

received
12-21-05 LMS

In the Matter of: Ronald H. Hunt, et al.

TSCA Appeal No. 05-01

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ENVIRONMENTAL APPEALS BOARD

In the Matter of:)

RONALD H. HUNT, *ET AL.*)

Docket No. TSCA-03-2003-0285)

TSCA Appeal No. 05-01

Complainant's Final Status Report: Potential Witness Issue

Complainant-Appellee, U.S. EPA Region III, is filing this Final Status Report ("Final Status Report") with the Environmental Appeals Board ("Board") concerning its Notice of Potential Witness Issue ("Notice") filed on November 18, 2005 and subsequent Status Report ("Interim Status Report") on December 8, 2005. As stated in the Notice, Complainant had been advised in mid-November that there were potential licensing issues for some Lead Safe Richmond lead-based paint inspectors.

Complainant's Interim Status Report specified that its hearing witness, Richmond lead-based paint inspector Lonnie Sims, had been issued lead inspector licenses dating back to July 1996, in contrast to information that initially had been listed for Mr. Sims on the Virginia Department of Professional and Occupational Regulation ("VDPOR") licensing website. Complainant also indicated in its Interim Status Report that it was investigating certain ancillary issues and would report back to the Board by December 20, which it is now doing.

Although Mr. Sims was the only Richmond lead-based paint inspector to testify at the hearing in this matter, the 1996-97 inspection reports of three other Richmond lead-based paint inspectors previously had been introduced into evidence at hearing via stipulation with Respondents.¹ Therefore, Complainant thought it prudent to check the lead licensing history of these three individuals with the VDPOR as well. The ancillary issues noted by Complainant concerned this issue.

¹They also had been attached to Complainant's May 24, 2004, Motion for Accelerated Decision on Liability under an affidavit from then-Project Director of Lead Safe Richmond, Thomas E. Chatman that these reports were copies of records maintained by Lead Safe Richmond. Mr. Chatman is no longer employed by the City of Richmond.

Complainant has learned, and now reports to the Board and Respondents, that while Mr. Sims and the other three inspectors had all received lead inspector training needed for lead inspector licenses² prior to the inspections at issue in this case (Attachments A and B) and all subsequently had passed the lead inspector exam needed to qualify for a full lead inspector/risk assessor licenses (Attachments C and D), only one of the four inspectors, Michael Slavin, had been issued a lead inspector license at the time of these inspections (Attachments E, F and G).³

Complainant has spoken to a variety of State and city officials to try and determine the lead licensing requirements in effect for Richmond lead inspectors in 1996-97 and why city lead inspectors apparently conducted inspections prior to receiving a formal lead inspector license for such activities. Unfortunately, since these inquiries go back almost ten years, most people with the Lead Safe Richmond program in the 1990s have since ended their city employment. Mr. Sims, of course, is one person who was employed by Lead Safe Richmond at that time and he has stated that he thought he and the other inspectors were authorized to conduct such inspections.⁴ Perhaps the relatively recent implementation of the Virginia lead licensing program (the program took effect on October 1, 1995 [Attachment H]) resulted in a misunderstanding of its requirements by some personnel.

Nonetheless, Complainant notes that the four inspections at issue in this case were

² Inspector Michael Asante completed an EPA-approved Risk Assessor training course prior to his inspection but did not complete a Virginia-approved refresher course until after the inspection in question (Attachment B).

³Mr. Sims Interim License expired on February 28, 1997, and was not issued a new Interim License until July 23, 1997. His inspection relevant to this matter was June 26, 1997. Richmond inspector Ben Yan was issued an Interim License on May 7, 1997 and did the lead inspection at issue in this case on April 3, 1997. Richmond inspector Michael Asante (formerly Michael Graham) was issued an Interim License on July 17, 1996 but did the inspection relevant to this case on April 16, 1996.

⁴On Friday, December 16, Complainant's attorney, Jim Heenehan, discussed the licensing status of the Richmond lead inspectors in a conference call with Lonnie Sims and Yvonne Johnson. Ms. Johnson has been a licensed lead inspector (1996-2002) and has previously been the Lead Safe Richmond Community and Outreach Coordinator. Complainant hopes to have emails from both Mr. Sims and Ms. Johnson shortly on their understanding of the licensing status of Mr. Sims and the other Richmond lead inspectors in 1996-97.

Complainant should note that it focused on Mr. Sims current (2004) credentials as a Property Maintenance Inspector at hearing rather than his prior credentials as an Environmental Inspector when he was with Lead Safe Richmond in 1995-98, and therefore, Mr. Sims testimony concerning his license is specific to his current (2004) position. He testified he did lead-based paint inspections in both positions. See pages 156-57 and 160-61 of the Transcript.

performed by personnel who had been trained to conduct lead-based paint inspections prior to the dates of their inspections and subsequently passed their relevant lead inspector examinations.⁵ They had identified lead-based paint in the homes in question and brought this to the attention of Respondents, which then triggered Respondents' lead disclosure obligations in 40 C.F.R. Part 745, Subpart F.

Respectfully submitted,

Date: 12/19/05

By: James Heenehan
James Heenehan
Joseph J. Lisa III
Senior Assistant Regional Counsels
U.S. EPA Region III

⁵Again, one inspector, Michael Slavin, had a license at the time of inspection although even he did his inspection after his license had expired. However, since he had previously passed the lead inspector exam, his license was retroactively restored since he reapplied for said license within six months of expiration (Attachment F).

