

**MINUTES
OF THE COLLIER COUNTY
CONTRACTORS' LICENSING BOARD**

January 16, 2019
Naples, Florida

LET IT BE REMEMBERED that the Collier County Contractors' Licensing Board, having conducted business herein, met on this date at 9:00 AM in **REGULAR SESSION** in Administrative Building "F," 3rd Floor, Collier County Government Complex, Naples, Florida, with the following Members present:

Chairman: Kyle E. Lantz
Vice Chair: Matthew Nolton

Members: Michael E. Boyd
Terry Jerulle
Patrick White

Excused: Richard Joslin
Robert Meister

Resigned: Gerard Shannon

ALSO PRESENT:

Everildo Ybaceta – Supervisor, Contractors' Licensing Office
Kevin Noell, Esq. – Assistant Collier County Attorney
Jed Schneck, Esq. – Attorney for the Contractors' Licensing Board

Any person who decides to appeal a decision of this Board will need a record of the proceedings and may need to ensure that a verbatim record of said proceedings is made, which record includes the testimony and evidence upon which any Appeal is to be made.

I. ROLL CALL:

Chairman Kyle E. Lantz opened the meeting at 9:02 AM and read the procedures to be followed to appeal a decision of the Board.

Roll Call was taken; a quorum was established; **five (5) voting members** were present.

II. AGENDA- ADDITIONS, CHANGES, OR DELETIONS:

Addition:

- Minutes from the December 19, 2018 Contractors' Licensing Board meeting

III. APPROVAL OF AGENDA:

Patrick White moved to approve the Agenda as amended. Vice Chairman Matthew Nolton offered a Second in support of the motion. Carried unanimously, 5 – 0.

IV. APPROVAL OF MINUTES: DECEMBER 19, 2018

Vice Chairman Matthew Nolton moved to approve the Minutes of the December 19, 2018 Meeting as submitted. Michael Boyd offered a Second in support of the motion. Carried unanimously, 5 – 0.

V. PUBLIC COMMENT:

(None)

VI. DISCUSSION:

(None)

VII. REPORTS:

(None)

VIII. NEW BUSINESS:

A. Orders of the Board:

Patrick White moved to approve authorizing the Chairman to sign the Orders of the Board. Terry Jerulle offered a Second in support of the motion.

Carried unanimously, 5 – 0.

(Note: The individuals who testified in the following cases under Item VIII, “New Business,” were first sworn in by the Attorney for the Board.)

B. Fernanda Rosa – Request to Qualify a Second Entity

(Currently qualifies: “*Ocleano Services, LLC*”

Proposed 2nd Entity: “*Roca Granite and Cabinets, LLC*”)

Chairman Lantz asked Ms. Rosa to provide background information concerning the company she currently qualifies and the Second Entity she would like to qualify.

Fernanda Rosa stated:

- She is a managing member of Ocleano Services, LLC, and works as a subcontractor performing tile installation,
- She is a licensed Tile and Marble Contractor in Collier County; her license is active,
- The work in the new company will be focused on granite installation, some tile installation, and cabinets,
- She and her husband own Ocleano Services, LLC,
- In the new company, she will still be partnered with her husband but there will be a third partner,
- Her companies are in Fort Myers,
- Both companies are currently licensed in Lee County

Chairman Lantz: One of the issues that we tend to have here with people having a Second Entity is – we want to make sure that the two companies aren’t going to compete against each other.

Fernanda Rosa: Oh, no ... no ... they will be two different things. Like I said, the first one I use just as a subcontractor, and the second one we have a shop in Fort Myers, and we will be dealing straight with the customers. We will be the contractors for granite countertops or tile flooring.

Chairman Lantz: So, both companies will be doing tile?

Fernanda Rosa: Well, you know, the major thing will be granite countertops.

Chairman Lantz: Any questions from the Board?

Vice Chairman Nolton: What’s the ownership of the companies ... the percentages?

Fernanda Rosa: Well, with the first one, I guess, I own 20% and my husband has 80%. And in the second one I know Aldo owns 50% [Aldemar Castro, the new partner], I own 10%, and my husband owns 40%.

Vice Chairman Nolton: What’s your role in both companies?

Fernanda Rosa: I have worked with my uncle for a couple of years helping him with construction and everything else. I have a lot of experience in the field, but – right now – I’m just managing the company. I’ll be managing and supervising their work – that’s what I’m going to do.

Chairman Lantz: Can you give us a little more detail of what “managing the company” means?

Fernanda Rosa: Making sure they are doing their best work.

Chairman Lantz: So ... managing the production?

Fernanda Rosa: Pretty much, yes. And I take care of the paperwork ... the license ... the permits ... I do the accounting and everything else.

Chairman Lantz: Who pays the bills?

Fernanda Rosa: Me.

Chairman Lantz: Who purchases materials?

Fernanda Rosa: Me.

Chairman Lantz: Any other questions from the Board?

Patrick White: How often do you inspect the work that’s been done on jobsites?

Fernanda Rosa: Usually, I inspect all the jobs. I get there at the beginning – I stop by again in the middle – and I’m always there at the final – to pick up the final payment from the customer and make sure they are happy with their job.

Patrick White: On average, three or four times throughout the progress – from start to finish?

Fernanda Rosa: Yea.

Patrick White: Not daily when they are at work?

Fernanda Rosa: No, I get there daily, too, but my husband has plenty of experience doing the granite and everything else.

Patrick White: Okay

Terry Jerulle: Evy, I’m having a hard time reading this – I get an “error” page every time I switch a page. The question I have is what’s the difference between the two licenses? Does her current license allow her to do the same thing ...?

Everildo Ybaceta: Yes.

Terry Jerulle: ... that she’s applying for?

Everildo Ybaceta: The license that she has right now is a Tile and Marble Installation Contractor’s license which also allows her to work with stones. Granite is a stone ... marble is a stone ... it falls under that category. That’s where the overlap comes into play with the Second Entity.

Terry Jerulle: Basically, she’s asking for the same license that she has?

Everildo Ybaceta: Correct – for the Second Entity, yes.

