



State of North Carolina

ROY COOPER
ATTORNEY GENERAL

Department of Justice
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April 26, 2004

North Carolina Senate President Pro Tempore Marc Basnight
North Carolina House of Representatives Speaker James Black
North Carolina House of Representatives Speaker Richard T. Morgan Co-Chairs, Joint
Legislative Commission on Governmental Affairs

Senator Scott Thomas
Representative Bill Culpepper
Representative Joe L. Kiser
Co-Chairs, Appropriations Subcommittee on Justice and Public Safety

North Carolina General Assembly
Raleigh, North Carolina 27601-1096

Re: N.C.G.S. § 114-2.5; Report on Settlement Agreement in Favor of the
State; In The Matter of J.A. Jones Construction Company, Successor To
Metric Constructors, Inc., Fireman's Fund Insurance Company, Bonitz
Manufacturing Company, Inc., Bonitz Contracting Company, Inc.,
National Fire Insurance Company of Hartford, Real Brick Products, Inc.
and U.S. Brick, Inc.

Gentlemen:

N.C.G.S. § 114-2.5 requires that not less than thirty (30) days prior to disbursement of funds received by the State or State agency pursuant to a settlement agreement or final orders of judgment of the case where the amount of funds exceed \$75,000, the Attorney General shall report to the Joint Committee on Governmental Operations and the Chairs of the Appropriations Subcommittees on Justice and Public Safety on the payments received by the State. Pursuant to that statute, I am writing to report as follows:

On July 19, 1996, the State of North Carolina, acting through the University of North Carolina at Charlotte, hired J .A. Jones Construction Company as the general prime contractor for the J. Murrey Atkins Library Expansion at UNCC, Project # 6094260301A. Fireman's Fund provided payment and performance bonds for Jones. Bonitz Contracting Company, Inc. and Bonitz Manufacturing Company, Inc. were hired by Jones as subcontractors on the Project. The scope of the work included removing and replacing

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exterior brick cladding and installing windows. Bonitz hired Real Brick to supply the materials for the brick cladding. Real Brick is owned by U.S. Brick. After the Project was complete there were cracks in the brick system and bricks were falling off the building. Water is also leaking in the building.

Bonitz filed a law suit against Real Brick and U.S. Brick. Jones filed a law suit against Bonitz alleging breach of contract, negligence, and breach of warranty.

The State of North Carolina held \$976,057.50 in retainage from Jones due to the failed system. Jones filed a written verified claim with the State for \$2,201,746.00 alleging delays caused by a change in site conditions.

In the Settlement Agreement Jones agreed to allow the State to keep the retainage. Bonitz agreed to pay the State \$800,000 and Real Brick agreed to pay the State \$100,000. The University of North Carolina at Charlotte will receive the settlement proceeds.

We will be happy to respond to any additional questions you may have in regard to this settlement. Please feel free to contact me at (919)716-6400.

Sincerely,

Julia White
Chief of Staff

cc: Nels Roseland, Chief fiscal Officer, NC DOJ
Chloe Gossage, Fiscal Research Division, NCGA
Greg McLeod, Legislative Counsel, NC DOJ