List of Attachments - Complainant's Final Status Report: Potential Witness Issue
In the Matter of RONALD H. HUNT, et al., Docket No. TSCA-03-2003-0285

- A. December 8, 2005 email from Adrienne Mayo of the Virginia Dept. of Professional and Occupational Regulation ("VDPOR"), to James Heenehan, attorney for Complainant, explaining various aspects of Virginia's interim and full lead licensing program in general and for Mr. Lonnie Sims specifically. In Ms. Mayo's response to Question 1.b., she states that Mr. Sims completed a Risk Assessor Refresher course in April 1997.
- B. December 16, 2005 email from Adrienne Mayo of the VDPOR, to James Heenehan, attorney for Complainant, concerning the lead inspector training for Lead Safe Richmond inspectors Michael Asante (formerly Michael Graham) and Ben Yan.
- C. November 21, 2005 VDPOR License Transcript for Lonnie Sims indicating, *inter alia*, that Mr. Lonnie Sims passed his examination for a Lead Inspector/Lead Risk Assessor License and that this license was issued to him on January 15, 1998. November 28, 2005 VDPOR cover letter also enclosed.
- D. November 18, 2005 memorandum from Adrienne Mayo of the VDPOR, to James Heenehan, attorney for Complainant, indicating the lead inspector licensing status of Michael Asante, Michael Slavin and Ben Yan indicating, *inter alia*, the dates Mr. Asante and Mr. Yan passed the Lead Risk Assessor exam.
- E. December 2, 2005 License Transcripts for Michael Asante and Ben Yan. December 13, 2005 VDPOR cover letter also enclosed.
- F. November 21, 2005 email from Adrienne Mayo of the VDPOR, to James Heenehan, attorney for Complainant, concerning aspects of the Virginia lead licensing procedures and explaining why Michael Slavin's late renewal of his full lead inspector's license meant that he is considered to have had an effective license for the October 20, 1997 inspection at issue in this case.*
- G. December 12, 2005 email from Adrienne Mayo of the VDPOR, to James Heenehan, attorney for Complainant, clarifying the licensing status of Mr. Lonnie Sims in 1997.*
- H. Summary of Virginia Lead-Based Paint Activities Regulations.

* Email includes Ms. Mayo's response and previous email from Mr. Heenehan but not prior attached emails in the email chain.

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the date provided below, I mailed by federal express the original and five true and correct copies of *Complainant's Final Status Report: Potential Witness Issue* (TSCA Appeal No. 05-01) to:

U.S. Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board
Colorado Building
1341 G. Street, NW, Suite 600
Washington, D.C. 20005

I also certify that on the date provided below, I served true and correct copies of *Complainant's Final Status Report: Potential Witness Issue* (TSCA Appeal No. 05-01) on the following parties in the manner set forth below:

Hand-Delivery: Regional Hearing Clerk
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Federal Express: The Honorable Susan L. Biro
Chief Administrative Law Judge
Office of Administrative Law Judges
U. S. Environmental Protection Agency
Mail Code 1900L
1099 14th St., N.W., Suite 350
Washington, D.C. 20460

and

Bradley P. Marrs, Esq.
Christopher Hill, Esq.
Meycr, Goergen & Marrs, PC
7130 Glen Forest Dr., Suite 305
Richmond, Va 23226

Respectfully submitted

Date: _____

12/19/05

By: _____

James Heenehan

James Heenehan
Joseph J. Lisa III
Senior Assistant Regional Counsels
U.S. EPA Region III

ATTACHMENT A



Adrienne Mayo
<Adrienne.Mayo@dpor.virginia.gov>

12/08/2005 06:02 PM

To James Heenehan/R3/USEPA/US@EPA

cc

bcc

Subject FW: FW: Extract of Records Follow-up Inquiries

Mr. Heenehan - I apologize for the delayed response to your inquiry. First let me provide clarification regarding the references made in my previous response concerning an interim license verses a full license.

An interim is a license that will allow an individual to work for up to six months from the date he/she completes their training course. An interim license CANNOT be renewed and is referenced in Part III, Section 3.D of the 1995 regulations. A individual must apply as a new applicant and submit new training to obtain another interim license. A full license is issued to an applicant who has successfully received a passing score on the required third-party examination for the discipline for which he/she has applied.

Both the 1995 and the current regulations allows an individual to renew their full license late which is up to six months from the license expiration date. If the full license is renewed within that six month period the full license is considered to have been valid as though it were renewed on time. This is not the case for interim licenses. Once an interim license expires the individual is considered to have a lapse in licensure until such time he/she obtains another interim license or a full license. Within the 1995 regulations Part III, Section 3.F address when someone holding a full license must reapply.

Responses to your follow-up inquiry are as follows:

1. The initial certification date posted on the website for Mr. Sims was a systems error and has since been corrected to reflect the 7/17/1996 date noted in the Extract of Record.

a. The 1995 regulations allowed the Board to extend the expiration date of interim license for up to an additional six months if the required examination was not available (See Part III, Section 3.6.A). Mr. Sims interim license expired on 12-31-96. Mr. Sims requested the expiration date of his interim certification be extended. The Board granted two additional months extension making the new expire date for the interim license 2-28-97. Therefore, the 2-28-97 date is not a typo. The 7-23-97 is not reflective of a license renewal date. As required by the 1995 regulations Mr. Sims submitted to DPOR new training and applied as a new applicant to obtain another interim license and on 7-23-97 Mr. Sims was issued a new interim license which expired on 12-31-97.

b. The 7-23-97 date was not a renewal date. This is the date that reflects when Mr. Sims obtained another interim license that allowed him to work until the interim expired on 10-31-97. The Board also granted Mr. Sims' request to extend the expiration date of this interim to 12-31-97. Keep in mind that when an individual applies to DPOR an interim license may be issued and is valid for six months from the last day of the month when the training was completed. Mr. Sims completed a Risk Assessor Refresher course in April 1997 and therefore, the expire date of his new interim would have been six months from the training completion date not six months from the date he applied for

another license. Lastly, there weren't any retroactive effects for Mr. Sims' interim licensing status.

