

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING, AND REGULATION  
BEFORE THE SOUTH CAROLINA RESIDENTIAL BUILDERS COMMISSION**

In the Matter of:

**Kristopher Feldner, d/b/a Feldner Homes,  
Inc.,**

License No. RBB-19820,

Respondent.

Case Nos. 2006-0635; 2007-0389; and 2007-0682

OGC File Nos. 2007-0075; 2008-0022; and 2008-0075

**ORDER**

This matter came before the Residential Builders Commission (the Commission) for hearing on July 9, 2008, as a result of the Notice and Complaint served upon the Respondent and filed with the Commission. A quorum of the Commission was present. The hearing was held pursuant to S.C. Code Ann. §40-59-90, S.C. Code Ann. §40-1-70(6), and the provisions of the Administrative Procedures Act (the APA), S.C. Code Ann. §1-23-10, *et seq.* (1976), as amended, to determine whether sanctions should be imposed upon the Respondent. Christa T. Bell, Assistant General Counsel, represented the State. The Respondent appeared without counsel.

The Respondent was charged with violation of S.C. Code Ann. §§40-1-110(f) and (g), and 40-59-110.

**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. The Respondent is currently licensed by the Commission to engage in the business of residential building. The Respondent was duly licensed and bonded at all times relevant to the issues raised by the complaint in this matter.

**I. Case Number 2006-0635 (3514 Driftwood Point Road, Gilbert, South Carolina)**

2. The Respondent engaged in the business of residential building with respect to the addition to residence of the Complainants Carl and Mary Bagwell, located at 3514 Driftwood Point Road, in Gilbert, South Carolina, for which he and Rex Barnhardt, d/b/a Daniel and Palmetto Construction, Inc., entered into a contract on November 25, 2004, in the amount of Fifty-Nine Thousand Dollars (\$59,000.00).
3. Because Mr. Barnhardt was unlicensed, the Complainants were told he would work under the Respondent's license, and Feldner Home Builders would obtain the necessary permit.

4. Mr. Barnhardt began work on the job on November 26, 2004, and worked on it regularly until July 2005. Mr. Barnhardt was paid Thirty-Nine Thousand, Five Hundred Dollars (\$39,500.00) in two (2) draws on or about May 3, 2005, and never returned to the job.
5. The Complainants attempted to contact both the Respondent and Mr. Barnhardt for three to four weeks; when they reached the Respondent, he told them Mr. Barnhardt left with much of the project's funds.
6. In August 2005, the Complainants and the Respondent met and agreed on items to be completed. In March 2006, the Respondent sent Mr. Lonnie Martin of Carolina Custom Buildings, of Camden, South Carolina, to complete the job.
7. Martin worked on the job approximately three (3) weeks, last working on it on July 14, 2006, without having completed the project. Martin failed to respond to numerous telephone messages left on multiple occasions by the Complainants. When the Respondent eventually returned one of their calls, the Complainants were told there was a "Plan B," and that Mr. Martin would complete the job; no one ever reported to complete the job.
8. On or about November 2, 2006, the Complainants sent the Respondent a certified letter informing him of the multiple concerns and asking him to contact them; the Respondent failed to respond to their letter.
9. An inspection of the residence was conducted on January 18, 2007, by Investigator Stephen Deer, an inspector with the S.C. Department of Labor, Licensing, and Regulation, (LLR) who testified at the hearing and provided an inspection report dated January 19, 2007, which described building code and performance-standard violations attributed to the Respondent's work, including the following:
  - a. The water closet's flange was improperly located such that the toilet apparatus could not be installed properly, in violation of the 2003 International Residential Code (IRC), § P2712.7, for one- and two-family dwellings;
  - b. There was evidence of water penetration around the new bathroom's rear entry door, in violation of the 2003 IRC, Chapter 3, for one- and two-family dwellings; and
  - c. The builder abandoned the job, with more than one hundred eighty (180) days with no work completed, in violation of the 2003 IRC, Chapter 1, for one- and two-family dwellings.
10. The Respondent failed to cooperate with the Commission's investigation in this matter.

