MINUTES
OF THE COLLIER COUNTY
CONTRACTORS’ LICENSING BOARD

July 17, 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: Terry Jerulle
           Richard E. Joslin
           Robert P. Meister

Excused: Michael E. Boyd
         Patrick G. White

Absent: Jeffrey Williams

ALSO PRESENT:

Everildo Ybaceta – Supervisor, Contractors’ Licensing Office
Lilla Davis – Administrative Supervisor, Contractors’ Licensing Office
Kevin Noell, Esq. – Assistant Collier County Attorney
Jed Schneck, Esq. – Attorney for the Contractors’ Licensing Board
Joseph Nourse – Contractors’ Licensing Compliance Officer
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.

1. **ROLL CALL:**
   Chairman Kyle E. Lantz opened the meeting at 9:00 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.

2. **AGENDA- ADDITIONS, CHANGES, OR DELETIONS:**
   (None)

3. **APPROVAL OF AGENDA:**
   Richard Joslin moved to approve the Agenda as presented. Vice Chairman Matthew Nolton offered a Second in support of the motion. Carried unanimously, 5 – 0.

4. **APPROVAL OF MINUTES: APRIL 17, 2019**
   Richard Joslin moved to approve the Minutes of the April 17, 2019 Meeting as submitted. Vice Chairman Matthew Nolton offered a Second in support of the motion. Carried unanimously, 5 – 0.

5. **PUBLIC COMMENT:**
   (None)

6. **DISCUSSION:**
   (None)

7. **REPORTS:**
   (None)

8. **NEW BUSINESS:**
   A. **Orders of the Board:**
      Richard Joslin 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 8, “New Business,” were first sworn in by the Attorney for the Board.)

B. Lucas Gallegos: Application for Reinstatement and Request to Waive Exam(s)  
(d/b/a “Integrity Finishes, LLC”)

Lilla Davis, Administrative Supervisor, provided background information:
- The Applicant has applied to reinstate his Cabinet Installation Contractor’s license which expired in 2015.
- The Applicant requested to waive the retesting requirement by using the results for the exam taken in 2014 to obtain his license in Lee County.
- He is currently licensed in Lee County as a Finish Carpentry Contractor.

Chairman Lantz questioned the Applicant:
Q. You had a license in Collier County, and you let it lapse?
A. Yes.
Q. But you kept your Lee County license current the whole time?
A. Yes, sir.

Vice Chairman Matthew Nolton asked the Applicant if his Lee County license was still active.
A. Yes, sir.

Richard Joslin asked the Applicant why he didn’t renew his license in Collier County.
A. I wasn’t doing any work in Collier County. Probably 95% of my work was in Lee. I was under the assumption that if I wasn’t doing any work in Collier, I could let my license lapse and whenever I did do work in Collier, that I could just reinstate it with no issues, but I found out the hard way that’s not how it works.
Q. The last time you took the test was in 2014?
A. Yes, sir.
Q. You’re still doing the same job? Has anything changed?
A. Nothing has changed.

Chairman Lantz directed his question to Staff: “If he never had a license in Collier County, would he be here right now?”
Everildo Ybaceta, Supervisor – Contractors’ Licensing Office, replied, “No, sir, he would not.”

Chairman Lantz asked the Board members if anyone wanted to make a motion.

Richard Joslin moved to approve the application for reinstatement of Mr. Gallegos’ Cabinet Installation Contractor’s license and waive the retesting requirement.
Robert Meister offered a Second in support of the motion.
Carried unanimously, 5 – 0.
Chairman Lantz directed the Applicant to contact the Contractors’ Licensing Office to schedule an appointment with Supervisor Ybaceta.

C. Patrick Purnell: Application for Reinstatement and Request to Waive Exam(s)  
(d/b/a “Clear Choice Shutter, Inc.”)

Everildo Ybaceta noted Mr. Purnell was not present.  
Chairman Lantz stated the case would be recalled if the Applicant arrived later.

D. Gustavo Vargas: Application for Reinstatement and Request to Waive Exam(s)  
(d/b/a “Everlast Finishes, Inc.”)

It was noted that Mr. Vargas was not present.

E. Jerry D. Acuff: Application to Qualify a Second Entity  
(Currently qualifies: “Acuff Quality Glass, LLC”  
proposed Second Entity: “Precision Glass Solutions”)

Lilla Davis provided background information:
- Mr. Acuff holds a Glass & Glazing Contractor’s license with Collier County, and he is the Qualifier for Acuff Quality Glass, LLC.
- Mr. Acuff and his business partner want to separate their residential and business divisions into two companies.
- His license is currently active in Collier County and is in good standing.
- He was initially licensed in 2013.
- Lee County approved his application to Qualify a Second Entity in 2018.

Chairman Lantz questioned the Applicant:
Q. All right, so you have one company right now that currently does residential and commercial work?
A. Yes, sir.
Q. And you want to set up a new company so the current company will only do residential work and the new company will only do commercial work?
A. Yes, sir.
Q. And the current company that you qualify, what is your ownership in that?
A. I own the business. I do everything – commercial and residential, everything.
Q. Do you own 100% or two percent?
A. Right now, I own 100%.
Q. And the new business – what is your ownership in that?
A. Probably 50/50.
Q. 50/50?
A. Yes, sir.
Q. Probably or ...?
A. Yes, sir.
**Vice Chairman Nolton** noted the application stated his ownership was “zero percent.”

A. Oh, I don’t know how that stuff works. I’m trying to really get them going because they do all my labor and stuff right now. I’m not understanding what the question is, I’m sorry.

Q. Do you have any ownership in the new company?

A. Other than just watching over it and making sure the work is done right and all that, no. They will have their own thing.

**Chairman Lantz:** And are you still going to be a 100% owner ...?

A. Of mine, yes, sir.

Q. ... of yours?

A. Yes, sir.

**Terry Jerulle** questioned the Applicant:

Q. So, you own 100% of your company and you’re going to qualify this second entity in which you have no ownership?

A. Yes, sir.

**Chairman Lantz:** And you’re not going to do commercial work in your current company anymore?

A. Yes, sir.

Q. Yes, you’re not going to do it or ...?

A. We’re going to do both – they’re going to have theirs and we both do the same thing ... commercial and residential.

Q. So, it’s not separating commercial and residential the way the application states?

A. I don’t know what the application says.

Q. Didn’t you fill it out and sign it?

A. Yeah, but I don’t know what I wrote – I’m sorry.

Q. So, at least what I understand is ... he’s President of and owns 100% of Acuff Quality Glass now and ...

A. Yes, sir.

Q. ... is a partner in and owns zero percent of Precision Glass Solutions?

A. Yes, sir.

Q. The reason for the second company is to separate the residential and commercial ...

A. They are working. What they’re going to do is ... I’m going to qualify them now and they’re going to try to get their State license by November.