Terry Jerulle: So, the Second Entity is the same license as what she has?

Everildo Ybaceta: Yes.

Vice Chairman Nolton: I mean, with this license, can they do cabinetry?

Everildo Ybaceta: No. In speaking to Mrs. Rosa, she knows she is going to need a separate Cabinetry license and she will apply for it. So, at this point, if you do move forward with approving her application, we can restrict her license for the new company to just the stone work until she gets the Cabinetry license.

Terry Jerulle: And the name of the [new] company – what is the name of the Second Entity for which you want a license?

Everildo Ybaceta: Roca Granite and Cabinets, LLC.

Terry Jerulle: Okay. So, you're asking us to give you a license for a company that sells cabinets, but not do cabinets?

Fernanda Rosa: No, I do cabinets.

Terry Jerulle: But you don't have a Cabinetry license.

Fernanda Rosa: That's the thing – I have to apply.

Terry Jerulle: Okay. So then – and maybe I don't understand – but why haven't you applied already?

Fernanda Rosa: That was the information that I was given ... that I should get my Second Entity approved and then move forward with the cabinet license.

Terry Jerulle: Or you could have just licensed the Second Entity with cabinets?

Fernanda Rosa: I don't know.

Chairman Lantz: Evy, if she were to have a Cabinetry license, would she be allowed to do stone work ... stone counters?

Fernanda Rosa: No.

Everildo Ybaceta: No.

Chairman Lantz: To do both, she needs two licenses – right?

Everildo Ybaceta: Right ... yes.

Patrick White: Which makes me beg the question: why put the cart before the horse?

Everildo Ybaceta: When ...

Patrick White: ... without putting us in the position of having to issue a potentially restrictive Second Entity license?

Everildo Ybaceta: No, I understand the question. Initially, in the discussions that we had, the news that she had been told to apply for the Second Entity first was not given to me. Later in conversations, after the application was finalized, is when I found out. We have taken steps to make sure that it does not happen again.

Chairman Lantz: (to Fernanda Rosa) You currently license both – both companies are currently licensed in Lee County – correct?

Fernanda Rosa: Yes.

Chairman Lantz: Lee County's licenses are a little bit different than ours. What other licenses do you hold in Lee County?

Fernanda Rosa: I have the same ones – Tile and Marble for the first company, and Tile and Marble and a Cabinetry license for the second company.

Chairman Lantz: So, you have a Cabinetry license in Lee County?

Fernanda Rosa: Yes.

Chairman Lantz: You just don't ... so, it's not a matter of taking the test ... it's more a matter of applying?

Fernanda Rosa: Yes.

Everildo Ybaceta: Yes.

Chairman Lantz: Theoretically?

Everildo Ybaceta: Theoretically, if she passed the same examination and received a 75 or better on the examination, then yes – it could just be a letter of reciprocity.

Chairman Lantz: And, technically, that wouldn't have to go through us?

Everildo Ybaceta: No.

Chairman Lantz: So, we could approve her Second Entity and say it doesn't go into effect until she gets her Cabinetry license?

Everildo Ybaceta: Correct.

Chairman Lantz: If we wanted to go that route.

Everildo Ybaceta: You could that route ... it's not really putting the cart before the horse – yes, there is the Cabinetry license, but you could name a company anything you want and apply for a completely different license. You could call it “Scuba Pros” and still be a tile and marble company. Are you really doing scuba?

Chairman Lantz: Can I name my company, “Naples Engineering Service” and be a General Contractor, not an engineer?

Everildo Ybaceta: Again, you can name it whatever you want.

Chairman Lantz: I don't think so.

Everildo Ybaceta: You can't?

Chairman Lantz: As an engineer?

Vice Chairman Nolton: Well, there are certain Statutes apply to the use of the word, “Engineering” ... so

Everildo Ybaceta: Okay. Then I was wrong on that one and I do apologize for it.

Chairman Lantz: I think people would frown at me if I had a company named “Naples Law Firm” and I didn't have an employee ... or “Naples Orthopedic Surgeon” or “Naples Cabinetry” – same idea. If I'm issuing a license, I might frown upon that.

Vice Chairman Nolton: I guess, for me, the real question is for two companies with the same license, if you wanted to add services – you could have just expanded your existing company and put it in there ...

Fernanda Rosa: Yes.

Vice Chairman Nolton: ... versus us authorizing two companies for the same entity with the same license. Then, where you lose control, they could bid against each other for a job and we would never know.

Everildo Ybaceta: You're right.

Chairman Lantz: Me, personally, I am not a fan of the Second Entity, obviously. But to me, they are two different companies: one does tile installation and one does countertops. I mean, I know some countertop guys who dabble in tile and I know some tile guys who dabble in granite, but I don't know many companies who do both. Maybe I'm wrong but at least, to me personally, there is a clear division. They are two different trades almost. Yes, they can both be done by a Tile and Marble Contractor but, to me, they are two different trades. I can't imagine a granite company that is going to be doing a whole bunch of tile work. The granite companies in town ... you don't see many granite companies setting tile. They may fix something or do something really small here or there. They are licensed but are typically not doing it.

Chairman Lantz: Anyone interested in entertaining a motion?

[Members stated they were experiencing technical difficulties with the computers.]

Chairman Lantz: Are there any other questions from the Board?

Patrick White: I don't know how the other members feel but, at this point, I would be uncomfortable issuing a second [license] until she has passed Cabinetry.

Terry Jerulle: I tend to agree with Mr. White.

Chairman Lantz: Would you be open to approving a Second Entity but having it not going into effect until after she gets her Cabinetry issued? Theoretically, she can get her Cabinetry license issued without coming to the Board.

Terry Jerulle: That's true.

Chairman Lantz: So, for the sake of saving time, would you be opposed to ...?

Terry Jerulle: She still has to get her Cabinetry license separately – she doesn't have to come back before us.

Vice Chairman Nolton: If she wants to do countertops -- the way I'm understanding this – she will. She still needs that license, too?

Chairman Lantz: Correct.

Vice Chairman Nolton: She needs both licenses?

Everildo Ybaceta: Yes, she does because she is doing granite and that is a stone.

