

JUL 30 2012

BEFORE THE N.C. CODE OFFICIALS QUALIFICATION BOARD
RALEIGH, NORTH CAROLINA

IN THE MATTER OF THE
CERTIFICATION OF
JASON R. ROGERS

VOLUNTARY SETTLEMENT
AGREEMENT

NOW COME Jason R. Rogers (hereinafter, "Mr. Rogers") and the North Carolina Code Officials Qualification Board (hereinafter, "Board"), and hereby voluntarily and knowingly enter into the following Voluntary Settlement Agreement (hereinafter, "this Agreement"):

WHEREAS, the Board has the power to suspend, revoke or refuse to grant any certificate issued pursuant to Article 9C of Chapter 143 of the North Carolina General Statutes pursuant to N.C. G. S. § 143-151.17 and 150B-38 *et seq.*;

WHEREAS, Mr. Rogers currently holds Standard Level III Inspection Certificates in Building, Mechanical Plumbing and Fire and a Standard Level II Inspection Certificate in Electrical and;

WHEREAS, the Board received a verified written complaint (hereinafter, "Complaint") from Monroe Miller dated November 16, 2011 concerning Mr. Rogers's inspections of the Gateway Club in Waynesville, NC.

WHEREAS, the Complaint alleges that Mr. Rogers violated N.C.G.S. §143-151.17(a)(6) in that he has been guilty of willful misconduct, gross negligence, or gross incompetence;

WHEREAS, at all times relevant to this Complaint, Mr. Rogers was employed as a Code Enforcement Official for the Town of Waynesville Inspection Department;

WHEREAS, the Complaint was investigated by Engineer Suzanne R. Taylor, who serves as Investigator to the N.C. Code Officials Qualification Board (hereinafter, Taylor);

WHEREAS, based on Ms. Taylor's investigation of the allegations contained in the complaint, the Board contends that Mr. Rogers failed to detect violations of NC Administrative and Enforcement Code Section 307.7, N.C.G.S. § 160A-423 and 11 NCAC 08.0702 during the performance of his inspections of the Gateway Club; and

WHEREAS, the Board contends that Mr. Rogers's violations of the abovementioned sections demonstrates that Mr. Rogers is guilty of willful misconduct, gross negligence or gross incompetence in violation of N.C.G.S. § 143-151.17(a)(6); and

WHEREAS, the parties stipulate and agree that this matter is properly before the Board and that the Board has jurisdiction over Mr. Rogers pursuant to Article 9C of Chapter 143 of the North Carolina General Statutes;

WHEREAS, Mr. Rogers does not admit that his failure to enforce the aforementioned violations constitutes gross negligence, gross incompetence or willful misconduct as alleged in the Complaint filed by Mr. Miller;

WHEREAS, in lieu of an administrative hearing on the matters stated herein, Mr. Rogers has agreed to settle, compromise and resolve the matters referenced in this Agreement, and the Board has agreed not to pursue additional penalties, sanctions or remedies based on these matters against Mr. Rogers;

WHEREAS, Mr. Rogers agrees to take and pass a Standard Law and Administration Class within 6 months of the date this Agreement is executed.

NOW, THEREFORE, in exchange for the consideration of the promises and agreements as set out herein, the Board and Mr. Rogers, hereby agree to the following:

1. Mr. Rogers shall take and pass a Standard Law and Administration Class within 6 months of the date this Agreement is executed.
2. Mr. Rogers enters into this agreement freely and voluntarily and with knowledge of his right to have an administrative hearing on this matter. Mr. Rogers understands that he may consult with an attorney prior to entering into this agreement.
3. Provided that this Agreement is approved by vote of the Board and executed by the signature of the Board's Chairman, this Agreement has the full force and effect of a Final Order by the Board in this matter, and Mr. Rogers understands and agrees that his failure to comply with any provision of this Agreement shall be cause for action by the Board against Mr. Rogers's certificates pursuant to N.C. G. S. § 143-151.17 and 150B-38 *et seq.* for violating the terms of this Agreement. Mr. Rogers further understands and agrees that a violation of the terms of this Agreement by Mr. Rogers would constitute a material breach of this Agreement and would additionally entitle the Board to rescind the agreement and proceed with administrative action against Mr. Rogers based on the allegations that are the subject of this Agreement.
4. This Agreement does not in any way affect the Board's disciplinary power in regards to any future complaints or investigations involving Mr. Rogers.
5. This document contains the entire agreement between the parties and there are no other oral or written agreements of any kind that alter or add thereto.
6. If, for any reason, any part or provision of this Agreement is found to be void or unenforceable, the other parts and provisions of this Agreement shall remain in full force and effect.
7. The parties to this Agreement have read and understand this Agreement and hereby agree to abide by the terms and conditions as stated herein.
8. This Agreement shall not be deemed executed until it has been approved, by vote, by the Board, and signed by the Board's Chairman.

9. Mr. Rogers by his signature authorizes the staff and counsel for the Board to discuss this Voluntary Settlement Agreement with the Board members without his presence or his counsel's presence. He agrees that such discussions do not constitute improper *ex parte* communications.

10. This Voluntary Settlement Agreement, when finalized, will be a public record and is not confidential. The Board is free to disclose the contents of this Agreement to third parties upon request or pursuant to any law or policy providing for such disclosure.

Signed this the 25 day of MAY, 2012.

By: Jason R. Rogers
Jason R. Rogers

Signed this the 24~~th~~ day of July, 2012.

NORTH CAROLINA CODE OFFICIALS
QUALIFICATION BOARD

By: Hayden Lutterloh, III
Hayden Lutterloh, III
Chairman