctly answer the questions.

Renewal Checklist:

The following information will be required to complete the online renewal process:

1. A valid VISA or MasterCard credit card. You may also use a debit card, but it must have the VISA or MasterCard logo on the front of the card. Insert credit/debit card number only, no spaces or dashes. Also, you may pay with an electronic check.
2. Up until October 31, 2014, the renewal fee is \$135. After that date, late fees will be assessed.
3. Once you have entered your credit/debit card information, you should receive a message stating 'Authorization Succeeded.' This is confirmation that your payment was received. If you pay with an e-check, you will receive a message stating 'Check Received.'

Should you encounter any problems, please contact us by e-mail at CLBHELP@LLR.SC.GOV and include a description of the problem along with your name, license number and telephone number where you can be reached.

Renewal Questions

Address/Email

Address

MAIN ADDRESS

Mailing: Yes
 Phone: (843) 735-0814
 Fax:
 Address: CONSTRUCTION GROUP LLC
 3940 HOTTINGER AVENUE
 CHARLESTON, SC 29405
 County: Charleston
 Country: UNITED STATES
 Congressional District: District 6

Email

constgrp@comcast.net

Qualifier

Qualifier

LISTED BELOW IS THE QUALIFIER INFORMATION ON FILE WITH THIS BOARD.

Qualifier name(s) below

Name: KNIGHT, N BOBBY

Please review the Qualifier information on file with the Contractors Licensing Board.
 Qualifier Information Correct

- 1) Was the Qualifier information correct on the previous page?
 NO YES

Note: If any of the qualifier information is incorrect, you must answer NO to this question.

Discipline Information

Discipline Questions

- 1) Since your last application or renewal of your license, have you been involved in any pre-trial intervention program, been convicted, pled guilty, or pled nolo contendere (no contest) for the violation of any federal, state or local law or do you have charges pending (other than a minor traffic violation)?
 NO YES
- 2) Since your last application or renewal of your license, is any investigation or disciplinary action currently pending, or has a formal complaint, citation, consent order, or final order been filed against you?
 NO YES
- 3) Since your last application or renewal of your license, have you been issued a Cease and Desist Order for unauthorized practice?
 NO YES
- 4) Since your last application or renewal of your license, have you had a license, certification or registration cancelled, surrendered, revoked, suspended, restricted, disciplined, or placed on probation by any federal, state or local authority or contracted without a proper license?
 NO YES
- 5) Since your last application or renewal of your license, do you have any outstanding monetary judgments related to construction?
 NO YES

Eligibility Information

Eligibility

Please answer the question regarding any change in your legal status since initial licensure.

- 1) Has there been any change in the status of your lawful presence in the United States since initial licensure?
 NO YES

Financial Information

Total Assets

NET WORTH REQUIREMENTS

Group Level	Minimum Total Net Worth
Group 1	\$6,000
Group 2	\$20,000
Group 3	\$70,000
Group 4	\$150,000
Group 5	\$250,000

The Total Assets below was calculated by adding your Total Current Assets and your Total Fixed & Other Assets.

- 1) Enter your Total Assets:

If the calculated Total Assets is not correct, click the Back button below and double-check the amounts you entered in the previous asset sections. If you make any changes to those amounts, click the Next button on those pages, so that your totals can be recalculated.

Total Liabilities

NET WORTH REQUIREMENTS

Group Level	Minimum Total Net Worth
Group 1	\$6,000
Group 2	\$20,000
Group 3	\$70,000
Group 4	\$150,000
Group 5	\$250,000

The Total Liabilities below was calculated by adding your Total Current Liabilities and your Total Long Term Liabilities.

1) Enter your Total Liabilities:

13,800

If the calculated Total Liabilities is not correct, click the Back button below and double-check the amounts you entered in the previous liabilities sections. If you make any changes to those amounts, click the Next button on that page, so that your total can be recalculated.

Net Worth (Total Equity)

NET WORTH REQUIREMENTS

Group Level	Minimum Total Net Worth
Group 1	\$6,000
Group 2	\$20,000
Group 3	\$70,000
Group 4	\$150,000
Group 5	\$250,000

The Total Assets below was calculated by adding your Total Current Assets and your Total Fixed & Other Assets.

1)

NET WORTH (TOTAL EQUITY)

TOTAL NET WORTH (Total Assets minus Total Liabilities).....

109900

2)

Note: Looking at the NET WORTH REQUIREMENTS, if your calculated Total Net Worth places you in a group level that is higher than your current group level, you are eligible to upgrade your license. However, the upgrade process is separate from the renewal process. If you are eligible to upgrade, but continue with this renewal, you are agreeing to remain at your current group level. If you choose to upgrade, you will need to download revision application, DOC#180, from our website and discontinue with this renewal.

If you agree that the calculated Total Net Worth above is correct, select "I AGREE."

I AGREE

If the calculated Total Assets is not correct, click the Back button below and double-check the amounts you

entered in the previous asset sections. If you make any changes to those amounts, click the Next button on those pages, so that your totals can be recalculated.

