



State of North Carolina

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Tina E. Simpson
Services to State Agencies
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June 9, 2015

via email to: amanda.reeder@oah.nc.gov

The Rules Review Commission
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27699

Re: Acceptance of Objection/Rejection of Rule 21 NCAC 23 .0105

Dear Commissioners and Ms. Reeder,

Thank you, first of all, for the opportunity to respond to the Commission's objection to the proposed rule providing the North Carolina Irrigation Contractors' Board authority to discipline licensees for defamation of competitors. The Board appreciates the careful review you conducted of this proposed rule and accepts your determination that the Board lacks the requisite statutory authority to institute such a rule.

Thank you again for your time and consideration. It is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Tina E. Simpson".

Tina E. Simpson

Reeder, Amanda J

From: Barbara Geiger <administrator@ncicl.org>
Sent: Tuesday, March 31, 2015 2:02 PM
To: Reeder, Amanda J
Cc: Simpson, Christina (CSimpson@ncdoj.gov); Lisa Deubler
Subject: Re: Irrigation Contractors Follow Up

Amanda

That is correct and the topic is on the agenda for the May 23 meeting. Thank you.

Barbara

NCICLB Admin
administrator@ncicl.org
919/872-2229

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On Mar 31, 2015, at 1:05 PM, Reeder, Amanda J <amanda.reeder@oah.nc.gov> wrote:

Barbara and Tina,

Good afternoon! I just wanted to check in about the Board's response to the RRC objection to 21 NCAC 23 .0105. Pursuant to G.S. 150B-21.12(b), a Board or Commission is not required to respond to the objection for 30 days or 10 days after the next regularly scheduled meeting.

It appears from the [Board's website](#) that the Board will not meet again until May 13, 2015. I take it that is when they will address the objection? If so, then the response is not due until May 23, which is a Saturday, so the due date for a response would be Monday, May 25, 2015.

I just want to confirm when the Commission should expect to receive the response. If you could let me know, I would greatly appreciate it.

Thank you!

Amanda

*Amanda J. Reeder
Counsel to the Rules Review Commission
NC Office of Administrative Hearings
919/431-3079*

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STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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March 20, 2015

Barbara Geiger
Irrigation Contractor's Licensing Board
Sent via email to administrator@nciclb.org

Re: Objection to Rule 21 NCAC 23 .0105

Dear Ms. Geiger:

At its meeting yesterday, the Rules Review Commission objected to the above-captioned rule in accordance with G.S. 150B-21.10.

The Commission objected to the rule, finding the agency does not have statutory authority to promulgate the rule and that the text within the rule was ambiguous. Specifically, the Board fails to cite to any authority to for the agency to create a code of ethics. In addition, the rule text fails to fully or properly define terms used within the rule, such as "defamation" and "harassment." In addition, the Board does not say when the discipline will occur. Therefore, the rule is unclear and ambiguous.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amanda J. Reeder
Commission Counsel

cc: Tina Simpson, NC DOJ, Attorney for the Board

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Civil Rights
Division
919/431-3036
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Proposed Adoption

1 21 NCAC 23 .0105 is proposed for adoption as follows

2

3 **21 NCAC 23 .0105 ETHICS**

4 It shall be unethical to defame competitors by falsely imputing to them dishonorable conduct or
5 competency. A licensee may be disciplined by the Board upon a showing of such defamation or
6 harassment.

7

8 *Authority G.S. 89G-5*