Vice Chairman Nolton: So, we could approve this with a restriction that it's only for ...

Everildo Ybaceta: Correct and that's what I initially ...

Vice Chairman Nolton: ... tile and marble as you just stated?

Everildo Ybaceta: Yes.

Terry Jerulle: There again, we're back to the name of the entity and what she does and how she does it.

Patrick White: Wouldn't there have to be a second restriction as the Chairman suggested that cabinets would be restricted until the Cabinetry license was approved?

Chairman Lantz: I'm suggesting the Second Entity doesn't get qualified at all until the Cabinetry license is approved.

Vice Chairman Nolton: It seems like we may be complicating this a little bit ... the stone and the granite is the question because that's the only reason for her to come before us. We can limit it and say it is only for countertops, granite or quartz and then she would not have to come before us. If she ever does need the Cabinetry license, that would be up to her and she doesn't have to come before the Board. I don't have a problem that the company name says, "Cabinetry." That would be their issue. If they do cabinetry without a license, then they have other ramifications that will come into play.

Everildo Ybaceta: That is correct.

Patrick White: But that becomes an enforcement issue that requires resources. I don't know that I want to put the County in the position of policing something in a preventive way when we can take responsibility for that today and preclude this from happening.

Terry Jerulle: By her own testimony, she wants to do cabinets.

Patrick White: And have both do tile ... very limited ... but ...

Vice Chairman Nolton: So, that goes back to just the name issue? If she applied for the Cabinetry license and used the same name that said 'stone,' she wouldn't be in front of us and she'd have the name because the County has nothing to do or say about the name of the entity?

Everildo Ybaceta: That's correct.

Chairman Lantz: She'd still be in front of us to qualify a Second Entity.

Vice Chairman Nolton: But the Cabinetry is totally different.

Chairman Lantz: Oh, no, no, no – the Cabinetry is totally separate. But if she wants to do countertops ...

Vice Chairman Nolton: Right.

Chairman Lantz: ... she still has to come in front of us.

Patrick White: To put on top of the cabinets.

Chairman Lantz: Right.

Patrick White: Mr. Chairman, I ...

Terry Jerulle: But to me, I look at it a bit differently – she already has a license to do stone through another entity ... if she were coming in front of us with a license in hand for cabinets and then asking for a stone license, how is it different than coming in front of us with a stone license and asking us for a Cabinetry license?

Chairman Lantz: So, let me ask you a question. You brought in a separate partner to add the stone portion. What did that partner bring to the table? Did he bring a bunch of equipment – knowledge – customers?

Fernanda Rosa: Knowledge.

Chairman Lantz: Did you have to buy new equipment to start making countertops? Is that what you're doing -- making them or just installing them?

Fernanda Rosa: No, we make them. We buy the slabs and we cut and fit them – we do everything. We have a shop in Fort Myers.

Chairman Lantz: And did you have a shop before you started doing countertops?

Fernanda Rosa: No.

Chairman Lantz: And who fronted all the money for shop and the additional tools?

Fernanda Rosa: We had some saved and the other partner had some, too. I mean, the cutting machine is financed – that's the major expense.

Chairman Lantz: Right. So, bringing the new partner in – the new partner probably doesn't want to give a chunk of his money to the current company.

Patrick White: Understood.

Everildo Ybaceta: Question, if I may? You said you have a Cabinetry license in Lee County?

Fernanda Rosa: Yes, I do.

Everildo Ybaceta: Do you remember what you did to get that Cabinetry license?

Fernanda Rosa: What I did?

Everildo Ybaceta: The testing that you had to take?

Fernanda Rosa: The business ...

Everildo Ybaceta: There was a Business and Law exam.

Fernanda Rosa: Yes.

Everildo Ybaceta: Okay. Do you remember the grade that you got?

Fernanda Rosa: I think 78 or 80 ... something like that.

Everildo Ybaceta: Okay. Our Cabinetry license is basically a Business and Law test and you have to have a minimum grade of 75. So, with a letter of reciprocity, she could send that to us and apply for her Cabinetry license without having to go through testing.

Chairman Lantz: She's already taken the same Business test ...

Everildo Ybaceta: She's taken it there ... correct.

Chairman Lantz: So, it should be a very simple process.

Everildo Ybaceta: It should be a simple process.

Chairman Lantz: And in Terry's defense, it could have been done yesterday.

What's the pleasure of the Board? Does anybody want to make a motion?

Vice Chairman Nolton: The company, Roca Granite and Cabinets, LLC, is already in place – it's already licensed and already doing work in Lee County?

Fernanda Rosa: Yes.

Patrick White: Do you have any potential customers in Collier County at this point for granite countertops or cabinets?

Fernanda Rosa: Right now, we have our Contractor – a General Contractor – he's the one we work with most down here. He builds houses on Marco Island. That's why I'm here – I want to get everything right and do what I can do.

Vice Chairman Nolton: Are you operating both business out of the same location?

Fernanda Rosa: Yes. Oh, both businesses ... you mean the first company? No, no, no – I don't have an office open for my Ocleano Services, no. We have an office and a warehouse for Roca. Ocleano Services is just a subcontractor. We provide services to Lowe's ... that's all we do. It's totally different.

Chairman Lantz: You just send tile installers ...?

Fernanda Rosa: Yes.

Chairman Lantz: ... for Lowe's jobs?

Fernanda Rosa: Yes.

Chairman Lantz: Anybody?

Vice Chairman Nolton: Any discussion? [No response from the members] I would propose a motion.

Vice Chairman Matthew Nolton moved to approve the license with the constraint that it is only for granite, quartz, and other stone for countertops.

Chairman Lantz: That means the company cannot install tile with the new license?

Vice Chairman Nolton: Correct.

Chairman Lantz: Okay. We have a motion on the floor – is there a Second?

Michael Boyd offered a Second in support of the motion.

Chairman Lantz asked if the members wished to discuss the motion. There was no response and he called for a vote on the motion.

Motion carried, 4 – "Yes"/1 – "No." Patrick White was opposed.

Chairman Lantz offered congratulations and strongly suggested to Ms. Rosa that she obtain the Cabinetry license.