A. G. Mayo
Office Manager

Board for Asbestos, Lead, and Home Inspectors

asbestos@dpwr.virginia.gov

(804) 367-8595
(804) 367-9753 TDD

-----Original Message-----

From: Heenehan.James@epamail.epa.gov
[mailto:Heenehan.James@epamail.epa.gov]
Sent: Thursday, December 08, 2005 2:20 PM
To: Adrienne Mayo
Subject: Re: FW: Extract of Records Follow-up Inquiries

Ms Mayo - I just wanted to check in to see if you had any further information on the below questions. In this regard, I have been speaking to Mr. Sims (who is also working with your office) and he advised me that the law in 1995 was such (for a limited period of time when the lead inspector licensing program was starting up) that after taking the training the inspector in question would be considered to have been inspecting with a license retroactive from the date the actual paper license was issued (apparently due to testing and processing issues associated with the new licensing requirements). Mr. Sims said he has the relevant 1995 regulations and has made a copy of them for me to look at and will federal express them to me.

Thanks -Jim Heenehan

Adrienne Mayo
<Adrienne.Mayo@dpwr.virginia.gov>
>

12/02/2005 12:11
PM

James Heenehan/R3/USEPA/US@EPA
cc
Lexie Borkey
<Lexie.Borkey@dpwr.virginia.gov>
Subject
FW: Extract of Records Follow-up
Inquiries

Mr. Heenehan - I am forwarding your inquiry regarding how to initiate an Extract of Records requests to a representative of our Public Records Division for response. I will review Mr. Sims' system records and forward a response to you by 12-5-05.

A. G. Mayo
Office Manager

Board for Asbestos, Lead, and Home Inspectors

asbestos@dpor.virginia.gov

(804) 367-8595
(804) 367-9753 TDD

-----Original Message-----

From: Heenehan.James@epamail.epa.gov
[mailto:Heenehan.James@epamail.epa.gov]
Sent: Friday, December 02, 2005 10:48 AM
To: Adrienne Mayo
Cc: Lisa.Joseph@epamail.epa.gov
Subject: Re: Extract of Records Follow-up Inquiries

Ms. Mayo - I received the Extract of Records yesterday and I want to thank you and Mr. Dick for your assistance in providing it to EPA as well as the time you both have spent answering various questions I have had concerning the Virginia lead inspector licensing requirements. After reviewing the Extract of Records for Mr. Sims, my management has instructed me to request two additional extracts for Michael Asante (formerly Michael Graham) and Ben Yan. We understand these will cost \$40 each and I just need to find out how to initiate the process for doing such Extracts. We can either pay by credit card or check, whichever is more convenient for your department.

As to the Extract of Records for Mr. Sims, I have a couple of follow-up questions.

1. The Extract of Records lists Mr. Sims' lead inspector licensing history going back to 1996 with occasional lapses while the VDPOR website only lists Mr. Sims' lead inspector license history only going back to Mach 25, 2004. Is this simply a question of updating the VDPOR website or is there some other reason for these different timeframes?
2. The Extract lists Mr. Sims' Lead Inspectors' License # 3356000175 as having been issued as an Interim License on 7/17/96. It expired on 12/31/96. It was renewed again on 1/2/97 but expired not quite two months later on 2/28/97. It was then renewed again on 7/23/97 as an Interim License. We have two questions on this part of Mr. Sims' licensing history:
 - a. Why was Mr. Sims' license renewed for less than two months on 1/2/97? Is it possible that the 2/28/97 expiration date is a typo?
 - b. After Mr. Sims' license was renewed on 7/23/97, did the renewal have any retroactive effects for Mr. Sims' licensing status for the period of time in which his license had apparently lapsed as of

2/28/97 (or a different date if that is a typo)?

Again, thanks very much for your assistance in this matter. Sincerely
-Jim Heenehan

ATTACHMENT B



Adrienne Mayo
<Adrienne.Mayo@dpor.virginia.gov>

12/16/2005 11:26 AM

To James Heenehan/R3/USEPA/US@EPA

cc

bcc

Subject FW: Ben Yan and Michael Asante 1997 training

Mr. Heenehan - Per your request Michael Asante submitted with his application to obtain his 7-17-96 interim license a training certificate for an EPA-approved Risk Assessor initial course that he completed on 9-11-95 along with a training certificate for a board-approved Risk Assessor refresher course that he completed on 6-4-96.

Ben Yan submitted with his application to obtain his 5-7-97 interim license a board-approved training certificate for a Risk Assessor initial course that he completed on 11-22-96.