**Vice Chairman Nolton:** Right, that’s what I understood from the application --- was that ...

A. Yes, they’re going to be going and getting their ....

Q. ... you’re going to license them now before they get licensed so they can work?

A. Yes, sir. They’re going to be going and getting their State license by November. She’s studying for it all right now.

Q. And in Lee County, they are already licensed?
A. Yes, sir.

Terry Jerulle: And how are you getting reimbursed?
A. They do a lot of my labor – part of it – as part of my business.
Q. I don’t understand what that means – they don’t charge you for their labor?
A. Yeah, they charge me, yes, sir.
Q. How are they reimbursing you for qualifying their company?
A. By doing the labor for me.

Chairman Lantz: Are they doing it at a reduced rate?
A. Yes, sir.

Terry Jerulle: And how are you going to verify that they paid their bills?
A. But we are joined together right now ... as far as ...
Q. Right now. But when you qualify a Second Entity in which you have no ownership, how are you going to verify that ... they took a deposit from somebody and paid their suppliers?
A. Because right now, we’re together but they’re trying to bid for their own jobs also. So, we’re in the same building ... same everything. We work side-by-side if that makes sense.
Q. That makes sense to me, but I’m asking you a question that you may not be understanding. How are you going to verify that they paid their bills? They are a Second Entity. They’re going to have a bank account – a separate bank account?
A. Yes, sir.
Q. And are you a signatory on that bank account?
A. No, but I can be if that’s what it takes – yes. Whatever it takes to ... if I need to be a second signer.
Q. For me to approve a Second Entity without any ownership, it’s going to take you providing proof to me that you have that capacity.
A. Okay, if that’s what it takes, I’ll use whatever ...
Q. I ... you know ... just to qualify a Second Entity and not have any involvement in the company – to me – it doesn’t seem right ...
A. Well, I ...
Q. ... because you are financially responsible for that Second Entity. Do you realize that?
A. Yes, sir, yes. I will make sure that I ...
Q. If you’re financially responsible, don’t you think you would want to have some say in how they do their business and how they pay their bills?
A. Yes, sir, you’re right. I will make sure that I do that thing with them ... that I’m a second signer to it or whatever to make sure they pay their bills.

Richard Joslin: It is in the Ordinance anywhere? Maybe Staff could help, regarding the percentage of ownership to qualify a second business?
Everildo Ybaceta: Ten percent.
Chairman Lantz: You need to own ten percent to qualify a business?
Everildo Ybaceta: It does say that you should be ... have a ten percent ownership
to qualify a second business.

**Chairman Lantz:** You must be, or you should be?
**Terry Jerulle:** To me, it should be ten.
**Everildo Ybaceta:** We can verify that by looking into the Ordinance, but I believe it’s ten percent.

**Chairman Lantz:** But we’ve done – I know since I’ve been on the Board, we’ve approved licenses to qualify businesses who were not owners at all. I’m thinking of the big companies ... like Hadinger Carpet ... I’m sure their Qualifiers are not ten percent owners. I might be mistaken, but ...

**Jed Schneck, Esquire, Attorney for the Board:** Mr. Chairman, if I may, I don’t believe there is an actual percentage of ownership requirement. The issues are supervision, direction, control of the work, and the financial aspects of the contracting. There’s no bright-line standard for ownership. But there is, I believe ...

**Terry Jerulle:** Responsibility.

**Attorney Schneck:** Right. And that’s for the contracting aspects of the business.

**Richard Joslin:** questioned how a person with no ownership in a business could allow that business to operate under his/her license without having any control over the business.

**Terry Jerulle:** You are typically an officer.

**Vice Chairman Nolton:** You are an officer of the company and you have control over the financial ...

**Terry Jerulle:** And you are a co-signatory on the bank account.

**Richard Joslin:** But. right now, he’s not.

**Vice Chairman Nolton:** If we were to give you – or grant this – how would we be assured that your company wouldn’t bid against them on the same project? That you both wouldn’t bid on the same project?

**Jerry Acuff:** Well we wouldn’t, but I don’t have any way of proving that to you.

**Vice Chairman Nolton:** And no way of guaranteeing that ...

**Jerry Acuff:** But we have our own contractors and stuff like that ... basically, that’s the only people we bid for. They only have their certain people ... like DeAngelis Diamond Construction ... and bid for them or whatever. But, no – we wouldn’t be bidding on the same job, no.

**Chairman Lantz:** Let me ask you a question. How did you get to this point – where you decide to qualify another business? I mean ... is there so much work that you don’t want to deal with the work and have them do it themselves? Have they already been an established company and now they just want to get licensed in ... how did you come to the point where you said, ‘here, I’ll qualify you so you can have a company,’ and you’re already bidding on these other jobs?

**Jerry Acuff:** Well, they’re established in Lee County and there are a couple of jobs that we want to be on here and ...