C. Ledyar Diaz – Review of Credit
(d/b/a "Atlas Door & Gate, Inc.")

Chairman Lantz directed Mr. Diaz to the podium.

Everildo Ybaceta mentioned there could be some continuing technical difficulties accessing the computer.

Everildo Ybaceta: Mr. Diaz is before the Board for a review of his credit. The reason is because there were a few judgments noted in his application. His credit score is good – it is 722. The Board needs to address the judgments.

Chairman Lantz: Are the judgments ... ones that have been issued or are they pending lawsuits?

Ledyar Diaz: Numbers one through six are all things that we have been paying ... some of them are paid off. It's mostly machinery and stuff that we need for the company that we've either been paying on or are paying off. And then number seven

...

Chairman Lantz: Let me just stop you right there. For one through six, have you been taken to Court and had a Judgment placed against you or are they just loans that you ...?

Ledyar Diaz: No, they're just loans.

Chairman Lantz: So, you are paying them under the terms?

Ledyar Diaz: (nodding his head as "yes")

Chairman Lantz: You're not late? You're not anything like that?

Ledyar Diaz: No.

Chairman Lantz: Okay.

Ledyar Diaz: Number seven is a late penalty from a state tax review. A couple of years ago we changed our location and they sent us a letter for something that we had to pay. In all the confusion, we received a late fee but that has been settled. We paid it and it was closed.

Chairman Lantz: And I think you had a form in our packed that showed it was paid – correct?

Ledyar Diaz: Yes.

Chairman Lantz: Okay.

Ledyar Diaz: Number 8 is, I believe, a situation that we had with a company called Controlled Products. We had ordered some parts from them and the parts came with some deficiencies. When we asked them to fix the parts, they refused. We went to another company who fixed the parts and what they charged us, we asked Controlled Products to remove that cost from their bill and we would pay the rest. That caused problems – we had to get a lawyer and we went to Court. We settled everything and everything is paid off.

Chairman Lantz: Do you have any paperwork for that?

Ledyar Diaz: No.

Chairman Lantz: Okay. And what about number nine?

Ledyar Diaz: Number nine was ... a secretary of ours in Tampa where we were doing work ... she had issues with another employee of ours. She had been working for us for a couple of months and then randomly stopped showing up one day. Then we received a letter from a lawyer saying that she was accusing one of my employees and we had to go to Court to settle everything. We tried to contact her to see what was going on, but she refused to talk to us. We talked to the employees and none of them had witnessed anything there. We had supervisors and management on site daily and we, ourselves, would visit weekly because we were stationed in Miami. We

got a lawyer to defend ourselves. We got rid of the employee who was causing the problems because of stuff that was happening later with his work ... nothing to do with that. We went to Court and for the past two years, she's been getting new lawyers because she doesn't have sufficient evidence against us to really do anything.

Chairman Lantz: Is this going through your insurance company or you directly?

Ledyar Diaz: No, no – us directly.

Chairman Lantz: Okay. So, the case is still pending – it's been going on for two years?

Ledyar Diaz: Yes, almost. We haven't really had any Court dates because they don't have enough ... I don't want to say "evidence" ... but they are pinning it against us for an employee ...

Patrick White: Well, they are required to do something at Court once a year.

Ledyar Diaz: We haven't done anything. We have our lawyer – if we need it, I can get paperwork from our lawyer stating that he is active on our case.

Patrick White: My point is if the Plaintiff – your former employee – has not done anything in a legal sense within a year timeframe, you can get the case dismissed.

Ledyar Diaz: Well, I don't know why the case hasn't been dismissed then.

Patrick White: Can we turn to page 110 in the packet? I believe that the purpose of this form entitled "Resolution of Authorization" is because there are multiple partners in this business entity. If you look at the signatures there are, in fact, two signatures – one for each partner and both were witnessed. However, below that, it says that the form was only acknowledged by one of the two partners. I would be interested in anyone's opinion on whether that was legally sufficient or not.

Chairman Lantz: Who is the other partner?

Ledyar Diaz: I can't really tell whose signatures are there as the witnesses, but it was signed by my parents.

Patrick White: But you're the one who acknowledged the instrument?

Ledyar Diaz: I believe ...

Patrick White: It was your drivers' license?

Ledyar Diaz: Yes.

Patrick White: Again, I would ask if that is the appropriate manner in which the Resolution form is to be completed? I don't know.

Chairman Lantz: So, there are three partners – you, your mother, and your father?

Ledyar Diaz: (nodding his head as "yes")

Chairman Lantz: All equal partners?

Ledyar Diaz: No. I believe I have ten percent – maximum, twenty – my mother has the most at around fifty or sixty, and my dad has the remaining amount.

Terry Jerulle: "Around"?? You don't know how much ownership you have in the company?

Ledyar Diaz: I believe it is ten percent – I'm 99% positive. I had to fill out some paperwork last week that had to do with this. But I don't want to give you a number that's wrong.

Terry Jerulle: The name is "Atlas Pool and Gate"?

Ledyar Diaz: No, it's "Atlas Door and Gate."

Patrick White: Turning back to the Resolution of Authorization – you have not signed it as a partner ... is that correct?

Ledyar Diaz: Yeah – I believe that the reason I didn't sign it was because ...

Patrick White: You couldn't authorize yourself as a Qualifier?

Ledyar Diaz: The reason I didn't sign the remaining third slot is because I believe that – I thought that the two other partners were supposed to sign to show that ...

Patrick White: Well, it's not a form that I'm very conversant with or familiar with but it seems to say that all the owners/partners/officers need to sign it. I'm not trying to make to big a deal out of it but, I'm just trying to do my job in reviewing the documents.

Chairman Lantz: Are your parents still married?

Ledyar Diaz: Yes.

Chairman Lantz: Any other questions from the Board? [There were none.] It appears that he has passed the Business Procedures test. You're licensed in other counties – correct?

Ledyar Diaz: Yes, in Miami-Dade.

Chairman Lantz: Just Miami-Dade?

Ledyar Diaz: Miami-Dade.