Board for Asbestos, Lead, and Home Inspectors
3600 West Broad Street
Richmond, VA 23230-4917

asbestos@dpor.virginia.gov
(804) 367-8595
(804) 367-9753 TDD

-----Original Message-----

From: Heenehan.James@epamail.epa.gov
[mailto:Heenehan.James@epamail.epa.gov]
Sent: Wednesday, December 14, 2005 3:21 PM
To: Adrienne Mayo
Subject: Re: Ben Yan and Michael Asante 1997 training

Ms Mayo - Since EPA will be filing a Final Status Report with the Environmental Appeals Board concerning a lead disclosure rule case on Dec. 19, I would like to tie up another loose end concerning two other Richmond lead inspectors, Michael Asante (formerly Michael Graham) and Ben Yan. EPA has submitted requests for License Transcript for each individual and I understand from Ms. Borkey that they went into the mail on Tuesday. If the transcript confirms the VDPOR website information that these inspectors received their Interim Lead Inspector's Licenses on July 17, 1996 and May 7, 1997, respectively, then we will need to identify when they took approved lead paint inspector training that qualified them for such licenses. Mr. Asante's inspection at issue was on April 16, 1996 and Mr. Yan's inspection was on April 3, 1997.

Would it be possible for you to identify the dates that these two inspectors took the lead paint inspector training that led to their being issued their Interim Licenses on July 17, 1996 (Michael Asante (Graham)) and May 7, 1997 (Ben Yan).

Again, thanks very much.-Jim Heenehan

ATTACHMENT C



COMMONWEALTH of VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

3600 West Broad Street, Richmond, Virginia 23230-4917
Telephone: (804) 367-8500 TDD: (804) 367-9753
<http://www.dpor.virginia.gov>

LOUISE FONTAINE WARE
DIRECTOR

SANDRA WHITLEY RYALS
CHIEF DEPUTY

DEPUTY DIRECTORS:

KAREN W. O'NEAL
Licensing & Regulation

NICK A. CHRISTNER
Compliance & Investigations

STEVEN L. ARTHUR
Administration & Finance

November 28, 2005

Jim Heenehan
Office of Regional Counsel (3RC30)
EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Re: Lonnie Dean Sims,
License #3356000175 & #3355000437

Dear Mr. Hennehan:

Per the instructions of David Dick, Executive Director, Board for Asbestos, Lead and Home Inspectors, enclosed is a license transcript regarding each of the above-referenced license numbers. If you have any questions, feel free to call (804) 367-8583.

Sincerely,

A handwritten signature in cursive script that reads "Alexina M. Borkey".

Alexina M. Borkey
Public Records Manager
Policy, Planning and Public Records Systems

Enclosures



COMMONWEALTH of VIRGINIA

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

3600 West Broad Street, Richmond, Virginia 23230-4917

Telephone: (804) 367-8500 TDD: (804) 367-9753

<http://www.dpor.virginia.gov>

LOUISE FONTAINE WARE
DIRECTOR

SANDRA WHITLEY RYALS
CHIEF DEPUTY

DATE 11-21-2005

LICENSE TRANSCRIPT

DEPUTY DIRECTORS:

KAREN W. O'NEAL
Licensing & Regulation

NICK A. CHRISTNER
Compliance & Investigations

STEVEN L. ARTHUR
Administration & Finance

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

LICENSE #:	3355000437
NAME:	LONNIE DEAN SIMS
ADDRESS:	6616 LAKE POINT DR
CITY, STATE, ZIP CODE:	PRINCE GEORGE, VIRGINIA 23875
PERIOD COVERED:	INITIAL THROUGH PRESENT

03-25-2004	COMPUTER RECORD INDICATES ORIGINAL INTERIM LEAD INSPECTOR LICENSE ISSUED TO LONNIE DEAN SIMMS, 7431 TRAILING ROCK ROAD, PRINCE GEORGE, VIRGINIA 23875.
02-13-2004	COMPUTER RECORD INDICATES NAME CORRECTED TO LONNIE DEAN SIMS
09-02-2004	COMPUTER RECORD INDICATES ADDRESS CHANGED TO 6616 LAKE POINT DR, PRINCE GEORGE, VIRGINIA 23875.
09-30-2004	INTERIM LICENSE EXPIRED
03-02-2005	COMPUTER RECORD INDICATES ORIGINAL LEAD INSPECTOR LICENSE ISSUED TO LONNIE DEAN SIMS, AFTER PASSING A WRITTEN EXAMINATION, 6616 LAKE POINT DR, PRINCE GEORGE, VIRGINIA 23875
03-31-2006	LICENSE EXPIRES.

I, THE UNDERSIGNED, PURSUANT TO THE PROVISIONS OF SECTION 54.1-112 OF THE CODE OF VIRGINIA, AS AMENDED, AND AS CUSTODIAN OF THE RECORDS FOR THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION, FOR THE PURPOSE OF CERTIFYING AND AUTHENTICATING AS PROVIDED IN SAID SECTION, DO HEREBY CERTIFY THIS DOCUMENT AS A TRUE COPY OF THE ORIGINAL DOCUMENT IN THE DEPARTMENT.

Adrienne Mayo
Office Manager

Board for Asbestos, Lead, and Home Inspectors

I, THE UNDERSIGNED, PURSUANT TO THE PROVISIONS OF SECTION 54.1-112 OF THE CODE OF VIRGINIA, AS AMENDED, AND THE PERSON TO WHOM THE CUSTODIAN REPORTS FOR THE PURPOSE OF CERTIFYING AND AUTHENTICATING AS PROVIDED IN SAID SECTION, DO HEREBY CERTIFY THIS DOCUMENT AS A TRUE COPY OF THE ORIGINAL DOCUMENT IN THE DEPARTMENT.