Agreement Confirmation

Agreement Confirmation

- 1) Your confirmation that the financial information that you have provided has been accepted.
Click the Next button to complete the renewal.

I AGREE DO NOT AGREE

Group Level

Groups

Classification and Group Limits

Group	Minimum
Classification Group 1	\$6,000.00
Classification Group 2	\$20,000.00
Classification Group 3	\$70,000.00
Classification Group 4	\$150,000.00
Classification Group 5	\$250,000.00

Your calculated network:

\$109,900.00

Your renewed Classification(s) and Group Limit(s):

• • • • • (Group Limits that have been downgraded are highlighted)

- BD3
- GG3
- 2U1

I understand that submitting a false, fraudulent, or forged statement or document or omitting a material fact in obtaining licensure may be grounds for disciplinary action against my license.
Under penalty of law, I hereby swear or affirm that the information I have provided in the application is complete and correct, and that I have complied with all criteria for applying on line.
Please print a copy of this receipt for your records.

Online Renewals



South Carolina Department of Labor, Licensing and Regulation

Online Renewals Receipt

ORDER INFORMATION

- Order #: 240398

License: CONSTRUCTION GROUP LLC - CLG.103920

BILLING INFORMATION

Type: Master Card

Card Number: XXXX-XXXX-XXXX-5156

Billing Name: Norman R. Knight

Expiration Date: 08/2015

Amount: \$135.00

Receipt Generated: 7/18/2014 8:04:06 AM

(Late) ROA Inserted Pages

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

N. Bobby Knight and Construction Group,)
LLC,)

Docket No. 16-ALJ-11-0467-AP

Appellants,)

v.)

ORDER OF DISMISSAL

South Carolina Department of Labor,)
Licensing and Regulation, South Carolina)
Contractor's Licensing Board,)

Respondent.)

This matter comes before the South Carolina Administrative Law Court (ALC or Court) on a Motion to Dismiss filed by the South Carolina Department of Labor, Licensing and Regulation, South Carolina Contractor's Licensing Board (Department). The Department requests that the appeal filed by Appellant N. Bobby Knight (Knight) on behalf of himself and Appellant Construction Group, LLC (LLC) (collectively, Appellants) be dismissed because Appellants failed to retain counsel to represent the LLC before proceeding with the appeal and neither appeared at the hearings below.

On January 4, 2017, the Court mailed a letter to Mr. Knight informing him that he could not represent the LLC in his personal capacity pursuant to Rule 8(A) of the Rules of Procedure for the Administrative Law Court (SCALC Rules) and that he was required to retain counsel to continue with the appeal. The Court not only explained SCALC Rule 8(A) in that letter but also provided Mr. Knight with an attached copy of the rule.

On January 16, 2017, Mr. Knight filed a Motion to Correct or Amend Caption and a Motion for Stay in violation of the law. On February 6, 2017, the Court issued an Order denying Mr. Knight's motions and granting the Department's request for an extension of time to file the Record on Appeal. In this Order, the Court found that this appeal must proceed with the LLC as an appellant and not just Mr. Knight because "[t]his appeal pertains to not only sanctions against the qualified party certificate issued to Mr. Knight and fines imposed upon him, but also to the sanctions imposed against the license issued to Construction Group, LLC and the fines imposed

FILED

May 4, 2017

SC ADMIN. LAW COURT

upon it.” As such, the Court also found that SCALC Rule 8(A) applied to the LLC, thus again requiring it to retain counsel. The Court plainly stated the following in the Order: “**an attorney can and must be represent an LLC before this Court. Otherwise, the Court will not entertain any arguments on its behalf.**” (Emphasis added). Also, in granting the Department’s request for extension of time to file the Record on Appeal, the Court again stated its finding that “**Appellant LLC has thus far failed to comply with SCALC Rule 8(A) and must, therefore, retain counsel if it wishes to proceed on the appeal**” (Emphasis added).

On February 24, 2017, the Department filed the Record on Appeal. On March 24, 2017, Mr. Knight filed a brief on behalf of himself and the LLC despite the Court’s February 6, 2017 Order requiring Appellants to retain counsel, again in violation of the law. The Department then filed its Motion to Dismiss on April 18, 2017. On April 27, 2017, Mr. Knight filed a “Response of Appellant to: (sic) Respondent’s Motion to Dismiss.” In “Appellant’s Note No. 2” in his brief, Mr. Knight explains why Appellants failed to comply with the Court’s directive:

The question as to SC-ALC Rule 8A that Construction Group, LLC must hire an attorney to be heard &c. that Appellant Knight would have the money to hire some attorney for this business had the copper not been admittedly stolen by SCLLR-CLB Board Member Legrand Richardson, Jr. -- which is a **paradox** as [i]f (sic) Richardson, Jr., as owner of Atlantic Electric, had not stolen the copper in the first place - then - most likely this contract dispute would not now be ongoing since February 2011. AS (sic) of ‘*court like*’ administrative law is entitled to judicial review, yet attorneys are not required for Construction Group LLC - then the Formal Complaint process warrants a Summons to attach Personal Jurisdiction to this non-separable (sic) matter. Construction Group LLC has become a frozen entity since the theft and fraud at the District Court by Atlantic and its attorneys. The terms of the federal contract follow the federal contract: See[.] (sic).