**Chairman Lantz:** No, no, no ... before that. You have your own business.

**Jerry Acuff:** That’s right.

**Vice Chairman Nolton:** Did they work for you?

**Jerry Acuff:** Yes, sir.

**Vice Chairman Nolton:** They are employees of your company?
Jerry Acuff: Well, they’ve got their own guys. I don’t have any labor. I had labor – installers or whatever – now, they do all my installing. I don’t have to worry about Workers' Comp right now ... there’s me and the guys in my office.
Vice Chairman Nolton: Do you write paychecks for their people?
Jerry Acuff: I pay them straight out – not for their guys. They pay their guys – I pay them.
Chairman Lantz: And you have been doing that for a while?
Jerry Acuff: Yes, sir.
Chairman Lantz: Before they were licensed, you were paying them as a subcontractor ...
Jerry Acuff: Yes, sir.
Chairman Lantz: ... as unlicensed subcontractors. You were paying them to be your ...?
Jerry Acuff: Yes, sir. But I watch over the labor part, I go to the jobs, I go to the job meetings, I make sure that the work is done properly, and they’ve been doing it probably since I have. I’m a bit older than they are, but they’re a quality company.
Chairman Lantz: And they do work for other people as well as you?
Jerry Acuff: Yes, sir. That’s why they want to try to get the license here so they can bid jobs other than what I do. There are the jobs that I was doing, and they want to bid their own.
Chairman Lantz: And you guys are in the same building?
Jerry Acuff: Yes, sir.
Chairman Lantz: Is it a storefront ... can people – the public – walk in or is it just like a ...?
Jerry Acuff: They can walk in, but we don’t have walk-ins like cutting mirrors and glass and stuff like that. We do commercial work ... now we’re doing Mercedes Benz down the road here ... and a couple of other jobs like that. They’re the jobs I got.
Chairman Lantz: Let’s say I’m building a new commercial building ...
Jerry Acuff: Yes, sir.
Chairman Acuff: ... and I want a whole bunch of storefront glass ...
Jerry Acuff: Yes, sir.
Chairman Acuff: ... and I walk into your building ... which way do I go ... right or left? Does somebody come out to greet me, or do I go your business or the other business? Is there competition?
Jerry Acuff: There’s no competition, no, sir, not as far as that. There are certain things that they can do that I can’t do ... like light back panels – I don’t know how to do it, they do. But we all know how to do the commercial part of it. We get emails and we get a company – like Bosch that’s doing Mercedes Benz – they sent me an email asking me to bid on it. I don’t send them an email asking to bid on it. I don’t know if that answers your question.

Richard Joslin: Let me just rehash this a second. Maybe I’m not understanding it. You have how many employees – how many men working for you in your business now? The same guys I assume – right?
Jerry Acuff: About four.
Richard Joslin: Four guys?
Vice Chairman Nolton: That are on your payroll?
Richard Joslin: Are they?
Jerry Acuff: Yes, sir.
Chairman Lantz: But none of them are in the field?
Jerry Acuff: No, sir.
Richard Joslin: Okay. How many of these men who are working for you aren’t on the payroll?
Jerry Acuff: Say that again? I’m sorry?
Richard Joslin: How many of these men are not on the payroll that you said are subs? You just pay them?
Jerry Acuff: They got – maybe ten?
Richard Joslin: Whose “they?”
Jerry Acuff: Precision Glass.
Richard Joslin: Precision Glass.
Vice Chairman Nolton: How long have they been Precision Glass?
Jerry Acuff: Ever since I approved them in Lee County.
Vice Chairman Nolton: How long ago was that?
Jerry Acuff: A year and a half ... maybe two.
Vice Chairman Nolton: Prior to that, they weren’t a company?
Jerry Acuff: No, sir.
Vice Chairman Nolton: But they were still working – you still had them doing installs for you?
Jerry Acuff: Some work, yes, sir.
Vice Chairman Nolton: So, right now – when you write a check to them – you write it to Precision Glass?
Jerry Acuff: Yes, sir.
Vice Chairman Nolton: Before that, who did you write the check to?
Jerry Acuff: To Jeremy McClure – that guy who owns it now.

Chairman Lantz: So, they were unlicensed contractors and they’re trying to get “legit?” They’ve gotten legit in Lee County and you’re trying to get them legit in Collier County?
Jerry Acuff: Yes, sir – until November when they go and take their license for their State license.
Vice Chairman Nolton: But you licensed them in Lee County a year and a half ago?
Jerry Acuff: Yes, sir.
Vice Chairman Nolton: So, for a year and a half, they haven’t been able to get their license?
Jerry Acuff: They were having jobs and whatever ... his wife was still working for another glass company. It was just him and his guys working with us. Now she’s over with us and she’s been studying for the license.

Chairman Lantz: Now how much work do you do in Collier County?
Jerry Acuff: Quite a bit. I’m doing Mercedes, and I’m doing the airplane hangar right now.
Chairman Lantz: So, let me just ask you this. You’re doing the Mercedes dealership?
Jerry Acuff: Yes, sir.
Chairman Lantz: So-and-so hires you, then you’re subbing it out to Precision Glass who is not licensed?
Richard Joslin: In Collier County.
Jerry Acuff: Yes, sir.
Chairman Lantz: Okay. So, from my perspective, and I’m not the sharpest guy in the world ... but from my perspective, you don’t seem to understand the Construction Law portion of it. Do you understand that what you are doing is illegal?
Jerry Acuff: No, sir, I didn’t.
Chairman Lantz: So, you can’t hire an unlicensed company – there’s an exclusion for single-family homes ... am I mistaken?
Everildo Ybaceta: There is an exclusion for – but you must have direct supervision of the person you have hired to do the work who is unlicensed.
Chairman Lantz: But that doesn’t apply to commercial – right? It’s strictly for single-family residential?
Everildo Ybaceta: That’s correct.
Chairman Lantz: So, from my perspective, we have someone who is admitting that he is breaking the law ... not only is he breaking the law but, even worse than that, he doesn’t understand that he is breaking the law. It’s one thing to say that he has been doing it wrong and is now trying to be legit. But it’s another thing to say, ‘I clearly don’t know the laws and regulations ... and I now want to start another business because I’m so bad at following the laws and regulations here ... so I’ll start another business and maybe it will work or maybe it won’t work.’ I don’t know.
Vice Chairman Nolton: Mr. Acuff, we’re not trying to be tough on you ... all we’re doing is trying to follow the laws.
Jerry Acuff: Yes, sir, I understand that.
Vice Chairman Nolton: If you hire a subcontractor, they are supposed to be licensed and insured for you to be able to hire them. If they are not licensed in this County, then you are basically using an unlicensed subcontractor. You can’t do that – all right? They would need to be employees of your company to do that work. So, based on everything that I’ve heard – I have no way to be able to say “yes” to this. I mean, there are other issues here besides this request that you have made.
Jerry Acuff: I thought they were employed by me because I ... maybe I misunderstood ...
Vice Chairman Nolton: You must write their paychecks and you must pay their Workers’ Comp for them to be employed by you.
Jerry Acuff: Okay.
Terry Jerulle: They are either employees or subcontractors. There is no in-between.
Jerry Acuff: Okay.
Terry Jerulle: Do you understand that?
Jerry Acuff: Yes, sir, I do now – I didn’t know that before.
Richard Joslin: I’m surprised that Lee County went along with what you’re saying too, if they licensed them in Lee County. But nevertheless, I’m on the same page as him ... I’m very uncomfortable with what you’re trying to do. I see what you’re
trying to do, but it’s what you’ve done in the past that makes me worry.