## **II. Case Number 2007-0389 (393-A Park Road, Lexington, South Carolina)**

11. In December 2005, the Respondent completed the newly-constructed, single-family residence of the Complainants Edwin and Eva Barnes, located at 393-A Park Road, in Lexington, South Carolina.
12. In April 2007, the Complainants began having problems with the septic tank's lift pump at their residence. They attempted to contact the Respondent on several occasions, to no avail.
13. The Complainants contacted person hired by the Respondent to install the septic system during the residence's initial construction, Mr. Steven Livingston of Mid Carolina Construction. Livingston examined the septic tank's lift pump and the residence's main electrical box, and found the septic pump was wired incorrectly; he did not repair the pump.
14. The Complainants hired Mr. Marvin A. Carter of MAC Service and Plumbing, who opened the septic system's service box and found its plugs and receptacle were beginning to melt. He disconnected the pump and control switch and examined the voltage and receptacle, and found it was a 115-volt system, but the pump's circuit breaker was a two-pole, 230-volt breaker. He determined the system was wired incorrectly such that the high voltage caused the pump and control float switch to burn.
15. Because the system was not installed in accordance with the manufacturer's instructions, its warranty was void, and the manufacturer refused to replace any of the damaged parts.
16. On or about April 10, 2007, Mr. Carter replaced the pump and switched the wires to enable the pump to service 115 volts at a repair cost of One Thousand, Four Hundred, and Twenty-Five Dollars (\$1,425.00).
17. On or about November 7, 2007, the Complainants obtained a judgment against the Respondent in the Richland County Magistrate's Court for his substandard work.
18. The Respondent failed to comply with building codes and standards governing the practice of residential and specialty construction because the sewage lift pump was incorrectly wired (and was not wired according to the manufacturer's instructions), in violation of the 2003 IRC Code, § P2608, for one- and two-family dwellings.
19. The Respondent failed to cooperate with the Commission's investigation in this matter by, among other things, failing to respond to any telephonic or written inquiries, and failing to provide correct contact information.

### III. Case Number 2007-0682 (211 Cedar View Drive, Irmo, South Carolina)

20. The State withdrew this case.

#### 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 Commission has jurisdiction in this matter and, upon finding that a licensee has violated the provisions of S.C. Code Ann. §§40-1-110 or 40-59-110, has the authority to impose a fine of not more than two thousand five hundred dollars per offense, revoke, suspend, or restrict the license of a residential builder or registration of a residential specialty contractor who, in the opinion of the Commission, has committed fraud or deceit in obtaining a license or in registering, or has engaged in misconduct in the practice of residential building or residential specialty contracting. Upon finding that grounds for discipline exists, S.C. Code Ann. §40-1-120 provides that the Commission has the authority to: issue a public reprimand; impose a fine not to exceed five hundred dollars; 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, of a supervisory period, or of continuing education programs; permanently revoke a license; and impose the reasonable costs of the investigation and prosecution of a case.
2. The Respondent violated S.C. Code Ann. §40-1-110(f) and (g) in that he committed a dishonorable, unethical, or unprofessional act that is likely to deceive, defraud, or harm the public, and lacks the professional or ethical competence to practice the profession or occupation, as evidenced by the facts in the above-described cases.
3. The sanction imposed 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 residential builders against the countervailing concern that society be protected from professional ineptitude and misconduct.
4. The sanction imposed is designed not to punish the Respondent, but to protect the welfare of the people at large.

**NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED** that:

1. The Respondent's license is hereby suspended for ninety (90) days from the date of a Final Order, and prior to the lifting of the suspension, he must appear before the

Commission. At that time, he shall present evidence satisfactory to the Commission regarding his fitness and qualifications to be licensed in this state. The Commission, in its discretion, may deny licensure, or impose such additional terms and conditions upon the Respondent's license as it may deem appropriate.

2. The Respondent shall pay a fine of Two Thousand, Five Hundred Dollars (\$2,500.00) within ninety (90) days from the date of a Final Order. This fine shall not be deemed paid until received by the Commission. Failure to pay the fine shall prevent the Respondent from being re-licensed.
3. The Respondent must re-take and successfully complete, within one (1) year from the date of a Final Order, at his own expense, the business and law sections of the Residential Building Commission examination. Thereafter, he must file written proof of compliance with the board within fifteen (15) days of completing this requirement. Failure to complete this requirement shall prevent the Respondent from being re-licensed.
4. This Order is to take effect upon its service upon the Respondent or his counsel.

**AND IT IS SO ORDERED.**

**RESIDENTIAL BUILDERS COMMISSION**



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**Derrick G. Williams**  
**Chairman**

7-9, 2008

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4. Restricted Delivery? (Extra Fee)  Yes

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