Chairman Lantz: And how long have you been licensed in Miami-Dade?

Ledyar Diaz: We've had the company for more than ten years and I've been working in the company since 2016, 2017.

Chairman Lantz: So, there was a different Qualifier before you?

Ledyar Diaz: Yes.

Chairman Lantz: And the company has been in business for more than ten years?

Ledyar Diaz: Yes.

Terry Jerulle: What is this pending case again? What is the specific charge that this person made?

Ledyar Diaz: She accused our employee of sexual harassment.

Terry Jerulle: She is one of your employees?

Ledyar Diaz: A former employee.

Chairman Lantz: Personally, I see no problems with it. I mean, it seems fine to me. Does anybody else have any questions or comments? Does anybody want to entertain a motion?

Patrick White: I would ask whoever makes the motion and Second, which I am not prepared to do, do so with the requirement that the Resolution of Authorization form is properly executed and provided to the County because it is not sufficient at this point.

Chairman Lantz: Assuming that the vote is for approval?

Patrick White: Yes, indeed.

Vice Chairman Nolton: Does the County's Attorney have an opinion about that form?

Assistant County Attorney Kevin Noell: I think with the Resolution ... it's essentially other individuals representing that they are agreeing that Mr. Diaz can act on their behalf. He's the actor – the one doing the acting. I don't know that I would agree that he has to also sign it. Basically, the other representatives have given their

authorization for him to act on their behalf. So, I don't know that I agree that Mr. Diaz has to sign it – I don't see an issue. Though, in an abundance of caution, to have him execute it as well.

Patrick White: Isn't the other issue – the one that's also important. I don't know what the intent of the form is to say that whoever signs it at the bottom and has acknowledged it. There's a statement above that, indicating that it's supposedly a sworn statement under penalty of perjury, so I am not clear on whether an "acknowledgment" is the appropriate way to have someone execute the document, number one. Nor am I clear on whether both people who signed it as partners should at some point be the ones who acknowledge it and have their identities substantiated by way of a drivers' license or something else. So, I have a problem with the form, and I have a problem with the way the form has been completed. Until those are corrected, I am not comfortable with a license being issued because the application is not complete.

Assistant County Attorney Noell: As far as my position on that, I tend to agree with ... I've seen this form ... but if we're having representatives sign that form on behalf of the company, I think that it has to be notarized that they were the people who, in fact, signed it and their identities were confirmed by the Notary. So that we don't face an issue where – and I'm sure it's not the case here – but individuals could come back later and say they never signed it – they never authorized it.

Patrick White: Correct, and I agree with you that there is probably some necessity to revise the form.

Vice Chairman Nolton: Let me take a stab at this.

Vice Chairman Nolton moved to approve granting Ledyar Diaz' application for a Garage Door Installation Specialty Contractor's License after the Resolution of Authorization has been correctly signed, notarized, approved by Collier County, and included as part of the application. Patrick White offered a Second in support of the motion.

Motion carried, 4 – "Yes"/1 – "No." Terry Jerulle was opposed.

Chairman Lantz: Congratulations. I don't know if you paid attention to all that ...

Ledyar Diaz: You approved me to qualify for the license, but it's not passed until I properly turn in that form.

Chairman Lantz: Correct.

Vice Chairman Nolton: It may not be you – it sounds like the form needs to be modified by the County.

Chairman Lantz: Probably your mother and father will need to sign it in front of a Notary.

Patrick White: Yes.

Chairman Lantz: But Evy will guide you on that. Good luck!

Ledyar Diaz: Thank you – have a wonderful day.

D. Leonardo Guerra – Review of Credit

("A to Z Garage Door Services, Inc., d/b/a A2Z Garage Doors")

Chairman Lantz: Sir, you are trying to obtain a Garage Door Installation Specialty Contractor's License as well and you had some issues with your credit. Would you like to give us some background?

Leonardo Guerra stated that two years ago, when he attempted to file his taxes, he found out that his paychecks had been shorted by \$5,000. The payroll company claimed that he had been paid. He filed a police report. The result: his identity has been stolen and someone used his credit to obtain two credit cards and purchase two vehicles. He further stated the credit report should reflect that it was straightened out. There were "a couple" of items that were his but everything else was due to the identify theft.

Chairman Lantz: A police report was filed?

Leonardo Guerra: Yes, sir. When I found out, I had to file a police report and then go to the IRS. Then I had to go to the creditors – the ones that I saw weren't mine – and deal with them. Most of them cleared the debt, but a few didn't want to clear me.

Chairman Lantz: And you're still fighting?

Leonardo Guerra: Yes, sir. I'm in the process and trying to take care of it.

Chairman Lantz: You haven't given us a copy of the police report or any of that – correct? I don't remember seeing anything.

Leonardo Guerra: I didn't put it in there, but I have this right here [opening a document] – just got it in the mail from the IRS. You're more than welcome if you want to read it.

Chairman Lantz: If you submit that to us, it's ours.

Leonardo Guerra: Yes ...

Chairman Lantz: You won't get it back.

Leonardo Guerra: Well ... it has my "pin"

Vice Chairman Nolton: We really don't want to see your pin.

Leonardo Guerra: I need my "pin" ... I guess I have to keep it ... I can't do my taxes without it.

Everildo Ybaceta: Anything that is submitted is "public" under the Sunshine Law and becomes a public record. I don't think you want to do that.

Leonardo Guerra: No.

Vice Chairman Nolton: You said a couple of items on here were yours?

Leonardo Guerra: Yes, sir. There was a car loan for a Lexus that I took out for a cousin of mine in Las Vegas – I don't live in Las Vegas – he was going through a hard time – I understood that and tried to help him out. Eventually, he couldn't make the payments on it. He called me and I told him to turn it in – I mean, my credit is bad anyway because of this ... I'm in the process right now of getting that squared away with the company. There was a rental agreement and the company zeroed it out for me. There's a Green Dot credit card that's also mine. But that's a pre-paid card so I don't know how that came in on there. You buy them a Wal-Mart ...

Chairman Lantz: But you're not behind on that?