Joseph C. Kossan
Regulatory Boards Administrator

Board for Asbestos, Lead, and Home Inspectors



COMMONWEALTH of VIRGINIA

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

3600 West Broad Street, Richmond, Virginia 23230-4917

Telephone: (804) 367-8500 TDD: (804) 367-9753

<http://www.dpor.virginia.gov>

LOUISE FONTAINE WARE
DIRECTOR

SANDRA WHITLEY RYALS
CHIEF DEPUTY

LICENSE TRANSCRIPT

DEPUTY DIRECTORS:

KAREN W. O'NEAL
Licensing & Regulation

NICK A. CHRISTNER
Compliance & Investigations

STEVEN L. ARTHUR
Administration & Finance

DATE: 11-21-2005

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

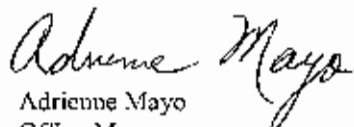
LICENSE #:	3356000175
NAME:	LONNIE DEAN SIMS
ADDRESS:	6616 LAKE POINT DR
CITY, STATE, ZIP CODE:	PRINCE GEORGE, VIRGINIA 23875
PERIOD COVERED:	INITIAL THROUGH PRESENT

07-17-1996	COMPUTER RECORD INDICATES ORIGINAL INTERIM LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO LONNIE DEAN SIMMS, 7431 TRAILING ROCK RD, PRINCE GEORGE, VIRGINIA 23875.
12-31-1996	INTERIM LICENSE EXPIRED.
01-02-1997	COMPUTER RECORD INDICATES INTERIM LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO LONNIE DEAN SIMMS, 7431 TRAILING ROCK RD, PRINCE GEORGE, VIRGINIA 23875.
02-28-1997	INTERIM LICENSE EXPIRED.
07-23-1997	COMPUTER RECORD INDICATES INTERIM LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO LONNIE DEAN SIMMS, 7431 TRAILING ROAD RD, PRINCE GEORGE, VIRGINIA 23875.
12-31-1997	INTERIM LICENSE EXPIRED
01-15-1998	COMPUTER RECORD INDICATES LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO LONNIE DEAN SIMMS. AFTER PASSING A WRITTEN EXAMINATION, 7431 TRAILING ROCK RD, PRINCE GEORGE, VIRGINIA 23875.
04-30-1998	LICENSE EXPIRED.
02-23-2001	COMPUTER RECORD INDICATES LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO LONNIE DEAN SIMMS, AFTER PASSING A WRITTEN EXAMINATION, 7431 TRAILING ROCK RD, PRINCE GEORGE, VIRGINIA 23875.
10-31-2001	LICENSE EXPIRED.
02-13-2004	COMPUTER RECORD INDICATES NAME CORRECTED TO LONNIE DEAN SIMS.
09-02-2004	COMPUTER RECORD INDICATES ADDRESS CHANGED TO 6616 LAKE POINT DR, PRINCE GEORGE, VIRGINIA 23875
04-27-2005	COMPUTER RECORD INDICATES INTERIM LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO LONNIE DEAN SIMS, 6616 LAKE POINT DR, PRINCE GEORGE, VIRGINIA 23875.
08-31-2005	INTERIM LICENSE EXPIRED.
10-06-2005	LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO LONNIE DEAN SIMS, AFTER PASSING A WRITTEN EXAMINATION, 6616 LAKE POINT DR, PRINCE GEORGE, VIRGINIA 23875

02-28-2006 LICENSE EXPIRES.

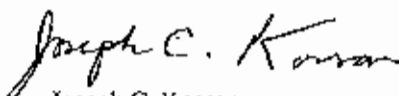
LONNIE DEAN SIMS
LICENSE #3356000175
11-21-2005
PAGE 2

I, THE UNDERSIGNED, PURSUANT TO THE PROVISIONS OF SECTION 54.1-112 OF THE CODE OF VIRGINIA, AS AMENDED, AND AS CUSTODIAN OF THE RECORDS FOR THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION, FOR THE PURPOSE OF CERTIFYING AND AUTHENTICATING AS PROVIDED IN SAID SECTION, DO HEREBY CERTIFY THIS DOCUMENT AS A TRUE COPY OF THE ORIGINAL DOCUMENT IN THE DEPARTMENT.



Adrienne Mayo
Office Manager
Board for Asbestos, Lead, and Home Inspectors

I, THE UNDERSIGNED, PURSUANT TO THE PROVISIONS OF SECTION 54.1-112 OF THE CODE OF VIRGINIA, AS AMENDED, AND THE PERSON TO WHOM THE CUSTODIAN REPORTS FOR THE PURPOSE OF CERTIFYING AND AUTHENTICATING AS PROVIDED IN SAID SECTION, DO HEREBY CERTIFY THIS DOCUMENT AS A TRUE COPY OF THE ORIGINAL DOCUMENT IN THE DEPARTMENT.



Joseph C. Kossan
Regulatory Boards Administrator
Board for Asbestos, Lead, and Home Inspectors

ATTACHMENT D

MEMORANDUM

TO: Jim Heenehan
FROM: Adrienne Mayo
Board for Asbestos, Lead, and Home Inspectors
DATE: November 18, 2005
RE: Additional Richmond Lead Inspector Issue

The individual Virginia Lead Risk Assessor License status information requested is provided below:

INDIVIDUAL	LICENSE NUMBER	LICENSE TYPE	ISSUE DATE	EXPIRE DATE
Michael Asante	3356-000171	Interim Lead Risk Assessor	7-17-96	12-31-96
		(Passed Exam) Lead Risk Assessor	9-3-96	6-30-97
		Lead Risk Assessor (late renewal)	11-10-97	6-30-98
		Lead Risk Assessor (late renewal)	7-27-98	6-30-99
		Lead Risk Assessor (late renewal)	1-28-00	9-30-06