In his Reply to the Department’s Motion, Mr. Knight also argues, *inter alia*, that he did not have to retain counsel because he is “winding up” the LLC, and he cites to S.C. Code Ann. 33-44-803(c) (2006) to support this contention.¹ However, though this provision allows “[a] person winding up a limited liability company business . . . [to] prosecute and defend [administrative] actions and

¹ Mr. Knight attached to his Reply an original copy of the “Articles of Termination Form” form from the South Carolina Secretary of State’s Office. However, there is nothing on this form or anywhere else to indicate that this document was actually filed with the Secretary of State’s Office. Indeed, according to the Secretary of State’s website, the last filing for the LLC occurred on 04/27/2004, and the “Dissolved Date” is “N/A.” See <https://businessfilings.sc.gov/BusinessFiling/Entity/Profile/750e4343-e8eb-44ed-ba60-b7f1a7b1ebeb> (last visited May 2, 2017).

proceedings” involving the company, this does not obviate Mr. Knight’ responsibility to retain counsel for the LLC. Rather, this provision simply authorizes Mr. Knight to act on behalf of the LLC in prosecuting and defending administrative actions and proceedings by retaining counsel to represent the LLC in such actions. As the Court informed Appellants in the January 4, 2017 letter to Mr. Knight and in the Court’s February 6, 2017 Order, SCALC Rule 8(A) provides in pertinent part that “[a]ny party which is not a natural person must be represented by an attorney.” Notes to the 2016 Amendments for SCALC Rule 8 adds that “Rule 8(A) has been amended to clarify that any party which is not a natural person, such as corporations, partnerships, and other business entities, must be represented by an attorney in proceedings before the Court.” As the Court also explained in its February 6, 2017 Order, “an LLC qualifies as an ‘other business entit[y]’ for purposes of SCALC Rule 8(A).” Furthermore, the South Carolina Supreme Court, which has the constitutional duty to regulate the practice of law in South Carolina, has held that “a corporation may appear *pro se* only in magistrate’s court.” See *Renaissance Enters., Inc. v. Summit Teleservices, Inc.*, 334 S.C. 649, 653, 515 S.E.2d 257, 259 (1999).

Here, Mr. Knight filed a brief for himself and the LLC in his personal capacity after receiving repeated admonitions from the Court to comply with its rules and retain counsel for the LLC. As such, the appeal as to the LLC is void *ab initio*. Consequently, this Court has no jurisdiction to hear the LLC’s appeal and must dismiss it. *State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003) (“A *pro se* litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.”); *contra Brown v. Coe*, 365 S.C. 137, 616 S.E.2d 705 (2005) (allowing a *pro se* appellant who was not authorized to file a notice of appeal an opportunity to retain counsel to continue with the appeal, **but also stating it would dismiss the appeal if counsel was not retained within the time allotted in the Court’s order**), *clarified in Brown v. Coe*, 365 S.C. 664, 620 S.E.2d 323 (2005). Moreover, even though Mr. Knight claims that he is in the process of “winding up” the LLC, and even if the LLC were dissolved, this would, at best, render the LLC’s appeal moot and thus would still result in its dismissal.²

² In addition, even if Mr. Knight dissolves the LLC, the fine that the Department imposed on the LLC will still be a liability that Mr. Knight will have to discharge pursuant to S.C. Code Ann. § 33-44-803 (2006).

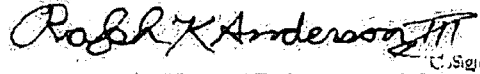
But even had the LLC retained counsel for its appeal to the ALC, the Court would still dismiss the LLC's appeal because counsel did not appear on its behalf both before the hearing officer and at the Final Order Hearing despite the LLC being properly notified of both hearings. For the same reason, the Court must also dismiss Mr. Knight's appeal, as he also failed to appear before both the hearing officer and at the Final Order Hearing.³ Consequently, all of the arguments that Mr. Knight now raises in his brief are being raised for the first time on appeal and, as such, cannot be considered by this Court. *See Prince v. Beaufort Mem'l Hosp.*, 392 S.C. 599, 611, 709 S.E.2d 122, 128 (Ct. App. 2011) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the [fact finder] to be preserved for appellate review.") (quoting *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998)); *see also Burton, supra* ("A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.")⁴