Vice Chairman Nolton (directed his question to Staff): So, in this situation, does it matter if we vote on this or should we ask him to withdraw it?
Everildo Ybaceta: The best bet is to ask for a withdrawal. If you vote on it, it becomes a record.
Vice Chairman Nolton (directed his comment to the Applicant): Do you understand what we’re saying?
Jerry Acuff: Yes, sir.
Vice Chairman Nolton: It would be better for you to voluntarily withdraw this request to the Board than for us to vote on it because then it becomes a record and the County should take action against you.
Jerry Acuff: Okay.

Chairman Lantz: I just want to tell you upfront that I appreciate your candor. I appreciate you being 100% honest with us and not trying to hide anything. That goes a long way. Personally, I just have a hard time giving a license to a business that clearly doesn’t understand the laws completely and those are the laws that people get in trouble for – the Workers’ Comp laws ...
Jerry Acuff: Yes, sir.
Chairman Lantz: ... and the payroll laws. And so, while I appreciate you being honest – you know, it’s screwed you, but I appreciate it. Just to let you know -- there’s no way that I would vote “yes” for it.
Richard Joslin: The correct way to do this would be to have them take the test now if they want to try to work before November – or whoever is going to take the test ...
Jerry Acuff: Yes, sir.
Richard Joslin: ... or keep them on your payroll and keep them working until they can pass the test to get their license ...
Jerry Acuff: Okay.
Richard Joslin: ... or, possibly, re-do the packet so that you are in ownership of this company, or have a percentage of interest in this company and check writing. You must watch what happens because, again, if something does happen – and who knows – it’s going to fall on you. And it could be expensive, considering what you’re doing with glass and Mercedes and all these places that you’re talking about.
Jerry Acuff: Yes, sir.
Richard Joslin: You know, you could easily go bankrupt.
Jerry Acuff: How much percentage should I ...?
Richard Joslin: It’s not the percentage, it’s the responsibility ...
Jerry Acuff: Okay.
Richard Joslin: ... it’s the check writing, it’s being able to monitor the people who you’re qualifying, and making sure they are paying Workers’ Comp, and making sure that they – as a company – are paying the people on their payroll ... I mean, just like you had to do – that has to be done. But you can’t hire them until this is done. Otherwise, you are breaking the law, and then the County could come back on you. And that wouldn’t be good either.
Jerry Acuff: I don’t want that.
Chairman Lantz: So, it might be worth your effort to invest a little bit of money ... I hate to ever recommend an attorney ... but hire an attorney to go over the details with you to make sure that what you’re doing is correct, and what you’re going to do is correct, because you’re the guy who is going to get into trouble. You’re the guy with the license.

Jerry Acuff: Right.

Chairman Lantz: If anything goes wrong, they are going after you. I mean, I don’t know what an attorney would cost but ...

Vice Chairman Nolton: It would be money well invested.

Chairman Lantz: Yes – especially being in the position that you are in right now.

Jerry Acuff: What kind of an attorney would that be? I know there are different types.

Richard Joslin: One who does Construction Law.

Jerry Acuff: Construction ... okay.

Chairman Lantz: But you might want to figure out how to do – get the job – how to run the job that you have sold ...

Vice Chairman Nolton: Correctly and legally.

Chairman Lantz: You know, get yourself onboard first before you start worrying about helping out your friends.

Jerry Acuff: Right ... okay.

Richard Joslin: You’re doing jobs now in Collier County. I think the best thing to do is to make sure that the people who are doing your work are not being paid by a company that is not yet licensed.

Jerry Acuff: Okay.

Richard Joslin: I’m just trying to let you know.

Jerry Acuff: Okay.

Richard Joslin: You’re opened the door so ... just be aware.

Jerry Acuff: Yes, sir.

Chairman Lantz: And there are a lot of ways to solve your problem – there’s not just one. There are many solutions for it. But someone who is competent in that area will give you a lot of different options ... find one that works for you.

Vice Chairman Nolton: He still has to ask to withdraw – state it.

Chairman Lantz: So, if you want – we can vote on this or you can request to withdraw.

Jerry Acuff: Request to withdraw.

Chairman Lantz (directing his question to Staff): Do we have to vote to accept his request or just ...

Everildo Ybaceta: No.

Richard Joslin: No, it’s like it never happened.

Everildo Ybaceta: Just to clarify a little bit. The requirement for ten percent ownership in an entity is referenced in Florida Statutes, and our local Ordinance references the Florida Statutes. If you wish, I can give you something later and we can talk about the ten percent as it relates to this situation.

Vice Chairman Nolton: I’d like to clarify – is it a requirement or not?

Everildo Ybaceta: Yes, it is in the Florida Statutes.
July 17, 2019

Terry Jerulle: So, if it’s a requirement...
Everildo Ybaceta: It’s a requirement of Florida... let me rephrase that...
Terry Jerulle: No, I understand what you’re saying. My question to you is: If it’s a requirement, then if somebody doesn’t meet that requirement, there’s no reason to bring them before the Board.
Everildo Ybaceta: That is... yes... unless they request to go before the Board.
Terry Jerulle: Okay.
Everildo Ybaceta: I will see how the requirement... as it relates to our Ordinance and how it applies.

Chairman Lantz: We definitely need to get that...
Everildo Ybaceta: ... clarification... yes, sir.

Richard Joslin remembered a similar situation in a previous case before the Board, and he noted the Ordinance required ownership of ten percent to qualify a company.

Chairman Lantz: Is it for any license or just for a Second Entity?
Everildo Ybaceta: I’ll clarify that—that’s part of the clarification I’m doing.

Chairman Lantz: Okay. So, you are officially withdrawn, sir, and we hope you get all your ducks in a row...
Jerry Acuff: Once I get my ducks in a row and get everything and, like you said, do the ten percent, can I bring it back to the Board or no?
Chairman Lantz: You are more than welcome to re-apply in theory. And my hope is that they will have their license by then and it will be a moot point — but I might be wrong. You could get your ducks in a row in a week and can re-apply next month but that’s up to you... depending on...
Richard Joslin: If this person that you are having take the test is going to take the test for the business that you want to qualify, and if he or she has been in that business long enough, then I would think that person could pass the test without a problem... and the sooner, the better for you to be here.
Jerry Acuff: Yes, sir, that’s true. Thank you.
Chairman Lantz: Good luck.