	LICENSE NUMBER	LICENSE TYPE	ISSUE DATE	EXPIRE DATE
Michael Slavin	3356-000170	Interim Lead Risk Assessor	7-17-96	12-31-96
		(Passed Exam) Lead Risk Assessor	9-3-96	6-30-97
		Lead Risk Assessor (late renewal)	11-10-97	6-30-98
		Lead Risk Assessor (late renewal)	7-27-98	6-30-99

Ben Yan	3356-000307	Interim Lead Risk Assessor	5-7-97	5-31-97
		(Passed Exam) Lead Risk Assessor	6-10-97	11-30-97
		Lead Risk Assessor (late renewal)	10-24-97	11-30-98
		Lead Risk Assessor (late renewal)	12-15-98	11-30-99
		Re-issued Interim Lead Risk Assessor	4-22-02	8-31-02
		(Passed Exam) Re-issued Lead Risk Assessor	5-28-02	2-28-05
		Lead Risk Assessor (late renewal)	3-9-05	3-31-06

ATTACHMENT E



COMMONWEALTH of VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

3600 West Broad Street, Richmond, Virginia 23230-4917

Telephone: (804) 367-8500 TDD: (804) 367-9753

<http://www.dpor.virginia.gov>

LOUISE FONTAINE WARE
DIRECTOR

SANDRA WHITLEY RYALS
CHIEF DEPUTY

DEPUTY DIRECTORS:

KAREN W. O'NEAL
Licensing & Regulation

NICK A. CHRISTNER
Compliance & Investigations

STEVEN L. ARTHUR
Administration & Finance

December 13, 2005

Jim Hennehan
Office of Regional Counsel (3RC30)
EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Re: Michael Asante, license #3356000171
Ben Yan, license #3356000307

Dear Mr. Hennehan:

As per your request, enclosed is a license transcript regarding each of the above-referenced license numbers. For your information, also enclosed is a copy of the Lead-Based paint Activities Regulations, effective October 1, 1995. If you have any questions, feel free to call (804) 367-8583.

Sincerely,

Alexina M. Borkey
Public Records Manager
Policy, Planning and Public Records Systems

Enclosures



COMMONWEALTH of VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

3600 West Broad Street, Richmond, Virginia 23230-4917

Telephone: (804) 367-8500 TDD: (804) 367-9753

<http://www.dpor.virginia.gov>

LOUISE FONTAINE WARE
DIRECTOR

SANDRA WHITLEY RYALS
CHIEF DEPUTY

LICENSE TRANSCRIPT

DEPUTY DIRECTORS:

KAREN W. O'NEAL
Licensing & Regulation

NICK A. CHRISTNER
Compliance & Investigations

STEVEN L. ARTHUR
Administration & Finance

DATE: 12-02-2005

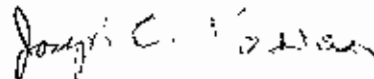
BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

LICENSE #: 3356000171
 NAME: MICHAEL J ASANTE
 ADDRESS: 401 OAKCLIFF AVE
 CITY, STATE, ZIP CODE: RICHMOND, VIRGINIA 23236
 PERIOD COVERED: INITIAL THROUGH PRESENT

07-17-1996	ORIGINAL INTERIM LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO MICHAEL B GRAHAM, 401 OAKCLIFF AVE, RICHMOND, VIRGINIA 23236.
09-03-1996	COMPUTER RECORD INDICATES ORIGINAL LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO MICHAEL B GRAHAM, 401 OAKCLIFF AVE, RICHMOND, VIRGINIA 23236.
06-30-1997	LICENSE EXPIRED
11-10-1997	COMPUTER RECORD INDICATES LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO MICHAEL B GRAHAM, 401 OAKCLIFF AVE, RICHMOND, VIRGINIA 23236.
06-30-1998	LICENSE EXPIRED.
07-27-1998	COMPUTER RECORD INDICATES LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO MICHAEL B GRAHAM, 401 OAKCLIFF AVE, RICHMOND, VIRGINIA 23236.
06-30-1999	LICENSE EXPIRED.
01-28-2000	COMPUTER RECORD INDICATES LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO MICHAEL B GRAHAM, 401 OAKCLIFF AVE, RICHMOND, VIRGINIA 23236
08-31-2000	LICENSE EXPIRED.
10-06-2000	COMPUTER RECORD INDICATES LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO MICHAEL B GRAHAM, 401 OAKCLIFF AVE, RICHMOND, VIRGINIA 23236.
08-31-2001	LICENSE EXPIRED.
10-03-2001	COMPUTER RECORD INDICATES LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO MICHAEL B GRAHAM, 401 OAKCLIFF AVE, RICHMOND, VIRGINIA 23236.
05-14-2002	COMPUTER RECORD INDICATES NAME CHANGED TO MICHAEL J ASANTE.
08-31-2002	LICENSE EXPIRED.
10-25-2002	COMPUTER RECORD INDICATES LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO MICHAEL J ASANTE, 401 OAKCLIFF AVE, RICHMOND, VIRGINIA 23236.
09-30-2006	LICENSE EXPIRES.

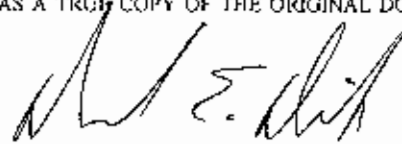
MICHAEL J ASANTE
LICENSE #3356000171
12-02-2005
PAGE 2

I, THE UNDERSIGNED, PURSUANT TO THE PROVISIONS OF SECTION 54.1-112 OF THE CODE OF VIRGINIA, AS AMENDED, AND AS CUSTODIAN OF THE RECORDS FOR THE DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION, FOR THE PURPOSE OF COPYING AND AUTHENTICATING AS PROVIDED IN SAID SECTION, DO HEREBY CERTIFY THIS DOCUMENT AS A TRUE COPY OF THE ORIGINAL DOCUMENT IN THE DEPARTMENT.