³ In both his brief and in his Reply to the Department's Motion to Dismiss, Mr. Knight argues that he was never given notice of the hearings below because they were "mailed to 108 Wilson St., Summerville and this is not the mailing address of Bobby Knight." However, the hearing officer stated in his order that he "determined that there was proper service of the Notice of Hearing and Formal Complaint to the Respondents at the address of record . . ." Also, even assuming that Mr. Knight did not reside at the 108 Wilson St. mailing address at the time that the notices were served, he still had the duty to inform the Department of any address changes, which he apparently understood at the time that he completed the "2016-2018 General Contractor's Renewal Form" on December 1, 2016 because that form lists his current mailing address for both himself and the LLC. Mr. Knight complete this form almost a month after the Final Order from Board was mailed. Moreover, based on the mailing addresses cited in the certificate of service for the Board's Final Order, which were presumably the same as those used to send the notices for the hearings, the Department had served the notices for the hearings not only to Mr. Knight at the 108 Wilson St. Address but also to the LLC at 3940 Hottinger Avenue, N. Charleston, SC 29405, which is the same address that Appellants have on file with this Court. Therefore, Mr. Knight is without excuse for not responding to the notices sent. But even if the mailing addresses used to send Mr. Knight and the LLC the notices were different than those used to send the decisions, because the Final Order was sent to Mr. Knight's and the LLC's current address at 3940 Hottinger Avenue, Mr. Knight had notice that a hearing had taken place and could have filed a Motion to Reopen based on a lack of notice. Because Appellants did not notify the Board of a lack of notice, that issue is not preserved for appeal.

⁴ The Court also has no record of a Notice of Appearance filed by an attorney in this case, which is required pursuant to SCALC Rule 8(B) ("After a case is assigned to an administrative law judge, an attorney or other person authorized to represent a party pursuant to this rule **must** file a notice of appearance with the presiding administrative law judge within ten days of being retained or authorized to represent the party.") (emphasis added). And even had the LLC retained counsel, and that attorney had filed a Notice of Appearance, the LLC's brief was filed by Knight, who is not an attorney, and would thus, at best, be engaging in "hybrid" representation, which is invalid. *See State v. Stuckey*, 333 S.C. 56, 58, 508 S.E.2d 564, 564 (1998) (holding that because "there is no [constitutional] right to hybrid representation, substantive documents filed *pro se* by a person represented by counsel are not accepted unless submitted by counsel."). Therefore, the Court would still dismiss the LLC's appeal even had it retained counsel at the time it appealed to the ALC.

IT IS THEREFORE ORDERED that Appellants' appeal is **DISMISSED WITH PREJUDICE.**⁵

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

May 4, 2017
Columbia, South Carolina

⁵ As a final note, the Court points out to Mr. Knight that by disregarding the Court's warnings and proceeding to file a brief and a Reply to the Department's Motion to Dismiss on behalf of the LLC in this case, he has engaged in the unauthorized practice of law, which is a felony in South Carolina. See S.C. Code Ann. § 40-5-310 (2011).

CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



E. Harvin Belser Fair
Judicial Law Clerk

May 4, 2017
Columbia, South Carolina

COLUMBIA, SOUTH CAROLINA 29201

123

T. Kyle Tennis, Esq.
Contractor's Licensing Board
SC Dept. of Labor, Licensing & Regulation
Post Office Box 11329
Columbia, South Carolina 29211-1329

STATE OF SOUTH CAROLINA
Administrative Law Court
EDGAR A. BROWN BUILDING
1205 PENDLETON STREET, SUITE 224
COLUMBIA, SOUTH CAROLINA 29201

Bobby Knight
3940 Hottinger Avenue
North Charleston, South Carolina 29405

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

APPEAL FROM THE SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION
SOUTH CAROLINA CONTRACTORS LICENSING BOARD

Honorable. Ralph King Anderson, III
Chief Administrative Law Judge

DKT NO. 16-ALJ-11-0467-AP

N. Bobby Knight & Construction Group, LLC Appellants,

v

South Carolina Department of Labor, Licensing and Regulation,
South Carolina Contractors Licensing Board Respondent.

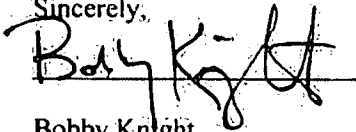
MEMO TO CLERK -- APPELLANT'S RESPONSE AND PROOF RETURN

Dear Judge Anderson.

✓ Please find enclosed the RESPONSE TO MOTION TO DISMISS from Bobby Knight in the above captioned case. Enclosed is one unbound original and two copies. Also, a return postage paid envelope for conforming the RESPONSE OF APPELLANT copy and the PROOF OF SERVICE copy.

✓ Also, please include (if any) Proposed Orders from the Respondents.

Sincerely,



Bobby Knight
3940 Hottinger Avenue
North Charleston, S.C. 29405

for: Appellant - B. Knight
(843) 735-0814

Cc/ Tracey Perlman, Esq. or T. Kyle Tennis, Esq.,
SCLLR Office of General Counsel,
PO Box 11329, Columbia, S.C. 29211-1329.
Phone (803) 896-4321

FILED

APR 27 2017

SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

APPEAL FROM THE SOUTH CAROLINA
DEPARTMENT OF LABOR, LICENSING AND REGULATION
SOUTH CAROLINA CONTRACTORS LICENSING BOARD

Honorable. Ralph King Anderson, III
Chief Administrative Law Judge

DKT NO. 16-ALJ-11-0467-AP

N. Bobby Knight & Construction Group, LLC Appellants,

v

South Carolina Department of Labor, Licensing and Regulation,
South Carolina Contractors Licensing Board Respondent.