F. Alexander Herrera: Contesting Citations #10544 and #10545 (d/b/a “Alex Herrera Maintenance & Repair Services”)

Citation Number: 10544 (Unlicensed General Contracting)
Date Issued: May 9, 2019
Amount of Fine: $1,000.00
Violation: Engaging in the business or acting in the capacity of a Contractor, or advertising self or business organization as available to engage in the business or act in the capacity of a Contractor without being duly registered or certified.

Citation Number: 10545 (Commencing Work without a Permit)
Date Issued: May 9, 2019
Amount of Fine: $1,000.00
Violation: Commencing or performing work for which a Building Permit is required, pursuant to an adopted State minimum Building Code or without such permit being in effect.

Alexander Herrera: Good morning, Gentlemen.

Chairman Lantz questioned Mr. Herrera:
Q. Good morning. So, you’re contesting the Citations?
A. Yes, sir.
Q. Do you want to give us a little background?
A. Yes. I have a friend from North Dakota and his name is Greg Larson. He owns ... he is a General Contractor up north and owns two properties on Marco Island.
   My wife and I own a handyman company – a maintenance and repair company. So, they became friends of ours ...

Richard Joslin: A maintenance and repair company or just a handyman?
Alexander Herrera: They are the same. When we went to get the license, they say they used to call it “handyman” and now its “maintenance and repair.” So – the same thing, I guess. That’s what they told us at Horseshoe Drive.

Everildo Ybaceta: Under the “handyman” license – not a license, it’s a certificate under the Business Tax Receipt, there is a clarification on there that says, “… not for contracting business or repair …” or something to that effect.

Richard Joslin: On it, there’s a checklist of what can or can’t be done.

Everildo Ybaceta: Yes, they do give out a checklist – or they used to give out a checklist – they’re not giving that out anymore.

Vice Chairman Nolton: So, the license that he has is the “handyman?”

Everildo Ybaceta: It’s our Business Tax Receipt.

A. (continued) So, we take care of one of the houses – they recently bought another property. We oversee or we help them ... to check the houses. So, on May 9th I believe, we were ... they came the week before ... Greg brought his friend and two of their workers to do some demolition at this new house that they got. When they left, they asked us take care of the garbage — to take it out and stuff like that. So, when I was doing that ... Mr. Joe happens to stop by and, long story – short, I got two fines for $1,000 each. So, what I am trying to do now is trying to ... as I say, we have a relationship – a friendship – with Greg and the company, too. So, I think that this ticket should not be for me, if anything, because they start the demolition without notice of commencement. It was issued in my name who this fine was written to – and the other one, it does say for “Unlicensed Contractor” – I never said that or I wasn’t doing any contracting work at that house – but taking the garbage out.

Q. You’re saying they just hired you to remove the garbage?
A. Yes.
Q. And that’s all you did?
A. Yes.
Q. We’ve had this situation a few times in the past where people are helping a friend and they get a fine. Ninety-nine out of one hundred times, the argument of ‘I’m helping a friend ... I’m an innocent bystander’ is a lie. One percent of the time, the friend shows up and says, ‘They were just helping me.’ Is he present?
A. He’s not here – he’s in North Dakota. But he took the time to speak over the phone to Mr. Joe. And, for the records, I have a bunch of papers that shows that it is not right ... I have emails ... I have paycheck stubs for all the work that we have done at the house. I am a paid representative because I am approved when they are not here in this state. So, when we installed the garage door, it’s under my name with the address, and slash (/) Greg Larson. That’s just to show – I don’t have no reasons to different tell you – I have no reason to lie – I told you he’s my friend. I say, we get paid but not for the contracting or for whatever it was going on over there – I’m talking about the house. I’m also trying to get my CAM License to become a management and stuff like that, to provide that service as well, so that’s what I say that we get paid for.

Q. I’m going to ask you a couple of questions about the garage door.
A. Go ahead.

Q. How were you involved in the garage door?
A. Greg wasn’t here. Greg and neither the other owner of the company was here and so after ...

(Note: Yvonne Herrera, wife of Alexander Herrera, approached the podium and was sworn.)

A. My name is Yvonne Herrera. My husband is choosing the wrong words here. The garage door -- we didn’t install the garage door. Greg Larson – when he purchased the first home at 541, he needed to change a light bulb or something. We ... it’s a rental vacation home – is what he has there. We check in the guests who come for vacation. They will call us and tell us that the remote control needs new batteries, or a light bulb needs to be changed. We handle that and what we do is – like what he’s talking about ... the garage door ... they hired the garage door – the contractor for that – and what we did for the garage door was give them access to the house. They pulled the permits and everything but because they communicated with us, they put all the paperwork as Alex Herrera as if we were the customer when, in reality, we don’t pay anybody. Greg Larson and “Marco Partners” – they paid for everything. They hired the roofer, they hired the stucco guy, they hired the lawn people, the pest control – they hired everybody, and they paid them. We check on people – we make sure that the lawn guy came and the grass was cut, or that the pest control did get done. We just make sure that the house is ready for when the renters come. With 625, they were here for a couple of days – they came with two of their workers and they did the work. We weren’t there – they called us because we were on the boat for that weekend. They said, ‘hey, we have to go back so you guys go ahead and get the garbage out of the house.’ We don’t even own a trailer so he (her husband) got a friend of his to get a trailer so that we could go ahead and take the garbage out. We just got reimbursed for taking the stuff to the dump. The receipt for when we took the
garbage to the dump is under our name, because we gave his license when we did that, but we got reimbursed for that. We didn’t do the work there.

**Q.** How do you get paid for handling the garage door guy, the lawn guy ...?

**A.** We don’t ... we don’t get paid for that.

**Q.** You do it out of the goodness of your heart?

**A.** Yes.

**Q.** You just open the door and ...?

**A.** Well, no, no, no – we get paid for when we check in – where we check people in and check people out. Now if they ask us and say the garage guy is going to be there, we just let them ... we open the ... we treat it as if they were somebody checking in or out, and like that. So, what we get from Greg is that we get monthly management fees and all we do is give access to the house. That’s all that we do.