Joseph C. Kossan
Regulatory Boards Administrator
Board for Asbestos, Lead, and Home Inspectors

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David E. Dick
Executive Director
Board for Asbestos, Lead, and Home Inspectors



COMMONWEALTH of VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

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 SANDRA WHITLEY RYALS
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LICENSE TRANSCRIPT

DEPUTY DIRECTORS:
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 Administration & Finance

DATE: 12-02-2005

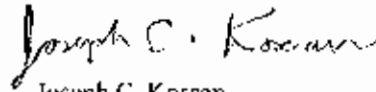
BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS

LICENSE #: 3356000307
 NAME: BEN YAN
 ADDRESS: 4411 WALTON FARMS DR
 CITY, STATE, ZIP CODE: RICHMOND, VIRGINIA 23294
 PERIOD COVERED: INITIAL THROUGH PRESENT

05-07-1997	ORIGINAL INTERIM LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO BEN YAN, 4411 WALTON FARMS DR, RICHMOND, VIRGINIA 23294.
05-31-1997	INTERIM LICENSE EXPIRED
06-10-1997	COMPUTER RECORD INDICATES ORIGINAL LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO BEN YAN, 4411 WALTON FARMS DR, RICHMOND, VIRGINIA 23294.
11-30-1998	LICENSE EXPIRED.
12-15-1998	COMPUTER RECORD INDICATES LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO BEN YAN, 4411 WALTON FARMS DR, RICHMOND, VIRGINIA 23294.
11-30-1999	LICENSE EXPIRED.
04-22-2002	COMPUTER RECORD INDICATES INTERIM LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO BEN YAN, 4411 WALTON FARMS DR, RICHMOND, VIRGINIA 23294.
05-28-2002	COMPUTER RECORD INDICATES LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO BEN YAN, 4411 WALTON FARMS DR, RICHMOND, VIRGINIA 23294
02-28-2005	LICENSE EXPIRED.
03-09-2005	COMPUTER RECORD INDICATES LEAD INSPECTOR/RISK ASSESSOR LICENSE ISSUED TO BEN YAN, 4411 WALTON FARMS DR, RICHMOND, VIRGINIA 23294.
03-31-2006	LICENSE EXPIRES.

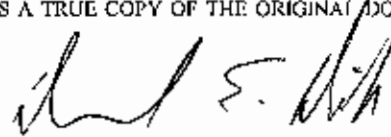
BEN YAN
LICENSE #3356000307
12-02-2005
PAGE 2

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Joseph C. Kossan
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Board for Asbestos, Lead, and Home Inspectors

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David E. Dick
Executive Director
Board for Asbestos, Lead, and Home Inspectors

ATTACHMENT F



"DPOR: Board for Asbestos,
Lead and Home Inspectors"
<ALHI@dpor.virginia.gov>
11/21/2005 12:35 PM

To James Heenehan/R3/USEPA/US@EPA
cc David Dick <David.Dick@dpor.virginia.gov>
bcc
Subject FW: FW: Additional Richmond Lead Inspector Issue

Mr. Heenehan,

According to the 1995 regulations applicants were to complete the training, apply to DPOR, receive an interim license (if within six months after completing training) and then be provided information concerning arranging to sit for the examination. Once the examination is passed, a full license is issued.

Secondly, licenses renewed late, that is within the six months allowed in the regulations, are considered to have been valid as though they were renewed on time. Any work done between June 30, 1997 and November 10, 1997 would have been lawful and subject to the disciplinary authority of the Board.

I am not personally aware of any provisional arrangement that may have been made for the City of Richmond inspectors that would have allowed lead inspections to be conducted on some provisional basis after the law took effect based on their past experience.

A. G. Mayo
Office Manager

Board for Asbestos, Lead, and Home Inspectors

asbestos@dpor.virginia.gov

(804) 367-8595
(804) 367-9753 TDD

-----Original Message-----

From: Heenehan.James@epamail.epa.gov
[mailto:Heenehan.James@epamail.epa.gov]
Sent: Friday, November 18, 2005 4:57 PM
To: DPOR: Board for Asbestos, Lead and Home Inspectors
Subject: Re: FW: Additional Richmond Lead Inspector Issue

Ms. Mayo - One other question. I notice that Michael Slavin initially received a Lead Risk Assessors license in July 1996. It expired on June 30, 1997 and is listed as being issued again on 11/10/97 as a "late renewal." Mr. Slavin did an inspection on 10/20/97. Would the "late

30, 1997 and is listed as being issued again on 11/10/97 as a "late renewal." Mr. Slavin did an inspection on 10/20/97. Would the "late renewal" in any way have retroactively approved the 10/20/97 inspection as an approved lead inspection.

In the case of Mr. Yan and Mr. Assante, they did inspections one and three months prior to receiving their Interim Lead Risk Assessor's license. Would they have completed the training and taken the relevant exam for such a license and merely have been waiting for the paperwork to have been processed when they did one or both of these inspections or is that too speculative a question to answer? Thanks again. -Jim Heenehan

ATTACHMENT G



Adrienne Mayo
<Adrienne.Mayo@dpor.virginia.gov>

12/12/2005 03:07 PM

To: James Heenehan/R3/USEPA/US@EPA

cc

bcc

Subject: FW: FW: FW: Extract of Records Follow-up Inquiries

Mr. Heenehan - The alternative of your reading is correct. Mr. Sims did not have a valid license to conduct lead inspections until DPOR issued the Interim License on July 23, 1997.