RESPONSE OF APPELLANT
TO: RESPONDENT'S MOTION TO DISMISS

(Qualifying Party - Bobby Knight)

Bobby Knight
3940 Hottinger Avenue
North Charleston, S.C. 29405

for: Appellant - B. Knight
(843) 735-0814

FILED

APR 27 2017

SC ADMIN. LAW COURT

TO: General Counsel Attorneys for the SCLLR-CLB.

NOTICE TO: Appear and be heard if you are so minded.

RESPONSE by Appellant Knight to the CLB, Respondent's, Motion to Dismiss as shown and postmarked and FILED at the SC-ALC on April 18, 2017. Appellant Knight received on April 22, 2017. In compliance with SC-ALC Rules 19, 3(A) & (C) he makes this **RESPONSE OF APPELLANT TO MOTION TO DISMISS.**

STATEMENT AND STATUS

The Motion to Dismiss filed by the SCLLR General Counsel Office attacks the Appellant Knight's Brief's ISSUES without filing timely Respondent's Brief; but asks the SC-ALC to never read and/or to not consider the Appellant's Brief foundation claiming numerous violations of this "Parties": this "person's" Substantive Law Rights. The SCLLR-CLB attorneys have *parsed through filed* documents and *attempts to obfuscate* the due process requirement furthering failures that began with their own *prosecutorial misconduct...* 'bad faith' actions which flowed into this Appeal and caused Issues which are the kinds of challenges that are always an appealable item(s). The Motion to Dismiss fails to address that the SCLLR-CLB did not have Personal Jurisdiction and Venue and was itself in violation of United States Code §1441(c) *et seq* AUTOMATIC STAY in place on the very day, October 20, 2016, when the SCLLR-CLB held the hearing or trial and now the Motion to Dismiss alleges and asserts to bar the ISSUES the Appellant Knight, who has rightfully and timely raised these challenges on this Contested Case SC-ALC Appeal. The CLB alleges in their Motion to Dismiss that this Appellant is "*appearing in violation of Rule 8A*" -- contrary however-- the **Appellant's Brief** gives explicit details as to the CLB violations of United States Code Section(s). This violation of the **Supremacy Clause** by the State Agency, CLB, makes moot any assertion that Knight violates Rule 8A instead. A Contested Case from an Agency that held a hearing all the while knowing this; as their General Counsel and SC Attorney General were each copied all pleading on the REMOVAL ACTION and the USDC Order dtd November 3, 2016. A matter still under review by the Norton Court - even today as a reconsideration letter was presented to that superior U.S. Court.

The SCLLR-CLB Hearing Officer, W. Franklin Walker's ORDER signature thereon does not match his signature on the USPS Return Receipt card he signed for USPS Restricted Delivery of his USDC Summons & Complaint. *e.g.* A hearing of the facts will Investigate which signature is correct. It is now suspect that the CLB staff person has signed this Hearing Officer's name on their asserted findings of facts; aside from these misleading statements made in the Motion to Dismiss that notice and service upon Bobby Knight were properly perfected. When the Appellant's Brief shows otherwise this contradiction and that service was not perfected even under the Agency rules before Lack of Summons with any Complaint on each of these parties.

The Motion to Dismiss is correct in only in that the LLC cannot and has not the funds to hire attorneys to appear as a direct result of the CLB Member Richardson *having suffered an unjust enrichment* from stealing the Appellant's copper from the DHS-USCG SBA 8a assigned federal contract. Knight's LLC is being "gagged" and beening made a "silenced victim" by the admitted to a federal investigator of his unlawful conduct by a State Agency CLB Member. The Appellant Knight continues to hold that the prosecutorial misconduct outlined in the Appellants Brief on file here is appealable ISSUES and ARE correctly presented under the parameters of all kinds of Appeals generally before any Court in America. Now the SC-ALC has been burdened with this next step about this **Contested Case Appeal** - and [I]t has the jurisdiction to decide the **Supremacy Clause ISSUE** - Due Process and Equal Protections Affirmative Defense raised timely and properly by Appellant Knight, being a defined as a party, a citizen, & a person.

The Appellant Knight, a captioned named party by order of this SC-ALC, is also a "applicant" for the licenses 2017 - 2019 renewal period; Knight is allowed to file his brief and "to appear and participate". See APPENDIX at 2009 Notes*. The LLC cannot appear with a paid attorney as a direct result of the SCLLR-CLB Board Member, Legrand Richardson, Jr., who has admitted to stealing copper in the Federal Law Enforcement Training Center FLTEC-CHAS Investigative Report - a uncontested federal contract document. All these documents have been served upon the SCLLR-CLB General Counsel in accordance with SCRCP 5 and the FRCP. Yet, their Agency counsel has not provided these in the **Record on Appeal** [i]t filed in this Court . . . and,

The **Appellant's Brief** also pleads further, that the **Record on Appeal** filed by the Agency did not include documents. This Motion to Dismiss is a furtherance to dodging this

misconduct and due process breach keeping all from the SC-ALC review. This is a "*bad faith*" and a causation to GRANT in favor of the Appellant.