Leonardo Guerra: No – it's pre-paid so I don't know how that came in, but that is mine. The Kia-Sorrento car loan is not mine ... there's an "Atlas" something or other that's not mine ...

Chairman Lantz: For some reason, I thought there were only two open accounts ... if I'm not mistaken. There are only two that are open right now.

Vice Chairman Nolton: Are you currently licensed in Lee County?

Leonardo Guerra: Yes, sir.

Vice Chairman Nolton: You're in business and doing work in Lee County?

Leonardo Guerra: Yes, sir. And I'm also in Miami-Dade County.

Chairman Lantz: Do you have any employees?

Leonardo Guerra: No – it's just me and my son.

Chairman Lantz: Is your son an employee?

Leonardo Guerra: Yes.

Chairman Lantz: So, is your son an owner of the company?

Leonardo Guerra: Yes, he is. It started between me and him and he has 10% and I have 90%. I mean he's ... but I do everything ... it's just a ... it's really my company but, eventually, you know ...

Chairman Lantz: Do you have Workers' Comp coverage for you son?

Leonardo Guerra: I'm sorry?

Chairman Lantz: I think I saw that you had a Workers' Comp exemption for yourself. Do you have coverage for your son or an exemption for your son?

Leonardo Guerra: I use him whenever I get an outside contract ... he works for another garage door company, so whenever he has time off and I'm busy – he helps me out ... I'll sub him out. He's not like directly with me. I do all my work by myself most of the time.

Chairman Lantz: So, if he is helping you out and he falls off a ladder and is hurt ... does he go to the company that he works for and says ...

Leonardo Guerra: No, no, no.

Chairman Lantz: So, who would pay his medical bills?

Leonardo Guerra: Well, I mean ... I would.

Vice Chairman Nolton: Is he on payroll or is he ...?

Leonardo Guerra: No ... he just helps me out whenever ... like I said, if I'm busy or something, he'll help me out. It's no big deal.

Patrick White: How does he get paid for helping you out?

Leonardo Guerra: Well, he doesn't ... I mean he's not ... okay ... like, he helps me out whenever I'm busy but, other than that, it's mostly me.

Patrick White: So, he does it for free out of the goodness of his heart?

Leonardo Guerra: Well ... I mean ... wouldn't you ... if you were extremely busy ...

Patrick White: We're not talking about me.

Leonardo Guerra: Okay, yeah, he does it.

Patrick White: I would.

Leonardo Guerra: Yes, I would do it for him. If I'm extremely busy and he's off work and I'm up to eight o'clock at night – hey, help me out here – and he comes over and helps me.

Vice Chairman Nolton: The more correct statement is the business is just you.

Leonardo Guerra: Yes.

Vice Chairman Nolton: Your son has no ownership in it?

Leonardo Guerra: I do everything solo, by myself – correct.

Terry Jerulle: You previously said your son has 10%.

Leonardo Guerra: Yeah – he helps me about ten percent of the time.

Vice Chairman Nolton: The question is about the legal entity. Does he own any part of the company?

Leonardo Guerra: No.

Patrick White: The statement of ownership says that the Applicant owns 100% of the company.

Chairman Lantz: Right.

Leonardo Guerra: I apologize – I got mixed up. How much time does he help me? Probably about ten percent of it ... you know ... at night or something if I'm stuck.

Chairman Lantz: But you have no Workers' Comp coverage for him?

Leonardo Guerra: No.

Chairman Lantz: Okay. Any other questions?

Patrick White: I see a lot of documents on the credit report that say, "Failure to pay." Can you explain some of those? In particular, I am interested in the ones that were closed but not charged off.

Leonardo Guerra: Like, which one?

Patrick White: (experiencing technical difficulties locating an example) Let me page down to find that for you. Normally, I would have had a little sticky note on the side and could have turned right to the page.

Vice Chairman Nolton: There's one on Page 147.

Patrick White: Thank you for that reference. It's taking me longer to ...

Vice Chairman Nolton: It's "Acceptance Now."

Patrick White: That is not one that I would ...

Vice Chairman Nolton: It says, "closed," But there's still a balance.

Patrick White: True, but it doesn't indicate a failure to pay ... it shows there were late payments. There were some near the end of the packet that were, I think, more clear examples of a creditor finding that the money was owed and let's try, for example, Page 157 of the packet ... it's a closed account ... it's older ... it was for a collection agency apparently, for an apartment you may have occupied ... owing an original balance of \$1,912.00. The creditor has indicated there was a failure to pay going back to the beginning of the debt ... sometime in May of 2012. Can you explain why for all this time you have failed to pay it ... or have you paid it and the record is incorrect?

Leonardo Guerra: No, the record is correct. It's one of the scams. That place is in Dallas, Texas. I did talk to them – I called the community – Steeple Way Downs Apartments – I talked to them ... I can email it to you ... I showed that I never, personally, lived there. Someone used my Social with another name and lived there for about a year.

Vice Chairman Nolton: That's part of the fraud?

Leonardo Guerra: Yes, sir.

Patrick White: Would I be correct in saying that the same thing would be true for the creditor known as "Tempoe, LLC" for \$239.00?

Leonardo Guerra: Most likely ... I don't even remember them. It's probably one of those that I have no control over.

Vice Chairman Nolton: How long have you been in Florida?

Leonardo Guerra: Pretty much all my life. I lived in Houston, Texas, for about

Vice Chairman Nolton: I was just trying to understand – there’s a lot of these from other states. So those ones that are part of the fraud?

Leonardo Guerra: Yes. I was only in Houston, Texas for a year and a half, and that was it.

Vice Chairman Nolton: Like the one that says, “Stuart Lippman & Associates?”

Leonardo Guerra: Yea – I have nothing to do with them.

Chairman Lantz: When I was going through this last night, I wasn’t smart enough to think “fraud” and I was thinking, ‘what kind of idiot takes out a loan and doesn’t make a single payment on it’ – like, twenty-five times? Now that I understand there was fraud, I get it and I would say a normal person would at least make one payment before he stopped paying. So, I can totally understand.

Patrick White: Here’s a suggestion –

Leonardo Guerra: Yes, sir.

