

BEFORE THE NORTH CAROLINA LANDSCAPE CONTRACTORS' LICENSING BOARD

Complaint File No. 16.25.S

In the Matter Of:

LEMUEL ALLAN HARPER  
License No. 0708

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CONSENT ORDER

THIS MATTER is before the North Carolina Landscape Contractors' Licensing Board (Board), pursuant to G.S. §89D-22 and with the consent of Lemuel Allan Harper (Respondent Licensee), for consideration of an entry of a Consent Order in lieu of an administrative hearing.

With Respondent Licensee's consent, the Board makes the following:

**FINDINGS OF FACT**

1. On August 1, 2015, Respondent Licensee was issued a landscape contractor's license, license no. 0708. The license was last renewed on August 1, 2016 and is currently active.
2. Harper Landscaping, Inc. is a corporation organized under North Carolina Law. Allan Harper is the President and Registered Agent. Upon information and belief, Allan Harper is the same person as Respondent Licensee.
3. On August 23, 2016, Joan Seyler filed a complaint against Respondent Licensee. The Board subsequently commenced an investigation.
4. On or about August 14, 2015, Respondent Licensee, doing business as Harper Landscaping, Inc., submitted a quote to Joan Seyler for the demolition of an existing deck and the installation of block stairs and a patio at a single-family dwelling located at 437 Sunset Point Road, Belhaven, North Carolina. The proposed cost of the project was \$22,323.50. The quote was subsequently accepted by Ms. Seyler.
5. During the course of the project, Mrs. Seyler paid Respondent Licensee \$37,495.50.

6. During the course of construction, there was inadequate supervision of the project.
7. Upon investigation, the Board identified the following violations of the North Carolina Residential Building Code, 2016 Edition:
  - a. R311.7.4.1 in that the greatest riser height of the exterior patio steps exceeded the smallest riser height by more than 3/8”;
  - b. R311.7.4.2 in that the minimum tread depth of the exterior patio steps exceeded the smallest by more than 3/8”;
  - c. R311.7.6 in that the slope of the patio walking surface was greater than 1” in 4’ (2% slope); and
  - d. R607.2.1 in that head and bed joints were less than the minimum 3/8” in thickness.
8. Upon investigation, the Board identified a violation of 21 N.C.A.C. 28B .0501 in that the contract did not meet the minimum requirements of the rule.

#### **CONCLUSIONS OF LAW**

The actions of Respondent Licensee, as described above in paragraphs 6-8 are violations of G.S. 89-22 as they constitute the following:

- a. Acts of gross malpractice or incompetence; and
- b. A willful violation of G.S. 89D and rules adopted by the Board.

Based on the foregoing, and with Respondent Licensee’s consent, IT IS, THEREFORE, ORDERED as follows:

1. License number 0708 issued to Respondent Licensee is hereby suspended for a period of twelve (12) months commencing upon the Effective Date of this Consent Order.

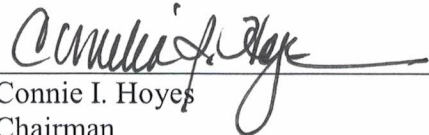
2. With Respondent Licensee's consent, the suspension shall be stayed and the license shall be conditionally restored.
3. Within the next twelve (12) months, Respondent Licensee shall notify the Board in writing of the next two projects that involve the installation of segmented block. Respondent Licensee shall notify the Board no less than ten (10) days after commencing work on the project.
4. Respondent Licensee shall comply with Chapter 89D of the N.C. General Statutes and the Board's rules and regulations.
5. Noncompliance: If Respondent Licensee fails to comply with any provision of this Consent Order or breaches any term or condition thereof, either in substance or timing, upon written demand, Respondent Licensee shall surrender his license to the Board for the period of stayed suspension described above and the stayed suspension shall be activated. If Respondent Licensee disputes that such a violation of the conditions has occurred, then he must file a written objection with the Board WITHIN TEN (10) BUSINESS DAYS of the date of the notice of the violations to request a show cause hearing. The notice to the Board shall contain with specificity the violations disputed. Upon receipt of this notice of objection, Board staff shall schedule a show cause hearing before the Board at the next scheduled meeting date for which appropriate notice can be provided or scheduled by consent of the parties.
6. Waiver: Failure to file a written objection with the Board within the designated time period will be construed to mean the Respondent Licensee is not contesting the matter and all further proceedings to which Respondent Licensee is otherwise entitled by law are hereby waived.

7. Modification: Any request for modification of this Consent Order must be submitted in writing to the Board and approved prior to the modification occurring.
8. Effective Date: The effective date of this Consent Order shall begin on the date that it is approved by the Board; provided that the Board will not consider the Consent Order unless an original, signed by Respondent Licensee, is received prior to the Board meeting at which the Consent Order is being considered.

Approved by the Board this the 18 day of April 2017.

NORTH CAROLINA LANDSCAPE  
CONTRACTORS' LICENSING BOARD

By:

  
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Connie I. Hoyes  
Chairman

STATEMENT OF CONSENT  
LICENSEE

The undersigned does hereby certify that he has read the foregoing Consent Order in its entirety and that on behalf of Respondent Licensee, he freely and voluntarily admits that there is a factual basis for the Findings of Fact set forth therein, that the Findings of Fact support the Conclusions of Law, that Respondent Licensee will not contest the Findings of Fact should further disciplinary action be warranted in this matter, and that Respondent Licensee assents to the terms and conditions set forth therein.

This the 11 day of April 2017.


LEMUEL ALLAN HARPER



STATE OF NORTH CAROLINA

COUNTY OF Carteret

Sworn to and subscribed before me this  
the 11 day of April 2017.

  
Notary Public

Lindsey H. Willis  
Typed or Printed Notary Name

My Commission Expires: 12/13/2020