SC-ALC Rule 8A assumes that the 'entity' LLC has the money to hire attorneys when IT says the '*entity must be represented by attorneys*'. The caption of the Agency Formal Complaint - - as expanded upon in the **Appellant Knight's Brief** has the name of the '*person*' Appellant Knight. This Rule 8A makes not provision for a deceased party but §33-44-44(b) does - or in this matter - one '*person*' sole proprietorship SMLLC, that has been rendered financially helpless by the admitted wrongful actions of Legrand Richardson, Jr. CLB Member. However § 33-44-803(c) does provide an open gate for this Appellant Knight to proceed at the SC-ALC without legal representation for this **Winding Up, Dissolved 'entity'**. See **EXHIBIT A**. hereto.

Before the SCLLR-CLB can raise any Motion to Dismiss - first, Appellant Knight is entitled to argue that the CLB - the Agency's October 20, 2016 trial below was held in violation of the **Supremacy Clause** - the USDC's **AUTOMATIC STAY**. Yes, before the SCLLR-CLB attorneys can appear alleging the Appellant Knight "*is in violation of Rule 8A*" the CLB must prove to this SC-ALC that they did not violate the Supremacy Clause, the action that ignited the SC-ALC Contested Case Appeal in the first place. The Appellant Knight, a rightful party to this matter, demands strict proof thereof that the CLB October 20, 2016 hearing is/ (or is not) the product of prosecutorial misconduct by the CLB and is/ (or is not) a product of a violation of the federal **AUTOMATIC STAY** put in place by this Appellant Knight's **REMOVAL ACTION** served upon the SCLLR-CLB General Counsel. Pending now are connected prosecutorial misconduct by the related CLB attorneys before the USDC Norton Court. The CLB has made no pleadings denying ... silence follows.

A violation of the Rules of this Court, The Federal Law, by the CLB attorneys is a just cause, in and of itself, for this SC-ALC to deny the Agency's Motion to Dismiss and too, it's Final Order and just cause in the alternative, to GRANT the Appellant's Brief as timely filed with the good and just reason(s) presented correctly on Appeal.

The CLB Motion to Dismiss reads *all over* by "*parsing from*" the **Appellant's Brief**, but this **RESPONSE TO THE MOTION TO DISMISS** seeks for the SC-ALC Judge and this Court to not ignore the details outlined in the filed Appellant's Brief. Appellant Knight restates his brief in

further objection to the April 18, 2017 Motion to Dismiss considerations and reviews. The CLB Motion to Dismiss is frivolous attempt to avoid filing answers to issues not raised for the first time as alleged. but Knight is responding, at best, to the State Agency's violation(s) & denials of the Appellant's Due Process and Equal Protections below SC-ALC.

I. ANALYSIS

SC Code § 33-44-803(c) "*person*" supersedes use of SC-ALC Rule 8A '*entity*' for this Contested Case - Appeal but supports the SC-ALC Rule 8A '*person*' as an individual:

The SCLLR-CLB Motion to Dismiss asserts that SC-ALC Rule 8A and the Court can only allow the LLC belonging to Appellant Knight to be heard represented by an attorney. Knight has been cited many many times stating that this LLC has not the resources to hire attorneys and why the business was destroyed and by whom. Now the affairs of the LLC are defined by § 33-44-803(c) and Appellant Knight may represent [i]ts defenses at this State Administrative Court.

SC Code § 33-44-803(c) is governed by these **Article 8. Definitions**. In so writing this Section, the General Assembly wrote a clear and specifically distinct definitions for both an '*entity*' and for '**person**'. Appellant Knight meets the definitions of a Party, a Person, and is the denied Applicant for this Contractors License Renewal, and as a '*person*' satisfies the clear intention of the SC Legislature at § 33-44-803(c) which has written and states clearly that "*A Person winding up a limited company's business may . . . prosecute and defend actions and proceedings, whether . . . , or administrative, . . .*" The Legislature could have; but did not use at 803(c) their defined term for '*entity*'. And having used the term '*person*' includes that Appellant Knight, the organizer for the LLC, is the only '*person, sole surviving member*' with the lawful rights for winding up the business of his LLC as is named in the caption of this appeal and targeted by the SCLLR-CLB General Counsel Motion to Dismiss, Rule 8A for an '*entity*'. Further reading of **SC-ALC Rule 8A. Right of Parties to Participate. A. Parties and Their Representatives. Parties in a contested case have the right to participate** states; "A party proceeding without legal representation shall remain fully responsible for compliance with these Rules and the Administrative Procedures Act."

Appellant Knight, by *winding up* these affairs is such a '*person*' and a '*party*' and has been {correctly} proceeding without legal representation and shall . . . Act. See **EXHIBIT A**. The

South Carolina Secretary of State **Dissolution form** for Construction Group LLC by [i]ts organizer who is also captioned above as Appellant Knight.