(*Alex testified*) And that’s why we were working at 625. I noticed that you took a picture of my work van and my name on the side as a proof or whatever. The van is going to be there because that’s another house ...

**Q.** Can we just clarify? When you say “625,” what are you talking about?

**A.** It’s the house on the Citation (625 Spinnaker Drive).

**Q.** There they have a couple of different houses that you guys do?

**A.** (*Yvonne testified*) Yes. So, we currently have 541 which is complete and that’s where we do the check in and everything. 625 is the new home that they purchased in April and they wanted to get it up and running for July. So once 625 is complete to what they want, they will furnish it and everything else like that, then it will become a rental property. And then that will be added as part of our monthly fee – that we oversee that house – when you want to go on vacation to Marco, we will meet you there ... give you a tour of the house, give you the door code, we give you the garage door code, and everything. We make sure that the house is clean when you come for vacation and when you leave, and when you’re there, ‘hey, a flower pot broke’ or ‘the door handle broke,’ or ‘the remote for the TV is not working’ ... that’s what he does (gesturing to Alex).

**Terry Jerulle:** Your testimony is that all you did was take out the garbage? Your testimony is that the owners of the property did unlicensed work? You’re going to put it on record that the owners of the property did unlicensed work and we should fine the owners of the property based upon your testimony?

**A.** (*Yvonne testified*) Yes. We when ... we have here are the reports ... when they spoke with Mr. Larson, he let them know that he didn’t know that he needed a permit for the demolition. On one of the Citations that we have is that we started the work before ... “commence work before a building permit ...” We don’t believe this should be attached to us.

**Richard Joslin:** Who was doing the work?

**A.** (*Both testified*) Greg Larson.

**Q.** With no permit?

**A.** (*Alex testified*) He called. I think he said he was a contractor in North Dakota – he thought that he didn’t need – that they are the owners the property and he
didn’t think he needed a permit for the demolition.

A. *(Yvonne testified)* Because he was the owner.

Q. Is that something that you would know?

A. *(Yvonne testified)* No, because we’re not the owners.

Q. I mean, as far as needing a permit to do what he was doing?

A. *(Alex testified)* I didn’t think that he needed a permit for demolition on his house.

**Joseph Nourse, (former) Contractors’ Licensing Compliance Officer,** testified

- I have been observing this property for a couple of weeks. I noticed that work had been taking place there.
- I saw the construction debris in the garage on more than one occasion when I drove by, but I was trying to find or drive by at a time when I could catch workers there or see workers there. On this particular day, May 9th, I drove by the property and noticed that there were several work vehicles in the driveway.
- I parked in front of the place, approached the garage and found a gentleman who was removing the stucco bands from around the windows and doors – the Styrofoam that is underneath them – and he was chipping all that off.
- When I asked him what he was doing, he basically explained that he was doing just that. I asked who he was working for and he walked in the house and retrieved this gentleman (pointing to Mr. Herrera).
- When he walked into the house to retrieve this gentleman, Alex, the noise of a jackhammer running inside the property stopped. Alex came out, covered in dust and construction debris. He dusted himself off and stated to me that they were only there cleaning up the property.
- From where I was standing – outside on the driveway – looking into the garage, I could see a pile of construction debris – two-by-fours that looked like walls had been demoed.
- Standing on the front sidewalk – looking into the house through a window – I could see that walls had been removed. When I pointed that out to Alex, he stated to me, “Oh, that was a pocket door that we removed.”
- I asked to speak to the homeowner. He contacted the homeowner and put me on the phone with him. This was on speakerphone – I always do that so everyone on site can hear what’s being said, and the homeowner described Alex as a construction manager. He said he was there “running things for him.”
- He [the homeowner] did grant me access to the property. I went inside where you can see the pictures attached to this case – walls had been removed, and plumbing was in the process of being removed. I pointed to the plumbing in the master bath – the jackhammering – and asked who was doing that and Alex told me that he was doing it. He was covered in dust and debris from doing it. He admitted he was the one jackhammering the floor and removing plumbing for the homeowner.
- When I informed him that he was going to be cited, he got back on the phone and called the homeowner. They spoke for a few moments and then Alex
changed his entire story. He said that he wasn’t being compensated and that he was just there helping a friend.

- I asked to speak to the homeowner. Again, he put me back on the phone with him. He reiterated that he was paying Alex as a construction manager to run the project for him.
- All I said was, “thank you” and I hung up and issued the Citations.

Chairman Lantz: We see a picture here – for us, it’s Page 298 – of the [Brand Name] chipping hammer. Whose chipping hammer is that?

Alex Herrera: It could be Greg’s, but the funny thing is that the chipping hammer wasn’t working – it was broke. So that day – as a matter of fact – that day we went to Home Depot because he says that he was coming back and he needs another chipping hammer to continue the work. And what Mr. Joe mention about the master bathroom is – there is a like a one-foot of concrete that needs to be cut, and I asked him, “Do you expect me to do that?” and he told me, “Yes.” So, I think that it’s a poor choice of words – like my wife says – when Greg says, “Oh, yes, I am paying him.” That’s what he told him, “oh, he’s paying you.” He’s paying me, but to do this job ... not for construction. I know that we cannot do construction work like that.

Richard Joslin: Why were you there with a jackhammer and all dusty when Mr. Nourse met you?

Alex Herrera: That’s the thing, I was there but not with the jackhammer. When he says I was dusty and stuff like that – not because the chipping hammer but because the garbage – picking up the garbage. I believe he took a picture of the trailer with all the drywall and concrete pieces.

Terry Jerulle: How did you know the chipping hammer didn’t work?

Alex Herrera: Because that chipping hammer – I did this to the switch – not working – it’s still – nothing worked – yes.

Yvonne Herrera: Excuse me. When Greg stated that yes, Alex is overseeing the job – we have here that everything is – that we ... I can show you here the email of the contractor that Mr. Larson is using (holding up documents). We’re just the middle guy making sure that ... hey, this is ... we’re just making sure that these people are doing what they say they’re doing on their contract with Mr. Larson. That’s all we’re doing. We’re not working as ... we are not physically there ... we are not paying anyone. Yes, we are overseeing the job ... because we have a blueprint, or a drawing, of what Mr. Larson said ... hey ... this is how the house is right now and this is what he designed ... everything ... over there in North Dakota and everything. And he’s the one who said ... hey ... this is what we’re going to do, this is what they say they’re going to do, and we want to make sure that everything is accounted for. That’s what he’s doing ... is overseeing to make sure that everyone who Mr. Larson has hired is actually on the job and he has to make sure that what he [Mr. Larson] has paid for is what he gets.