Board for Asbestos, Lead, and Home Inspectors
3600 West Broad Street
Richmond, VA 23230-4917

asbestos@dpor.virginia.gov
(804) 367-8595
(804) 367-9753 TDD

-----Original Message-----

From: Heenehan.James@epamail.epa.gov
[mailto:Heenehan.James@epamail.epa.gov]
Sent: Monday, December 12, 2005 12:03 PM
To: Adrienne Mayo
Subject: Re: FW: FW: Extract of Records Follow-up Inquiries

Ms Mayo - I apologize for bothering you again but I had one final question concerning the below highlighted portion of your response concerning Mr. Sims' lead inspector license in 1997:

The 7-23-97 date was not a renewal date. This is the date that reflects when Mr. Sims obtained another interim license that allowed him to work until the interim expired on 10-31-97. The Board also granted Mr. Sims' request to extend the expiration date of this interim to 12-31-97. Keep in mind that when an individual applies to DPOR an interim license may be issued and is valid for six months from the last day of the month when the training was completed. Mr. Sims completed a Risk Assessor Refresher course in April 1997 and therefore, the expire date of his new interim would have been six months from the training completion date not six months from the date he applied for another license.

I initially read this to mean that since Mr. Sims completed his Risk Assessor Refresher course in April 1997, the issuance of the Interim License on July 23, 1997 meant that Mr. Sims effectively had a valid lead inspectors' license from April 30, 1997 until October 31, 1997. However, I realize that an alternative reading might be that the training course is only relevant to the expiration of the his Interim License (Oct. 31, 1997) but that he was not approved for doing lead inspections until the VDPOR actually issued the Interim License on July 23, 1997, regardless of the date he took his training course. The issue for us is a June 26, 1997 lead inspection he conducted.

Thanks again for your help. -Jim Heenehan

ATTACHMENT H

**VIRGINIA LEAD-BASED
PAINT ACTIVITIES**



REGULATIONS

Effective October 1, 1995

STATUTES

Title 54.1, Chapter 5

DOR
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

3600 West Broad Street
Richmond, VA 23230-4917
(804) 367-8500

NOTICE

SUMMARY OF REGULATIONS

These regulations have been promulgated in accordance with the Administrative Process Act and as a result of the provisions of House Bill 2454 (1995). These regulations are effective October 1, 1995 and establish requirements for individuals and firms who wish to perform lead-based paint activities in the Commonwealth of Virginia and also for training providers who wish to provide lead training programs.

NOTE: Anyone who performs lead-based paint activities within the Commonwealth must obtain a certification within 120 after October 1, 1995. Regulators are responsible for following all regulations and therefore you should read and become familiar with all regulations printed in this booklet. Following is a brief summary of the regulations that will impact you.

Part I-Scope This section specifies who is affected by these regulations and who must comply with the provisions of these regulations. It also identifies who is exempted from the regulatory requirements.

Part II-General This section defines the words and terms used in this booklet as they relate lead-based paint activities. This section also establishes who must obtain a certification and for what activities a certification is required.

Part III-Application and Renewal This section establishes the general entry, application and renewal requirements for certification of lead contractors, lead workers, planner/project designers, lead supervisors, inspector technicians and inspector/risk assessors in the areas of target housing, public buildings, superstructures and commercial buildings. Fees are also established in this section.

Part IV-Individual Certification Requirements This section establishes specific entry requirements for full certification and interim certification. **NOTE:** All interim certifications shall expire six months after the date of completion of the department approved initial or refresher accredited training program. **These certifications are not renewable.** Any regulator who fails to obtain his full certification within six months after the expiration date on the certification, must reapply as a new applicant.

Part V-Certified Contractor Requirements This section establishes the requirements for certification of lead contractors.

Parts VI, VII & VIII-Training Program Accreditation These sections establish the guidelines and requirements for accrediting training programs. Each applicant for accreditation as a training provider shall meet the course curricula, course instructor and facility requirements established by these regulations and shall complete an application in accordance with the instructions in these regulations on a form supplied by the Board.

Part IX-Standards for Conducting Lead-Based Paint Activities This section establishes the standards for conducting inspections, risk assessments and identification of lead-based paint in target housing, supervisor and contractor reporting requirements, pre-abatement and post-abatement procedures, inspection requirements and risk assessments for public buildings, and standards for identification of lead-based paint, to name a few.

Part X-Standards of Practice and Conduct This section establishes the professional responsibility of the certified individual or firm when dealing with the public, when issuing public statements as an expert or technical witness, when soliciting work, and also the guidelines for suspension and revocation of a certification of an individual, firm, or an approved training provider.

In addition, Chapter 5 of Title 54.1 of the Code of Virginia has been revised by the General Assembly during the 1995 session. These changes became effective July 1, 1995. Please familiarize yourself with them.

rlahar@agriland.commay2.org



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Handwritten signature/initials.



4a Express Package Service Packages up to 150 lbs. 16 oz. max. weight. FedEx Priority Overnight FedEx Standard Overnight

4b Express Freight Service Packages over 150 lbs. FedEx 1Day Freight FedEx 2Day Freight FedEx 3Day Freight

5 Packaging FedEx Pak* FedEx Box* FedEx Tube* Other

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