Patrick White: Get them removed.

Leonardo Guerra: That’s what I have tried to do. I’ve talked to Experian and Experian said the creditor must remove it. I’ve talked to each creditor like Steeple Way Apartments and they said that they didn’t see anything. I guess between the time the person lived there and I found out, it had then gone to a collection agency. It was such a mess that I just left it to a company called “Greenway” or something like that ... they are here in Fort Myers and they are going to ...

Vice Chairman Nolton: You have hired a company to help you resolve this – is that what you’re saying?

Leonardo Guerra: Yeah, yeah – exactly. I just found out about this last year. I was unaware of this ... I really don’t ... like I said, I know the Lexus is mine and I take full responsibility for it. It’s funny, when I talked to Lexus, nobody told me anything ... everything was fine. But then when I started to do my taxes, that’s when I knew because I got hit.

Patrick White: You don’t happen to know if Steeple Way is in Houston?

Leonardo Guerra: No, I think it’s somewhere in Dallas.

Patrick White: Almost a world apart. I have nothing further, Mr. Chairman.

Chairman Lantz: Okay. So, we have a case of somebody with very bad credit due to fraud – a lot of mistakes due to somebody else – but still some mistakes are his own.

Patrick White: Maybe ... I have one more question.

Chairman Lantz: Absolutely – go ahead.

Patrick White: Did the folks who are helping you out with your credit reporting issues give you any idea of how long they think it might take them to fix things and get your credit report back into shape?

Leonardo Guerra: They gave me a couple of options. They said the easiest and fastest way – I should see a difference between six months to one year – they said the easiest way is to contact each one and try to get to a settlement on each one. They ones that don’t want to comply aren’t understanding that this is fraud and not me. There are some ... like Atlantic or Atlas or whatever ... they don’t want to budge.

Patrick White: At that point, your credit report ought to indicate that it is something you are disputing. There is no indication that I’ve seen in any of the documents that

we have been provided. The reason for my question is ... I'm thinking that we will want to see your credit report again – I would like to – I don't know if the rest of the Board feels that way. But I will need it if we're going to make it part of the motion ... to give you a probationary license for six months or one year. We need to know how long it will take or that someone told you it would take to get things fixed so that we don't have you come back here next month and find nothing has been fixed. That's why I asked you were told it may take to get things fixed.

Leonardo Guerra: They told me between six months and one year. They're trying to get them all together so ...

Patrick White: Correct.

Leonardo Guerra: I made one payment.

Patrick White: So, the ones that are legitimately believed by you to be your responsibility –you can work out a settlement and make whatever in payments ... that would be something that you could document, and it would show on your credit report I believe ...

Leonardo Guerra: Yes, sir.

Patrick White: The others that are incapable of being resolved, you would – at that point – show they were in dispute. At that point, I would say, we would be done in terms of a full review of your credit. I don't want to impose something that will make us have to do more work if you keep coming back here. If we do it once, then it's better.

Chairman Lantz: It sounds like you're prepared to make a motion.

Patrick White: I am if no one else has any other questions. [There was no response from the Board.]

Patrick White moved to approve granting the application for a Garage Door Installation Contractor's License on a probationary basis for a term of six months. At the end of the probationary period, Mr. Guerra is to appear before the Board with an updated credit report, both personal and business.

Everildo Ybaceta: Question? Do you, in your motion ... are you asking him to come before the Board again?

Patrick White: Yes, in six months with those reports. Now, are you asking me – by way of your question – whether we should be comfortable with you reviewing the credit reports and, if you think they are fine, then – administratively – are you allowed to approve it? Is that what you're asking?

Everildo Ybaceta: That would be the second part of my question.

Patrick White: Sorry to anticipate.

Everildo Ybaceta: No, but that is correct.

Everildo Ybaceta: I do not want ... if I can, I would prefer not to waste the Board's ... let me re-phrase this ... bring something back to the Board that may not need to come before the Board. If you wish me to bring this back before the Board, I am happy to do that – I don't have an issue with that.

Patrick White: Mr. Chairman, I am fine to re-state the form of my motion.

Patrick White moved to approve granting a probationary six-month license for a Garage Door Installation Contractor's License, subject to returning before the Board for a review of personal and business credit reports at the discretion of the Contractors' Licensing Office Supervisor.

Terry Jerulle: Mr. Chairman?

Chairman Lantz: Yes, sir.

Terry Jerulle: By Mr. Guerra's own admission, he has had his son work on-site with him without Workers' Compensation and if I were to hire him or another contractor or a homeowner would hire him ... and he has his son on-site without Workers' Compensation – I can't vote for that. It's his testimony.

Chairman Lantz: He could get a Workers' Compensation exemption and solve that problem very quickly. He could have done that ...

Terry Jerulle: That's correct.

Chairman Lantz: ... when he [the son] started working for him.

Terry Jerulle: If he does fall and get hurt, it either goes back to the Contractor's insurance or the homeowner's insurance. Isn't it our responsibility to protect those people?

Chairman Lantz: Yes, sir.

Patrick White: I will amend my motion to add a second condition.

Patrick White moved to approve granting a probationary six-month license for a Garage Door Installation Contractor's License, subject to returning before the Board for a review of personal and business credit reports at the discretion of the Supervisor of the Contractors' Licensing Office.

Additionally, Mr. Guerra is to provide proof to the Supervisor of the Contractors' Licensing Office within thirty (30) days of obtaining either: (1) an exemption from Workers' Compensation for his employee – even if the employee receives zero pay – or (2) Workers' Compensation insurance coverage for his employee. If neither is provided in a form adequate for review by the Supervisor, then the probationary license will not be issued, and Mr. Guerra will again appear before the Board.

Chairman Lantz: I would like to ask a question for clarification: does he need to show this before the license is issued, or does he have thirty days to do it?

Patrick White: He needs to show it and if it's not done within thirty days and the Supervisor wishes to bring it back, we'll see Mr. Guerra again to determine whether, in fact, we would grant the probationary license.

Chairman Lantz: I'm confused. So, if doesn't show it, does he get the probationary license ...?

Patrick White: Nope.