AUTHORITY

See also and consider:

"The **cardinal rule** of statutory interpretation is to ascertain and effectuate the intention of the legislature." *Ranucci v. Crain*, 409 S.C. 493, 500, 763 S.E.2d 189, 192 (2014) (quoting *Sloan v. Hardee*, 371 S.C. 495, 498, 640 S.E.2d 457, 459 (2007)). "When a statute's terms are clear and unambiguous on their face, there is no room for statutory construction and a court must apply the statute according to its literal meaning." *Id.* (quoting *Sloan*, 371 S.C. at 498, 640 S.E.2d at 459). "In interpreting a statute, '[w]ords must be given their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation.'" *Id.* (quoting *Sloan*, 371 S.C. at 499, 640 S.E.2d at 459).

Cf. Capco of Summerville, Inc. v. J.H. Gayle Constr. Co., 368 S.C. 137, 142, 628 S.E.2d 38, 41 (2006) ("Where there is one statute addressing an issue in general terms and another statute dealing with the identical issue in a more specific and definite manner, the more specific statute will be considered an exception to, or a qualifier of, the general statute and given such effect.").

SECTION 33-44-101. Definitions.

In this chapter:

...

(7) "**Entity**" means a person other than an individual.

...

(14) "**Person**" means an individual; corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

SECTION 33-44-803. Right to wind up limited liability company's business.

(c) A person winding up a limited liability company's business may preserve the company's business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, settle and close the company's business, dispose of and transfer the company's property, discharge the company's liabilities, distribute the assets of the company pursuant to Section 33-44-806, settle disputes by mediation or arbitration, and perform other necessary acts.

The Winding Up of Construction Group, LLC affairs has been ongoing and inevitable demise of a LLC company that is a sole proprietorship SMLLC and began its *spiraling out of existence since the theft of the copper by CLB Respondent Richardson*, an undisputable fact about this SC-ALC Contested Case Appeal, of whom is Legrand Richardson, Jr., an owner of Atlantic Electric, LLC and also a SCLLR-CLB Member. This federal matter is continuing and pending before the United States District Court 2:15-cv-03199 DCN MGB. Material Fact must be determined at a trial of the facts and not disposed of by a dismissal that disregards evidences.

II. ANALYSIS

Lack of a Summons served with the **State Agency's Formal Complaint** naming a '*person*' Bobby Knight -- all about this Complaint fails to meet the due process Agency burden for service of the Summons & Complaint to be filed together and served on the LLC and Bobby Knight. **SCRCP is the default rules for the SC-ALC. As such;** the State denies and violates the individual '*person*', as the '*party*', as the '*citizen*' of his US Constitution protections, and, of SC State Constitution Article 1 Sect. 3.; and SCRCP 1, 3, 4, 5, and 81 (*but not limited to same*).

At about the same time the Legislature created the SCLLR-CLB and allowed existing county contractor licensees to grandfather their license to the CLB Agency, the Legislature also made significant changes to the Probate Code. What makes this example of Probate Subcommittee Report solicited by the SC Supreme Court concurrent with the flaws in Lack of Summons at Formal Complaints by SCLLR is that in Probate, 23 of the 46 counties did not use Summons about Petitions. The Summons Subcommittee Report showed that a '*person*' must have a Summons. Without a Summons, a commencement of an action is barred.

One **ARGUMENT** raised Appeal in the **Appellant's Brief** is that **LOWER AGENCY TRIALS AND HEARINGS BELOW ERRED BY ACTING ON A FORMAL COMPLAINT AND ALLEDGED BEING PERFECTED AND SERVED WITHOUT A SUMMONS UPON THE APPELLANT**. Due Process Equal Protection Arguments are proper at any time before any Court to challenge personal jurisdiction of Court [and Court-like] State Agency civil actions.

"Although quite elementary to an audience of lawyers, the Constitution of the State and the United States, requires due process of law." See **Summons in Probate Court**, p.4 (1/21/2010) Committee Chairman K. DeAngelo, Report to SC Legislature AND Article 1, Sec. 3 of our State Constitution provides '*any person*' as follows:

ARTICLE I

DECLARATION OF RIGHTS

SECTION 3. Privileges and immunities; due process; equal protection of laws.

The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws. (1970 (56) 2684; 1971 (57) 315.).

"The sanctity and importance of a cohesive, uniform set of procedural court rules, which begins with process, is to ensure that all parties who come before the court enjoy their constitutional right to due process." **Summons in Probate Court** at 4. Id. SC S.Ct Subcommittee's Report to SC Legislature (1/21/2010).