Chairman Lantz: So, you’re not physically doing the work but you’re overseeing a residential construction project?

Yvonne Herrera: Yes.
Alex Herrera: I don’t want to mix up the word ... because if you say, he’s overseeing like that ... we are, I mean ... our interest in the house is because that property is going to become a rental property that we are going to manage.

Richard Joslin: That’s got nothing to do with it – whether you manage it or not. We’re talking about the work that’s being done in the house.

Alex Herrera: Okay.

Yvonne Herrera: We’re overseeing ...

Alex Herrera: We’re not doing the work.

Chairman Lantz: You’re overseeing it to make sure ...?

Yvonne Herrera: Yeah ... we’re not doing the work ... we’re not paying anybody ... we don’t have the money to pay anybody ... there are no checks that will have our names on it to pay for anyone who Mr. Larson ... and it’s not that we’re going to pay and Mr. Larson is reimbursing us ... we are not of any of that. It’s currently ... we want this home to be finished because that’s another income for us because we will be doing the monthly management like we do for the other house. That is the reason why it’s in our best interest to oversee the job and make sure that when he hired these people ... they get it done ... the quicker the better because then it’s another income for us.

Richard Joslin: How do you know that they’re doing the job correctly? Why are they chipping up that floor – whoever did chip up the floor.

Alex Herrera: Sending pictures ... we’re getting pictures directly from Greg ... phone calls ... he’s sending pictures. But now ... like my wife say ... we are the middle people so we’re making sure that he’s hired General Contractors to do the work ... we have emails that show what is ... a proposal ... to do what he wants to do. He understands that he needs to ...

Chairman Lantz: Let me ask you this ... let me just interrupt you ... you are making sure ... he’s hired another General Contractor to do the work?

Yvonne Herrera: He’s got an estimate.

Chairman Lantz: Because earlier you stated that he was coming down and doing the work and left mid-work and went back up ... so, is he doing the work or hiring ...?

Yvonne Herrera: He came ... when he purchased the house ... he purchased the home in April ... he came – the final week of April or beginning of May --- and he bought the house and got the keys to it and he started because he told us that, ‘come July, we want you guys to manage the house.’ So, when he came, he came with his partner and two of his workers from North Dakota. They came down here ... they did the work ... trying to rush it because they had the keys to the house. He came and he showed us ... we got an email ... and he said, ‘this is what the house looks like and this is what we are going to do. I have to get the pool guy, I have to get pool enclosure, I’ve got to get walls outside done, we’re going to make this ...’ it’s a three-bedroom, two-bath house and he’s turning it into a four-bedroom, three-bathroom house. And he said they’re going to build bunkbeds over here and ... he showed us what he wants done. That’s what he did. They came because they had just gotten the keys to the house ...

Chairman Lantz: And all these subcontractors that he hired ...

Alex Herrera: No, they were doing the work ... he ...

Yvonne Herrera: Yes.
Chairman Lantz: He was doing the work? Who were they? Who found them? Are they people you know ... did you set him up with them?
Alex Herrera: The contractor?
Chairman Lantz: The contractor.
Alex Herrera: No. They are people he googled, and we are “cc’d” in the email ...
Yvonne Herrera: Yes.
Alex Herrera: ... just to make sure like we said that ...
Yvonne Herrera: When we got ...
Terry Jerulle: And you know from your license that you cannot do that work?
Yvonne Herrera: Yes, we know that ... which is why ...
Terry Jerulle: And you know from your license that the work needs a permit?
Yvonne Herrera: Right.
Alex Herrera: We know that.
Terry Jerulle: And you’re okay going in there, managing these people knowing that there’s no permit?
Alex Herrera: Managing who? The contractors?
Terry Jerulle: You’re opening the door ... you’re making sure that the work is getting done ... you’re reporting back to Mr. Larson ...?
Alex Herrera: Yes.
Terry Jerulle: That’s managing ... that’s contracting.
Richard Joslin: Right.
Yvonne Herrera: Well ... he did the work, but we got the Citations. And we let him know that this was going on ... we let him know that we got into trouble for this and we didn’t do the work. He said that, “I thought that ... I’m the owner of the house ... I didn’t need that.” Since the Citations, he was trying to get one of his employees in North Dakota ... trying to see if they can go ahead ... because they are General Contractors over there ... if they can do the work here. Because we have not been on that property because we told him we have two Citations and we didn’t do the work.
Since then, we said you have to handle this ... so he’s handling everything. There are no subcontractors ...
Chairman Lantz: Even though he’s not here, did he send you a notarized letter or anything to explain your role and his role? Clearly you must have told him that you got $2,000 in fines ... what are you going to do for me? Did he say, ‘you’re on your own ... figure it out ... it’s not my problem’?
Alex Herrera: No – no, no, no. Okay – this is what I want you guys to understand ... there is no “business deal” – we became friends as well.
Chairman Lantz: I get it. But if I had a friend come to my house and they were painting my house and Mr. Nourse came over and gave them a $1,000 fine for painting without a license, Do you think that me – as a friend – is going to say, ‘man, that’s a thousand bucks ... I feel bad for you ... do you want a beer?’ or do you that me – as a friend – is going to say, ‘let me march down with you right now and get this straightened out.’ There’s a difference between a friendship and a relationship.
Yvonne Herrera: He let us know – he knows that we have this hearing today – and he told us to let his office know how it turns out and everything. We’re not paying this.
Alex Herrera: Uh huh ... exactly.
Yvonne Herrera: We’re not paying this – he said that he is going to pay this, but he wanted us to go ahead and explain to you guys what our role is. If I would have known that I needed a notarized letter or anything, I would have been more than happy to get that.

Richard Joslin: Well, that wouldn’t have helped you anyway.

Chairman Lantz: So, it’s cheaper for him to pay the $2,000 than for him to come down here ...

Yvonne Herrera: No, he wanted to see if you ... that’s where we ... we were at a ... because we are not the unlicensed General Contractors ...

Alex Herrera: This is under my name ... that’s my name ...