Chairman Lantz: He doesn't get the probationary license?

Patrick White: He doesn't get the license until he provides the documents to the satisfaction of the Licensing Office Supervisor. If it is not done within thirty days, there is no license. But if it is done within thirty days and is satisfactory, a probationary license will be issued for six months subject to review by the Contractor's Licensing Office Supervisor of the required updated business and

personal credit reports. If the documents are provided and the Supervisory is satisfied, then the license will become a full license. No more probation.

Chairman Lantz: Complete?

Patrick White: Yes. Sorry.

Chairman Lantz: No problem. I just wanted to make sure. We have a motion. Is there a Second?

Terry Jerulle: Mr. Guerra, did you understand that?

Leonardo Guerra: Yes, I understand. I have to get the Workers' Compensation for my son now and take in the creditor report in six months.

Patrick White: That's correct and the easiest way to do the first two is to make him an Officer of the Corporation ...

Leonardo Guerra: Of the LLC?

Patrick White: ... of whatever the entity is.

Leonardo Guerra: Okay.

Vice Chairman Nolton: Then you can file for an exemption for him.

Leonardo Guerra: Okay.

Vice Chairman Matthew Nolton offered a Second in support of the motion.

Chairman Lantz noted there was a motion and a Second on the floor. He asked if there was any discussion. There was no further response from the Board.

Chairman Lantz called for a vote on the motion. Carried unanimously, 5 – 0.

Chairman Lantz: Congratulations!

Leonardo Guerra: Thank you very much.

Chairman Lantz: And you clearly understood what needs to be done on your end? Right?

Leonardo Guerra: Yes.

Chairman Lantz: Okay.

Leonardo Guerra: Thank you.

Chairman Lantz: Good luck.

IX. OLD BUSINESS:

Chairman Lantz: Do you have any old business?

Patrick White: Kind of. Under **Item VIII-C** ("*New Business*") in the application, there were a series of Department of State – Division of Corporation print-outs provided for entity names that were unrelated to the applicant entity. I'm just wondering why they were in there. Was is an attempt to confuse – because I was. The name of the entity that was applying was Atlas Door & Gate, Inc. Initially what I looked at and reviewed the printout ...

Vice Chairman Nolton: On Page 114 ...

Patrick White: Yep ... correct ... and I was just wondering why those were in there. After I looked at them, my assumption was – and I didn't verify it was – maybe these were here because the search was done with the guy's name and, somehow, the other

ones came up. When I first looked at one of the forms, I saw that the entity was administratively dissolved. My question would have been, ‘why are we dealing with an inactive entity?’ But – Atlas Door and whatever – the Applicant is legit and active. Was wondering why the other ones were in there and didn’t want to take the time to make them part of the discussion. One of the ones on Page 112, for example, is “Garage Doors Corporation” ...

Everildo Ybaceta: That’s North American Eagle Garage Doors Corporation.

Patrick White: ... correct. So ... I was just kind scratching my head wondering why it was there.

Everildo Ybaceta: We can definitely look into that ...

Patrick White: Okay.

Everildo Ybaceta: ... and why it is there.

Patrick White: Let me know – even though I have to look at it on my tiny little screen to see this stuff, I do catch things. I just can’t go back and point them out to you ... apparently, I must adopt a different methodology of reviews now that I know how it works on this end.

Everildo Ybaceta: And this is why I greatly appreciate your presence on the Contractors’ Licensing Board.

Patrick White: Can I ask for a raise?

Vice Chairman Nolton: We’ll double what you’re getting paid!

(Laughter)

Michael Boyd: Now that Mr. White has brought it up – if you look at the Verification of Construction Experience on Page 115, there is only one month where he worked with somebody. They crossed out “employed” and put “worked with.”

Chairman Lantz: But he had a couple of different – if I’m not mistaken, he had a couple of different ones.

Michael Boyd: Yes – the other one was a year ... 6/1 ... and then they crossed out “was employed” and put “work with” – 06/01/17 to 06/01/18.

Everildo Ybaceta: The Verification of Construction Experience – we’re going to amend that to show where he got the experience and, in some cases, we have to talk to different contractors that he’s worked with to show verification of experience. The application – I’ve talked to Staff about it and we’re in the process of doing it – we’re going to change the wording to reflect the differences.

Patrick White: And which of them – if not both – tracks the verbatim from the Code as to the stated requirements for the scope of prior employment or work? Just so long as we’re all ...

Everildo Ybaceta: And as long as we meet the minimum requirements of the Code ... yes, I understand what you’re asking for ...

Patrick White: Okay.

Everildo Ybaceta: ... and will definitely put that in there.

Patrick White: Cool. And I guess you’re dealing with – at the same time – the Resolution of Authorization?

Everildo Ybaceta: Yes, I’ve had this issue come up before and we’ve had the very same discussions within our group as to which one falls in better and that’s why we’ve had discussions about amending the application itself or that form.

Patrick White: One other thing I would encourage you to consider is, effectively, a self-authentication – a statement made under penalty of perjury – *Florida Statutes* allows you to do that, so you don't need to have it "notarized." It could simplify things for the Applicant and the County; it could reduce the potential for errors – like today when somebody signed something on behalf of somebody else. You can use either way of doing it, of course, and people will probably do both because they don't read the forms. It's just a suggestion.

Chairman Lantz: All right – any other "Old Business?" No "Public Hearings?" The next meeting date is Wednesday, February 20, 2019 at 9:00 AM, right here.

X. PUBLIC HEARING:

(None)

NEXT MEETING DATE:

WEDNESDAY, FEBRUARY 20, 2019

BCC Chambers, 3rd Floor – Administrative Building "F,
Government Complex, 3301 E. Tamiami Trail, Naples, FL

There being no further business for the good of the County, the meeting was adjourned by order of the Chairman at 10:10 AM.

**COLLIER COUNTY CONTRACTORS'
LICENSING BOARD**



KYLE E. LANTZ, *Chairman*

The Minutes were approved by the Chairman or Vice Chairman of the Contractors' Licensing Board on February 20, 2019, "as submitted" [] - OR - "as amended" []