CONCLUSION

The SC-ALC must deny with prejudice the CLB Motion to Dismiss as Rule 8A does not apply to the LLC during the Winding Up processes. AND Rule 8A 'entity' has been superseded by SC Code §33-44-101 Definitions. for party at § 33-44-803(c); and

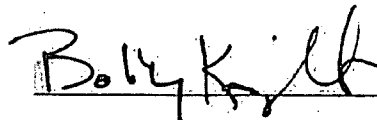
The SC-ALC must deny with prejudice the CLB Motion to Dismiss subsequent allegations as the Motion does not comply with the requirement that the Motion is not allowed because the movant has not meet the burden for entitlement as a Matter of Law. The §33-44 et seq. Laws and Definitions supersedes using SC-ALC Rule 8A to silence '*the individual person*' also provided for as a 'party' and a license 'applicant' for renewal denied by this State Agency; and

The SC-ALC must deny with prejudice the CLB Motion to Dismiss and Final Order appealed from by Knight and can find now that Mr. Knight, *a person, is a party, is a US citizen* and has been denied Due Process and Equal Protections afforded by the **US Constitution and the SC Constitution Article I. Declaration of Rights. Section 3. Privileges and immunities; due process; equal protection of laws; AND 28 U.S. Code § 1654 - Appearance personally or by counsel; AND 8 U.S. Code § 1401 - Nationals and citizens of United States at birth.** See APPENDIX: hereto.

April 27 2017

North Charleston,
South Carolina

Respectfully,



Bobby Knight
3940 Hottinger Avenue
North Charleston, S.C. 29405

for: Appellant - B. Knight
(843) 735-0814

EXHIBIT A

Secretary of State DISSOLUTION form: LLC

STATE OF SOUTH CAROLINA
SECRETARY OF STATE
ARTICLES OF TERMINATION
LIMITED LIABILITY COMPANY - DOMESTIC

PLEASE TYPE OR PRINT CLEARLY IN BLACK INK

FILING FEE \$10.00

The following limited liability company having dissolved and completed its winding up, terminates its existence by filing these articles of termination in accordance with the 1976 S.C. Code of Laws, as amended, Section 33-44-805:

1. The name of the limited liability company is:

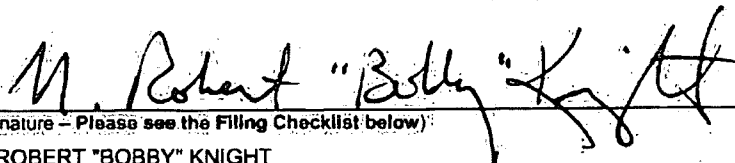
CONSTRUCTION GROUP, LLC
3940 HOTTINGER AVENUE
NORTH CHARLESTON, S.C. 29405

2. The date the articles of organization were filed is 03/30/2001.

3. The date of the dissolution of this limited liability company was 04/22/2017.

4. Has the company wound up its business and terminated its legal existence? YES

5. Unless otherwise specified, these articles are effective when endorsed for filing by the Secretary of State. Specify the time and date of any delayed effective date: N/A
(Date)


(Signature - Please see the Filing Checklist below)

N. ROBERT "BOBBY" KNIGHT

(Print Name)

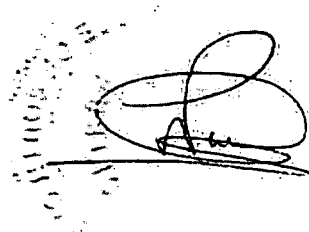
04/22/2017

(Date)

Capacity/Position of Person Signing (You must check one box.)

Manager Member Organizer

Fiduciary Attorney-in-Fact



My Commission
Expires 11/28/2022

-- APPENDIX --

2009 Revised Notes

The definition of a contested case includes matters which are heard pursuant to a constitutional command for a hearing and matters, such as county tax cases, which do not come directly from a state agency. The definition of a party makes it clear that the licensee or applicant is to be made a party to any matter which involves the license or permit, and that he shall be served with copies of all papers filed in the action.

3. Time.

A. Computation. In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after the designated period of time begins to run is not included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday. When the period prescribed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as any other day and not as a holiday.

B. N/A.

C. Service By Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, by e-mail, or upon a person designated by statute to accept service, five days shall be added to the prescribed period.

8. Right of Parties to Participate.

A. Parties and Their Representatives. Parties in a contested case have the right to participate or to be represented in all hearings or pre-hearing conferences related to their case. Any party may be represented by an attorney admitted to practice, either permanently or pro hac vice. No one shall be permitted to represent a party where such representation would constitute the unauthorized practice of law. Any party which is not a natural person must be represented by an attorney. However, in cases arising under the Occupational Safety and Health Act, a partnership, corporation, or other business entity may be represented by an officer or employee. A party proceeding without legal representation shall remain fully responsible for compliance with these Rules and the Administrative Procedures Act. This Rule shall not be construed to permit law student practice except to the extent authorized by Rule 401 of the South Carolina Appellate Court Rules.

19. Motions.

A. Content and Filing. All pre-hearing motions shall be written, contain the caption of the case and the title of the motion, the contested case docket number assigned by the Court and the name and address of the person preparing it. The motion shall also state the grounds for relief and the relief sought. Except as provided in Rule 20, all motions shall be filed not later than thirty (30) days before the hearing date, unless otherwise ordered by the administrative law judge. Any party may file a written response to the motion within ten (10) days of the filing of the motion unless the time is extended or shortened by the administrative law judge. Any party may file a written reply within five (5) days of the filing of a response, unless otherwise ordered by the administrative law judge.