Yvonne Herrera: We don’t want this ... so he told us to let him know ...

Richard Joslin: Did you tell us earlier that had a set of blueprints on your phone that we could see?

(Herreras talking to each other)

Richard Joslin: Guys, that was just a “yes” or “no” answer. Do you have some blueprint that he gave you of what he wanted done?

Yvonne Herrera: Of what he said he ... he sent us this ...

Richard Joslin: That’s okay.

Vice Chairman Nolton: Let’s back up a little, okay? Give me second ... let’s back up. So, there’s not been any subcontractors or anything – right? They’re doing that now – the homeowner is doing that now. At this point-in-time, it sounds like the homeowner gave you work without a permit ... is what it sounds like. Sounds like they were in the house doing something ... possibly doing some work, cleaning something out. You shouldn’t have been in there doing that, okay? If you were running a jackhammer, and Mr. Nourse says he heard a jackhammer – somebody was running a jackhammer, okay, for whatever reason. You shouldn’t have been in there doing that. So, those violations are accurate – okay – for what was seen and what was done. Should they be to the homeowner? It sounds like maybe they should be to the homeowner. We can’t do anything about that as a Board. The best I can think of that we can do is say, ‘we’ll postpone this until next month ... let the homeowner come down here then and defend himself if he was doing this.’ Otherwise, you were there doing it. Whether you were getting paid or not, you were there doing it.

Richard Joslin: No. The postponing of it wouldn’t even fly because of the fact that the Citations are written to them. And it’s pretty clear-cut in my mind that they were doing the work as Mr. Nourse has testified. It’s either we have to rule on the Citations being enforced or not.

Joseph Nourse: Right – if you’re going to do that, can we enter the packet as evidence?

Joseph Nourse moved to enter the information packet into evidence on behalf of Collier County.

Chairman Lantz: I think the motion needs to come from the Board.

Richard Joslin moved to approve entering the information packet into evidence on behalf of Collier County. Terry Jerullle offered a Second in support of the motion.
Carried unanimously, 5 – 0.

Richard Joslin: It’s pretty clear-cut to me that, under the circumstances, what you thought you could and what happened there were two different things. It’s definitely ... you definitely did it as acting as a General Contractor because you were handling the house ... whether it’s maintenance ... whether it’s cleaning or clean up ... but otherwise there was more being done there than Mr. Nourse found. Unfortunately, you are the ones who were there doing it – whether or not you did it all, I don’t know. But, in my opinion, you are guilty of these two charges. Now, unfortunately, if the person who hired you is any kind of a person, he’s going to reimburse you possibly ford that fee that you are going to have to pay. If not, well then, it’s a bunch of money that you lost. It will teach you a lesson not to do this again.

Chairman Lantz: Has a permit been pulled on this?

Joseph Nourse: It had not the last time I checked.

Vice Chairman Nolton: Can I ask a question? So, let’s say they had the same scenario and the homeowner was there in another room or whatever and they are there doing some work – and they said they were not being paid ... that they were just friends of the homeowner. Then the homeowner comes out and says they are friends who are doing work for him, who would you write the Citations to?

Joseph Nourse: A “Stop Work” Order would have been posted and nobody would have been cited. I cannot cite a homeowner.

Assistant County Attorney Kevin Noell: And there’s a difference for a homeowner’s exemption where the homeowner agrees to be responsible to make sure that not only are all the proper permits pulled but people who are doing skilled work and being paid for that work are licensed. The homeowner takes on that responsibility through an affidavit and files it. In this situation, it’s a credibility determination. I kind of equate it to a child who is eating a cookie and gets caught. All the cookies are now gone, and the parents ask, ‘were you eating those cookies,” and there are cookie crumbs on the child’s mouth and milk glass next to the child is now empty. Of course, the parents would never say, ‘oh, we didn’t catch him eating the cookies so, therefore, he didn’t eat them.’ In this case, all the evidence – the dust on his clothes and the debris throughout the house and the pictures – are evidence of a pretty substantial remodel with electrical and other things like that. Also, there’s the direct testimony from the Investigator that before the Defendant realized the implications of what he was saying, is when we heard the truth from him which was, ‘yes, I was doing the jackhammering in here and yes, he’s paying me.’ And then as thing progressed and he understood the issues, then his story changed. I would just submit in Closing Argument from the County’s side that the evidence is clear.

Everildo Ybaceta: A question to Mr. Nourse. Was Code Enforcement from Marco Island also there?

Joe Nourse: They arrived as I was wrapping things up.

Everildo Ybaceta: So, Code Enforcement is addressing the issue of ...

Joe Nourse: Yes, sir. The unpermitted aspect is being addressed by Marco Island Code Enforcement.

Chairman Lantz asked the Board if anyone had any other questions.
Richard Joslin: I just can’t believe that a homeowner from another state, or whatever, would hire someone who is a handyman who would start, basically, a renovation on a home of this value and this extensive without even checking to see if a permit was necessary.

Chairman Lantz: I get that all the time from customers ... “I can’t believe I need a permit for this.”

Alex Herrera: He wants to save money and do some of the work himself.

Richard Joslin: We run into this all the time also ... I’m just saying this now because we’re on TV.

Alex Herrera: I do have a question. We are friends ... we are going to be in that house ... we are going to be again in that place to remove garbage or checking that everything is okay. But for what I am hearing here, is there an issue for us being there?

Richard Joslin: Not with what you’re going to do as a handyman or repair service ... like go put a light bulb in or screw in a fan ... minor things that apply to your qualifications or what your license allows to do. I think that’s a good thing for you to investigate – what you actually can do as a handyman.

Terry Jerulle: And you bring up a good point. Are you a laborer or are you a subcontractor?

Alex Herrera: No subcontractor.

Terry Jerulle: Are you a laborer then? Do you work directly ... is he is paying your wage and paying your Workers’ Compensation?

Yvonne Herrera: No, we have our own Workers’ Comp.

Terry Jerulle: You’re either in one of two categories – right? Just like the gentleman before ... you’re either a subcontractor or you’re an employee.

(Note: Comments were made off-mic)

Everildo Ybaceta: You must speak directly into the microphone.

Yvonne Herrera: Oh, we have our own liability and Workers’ Comp insurance.

Terry Jerulle: So, you’re a subcontractor then?

Yvonne Herrera: I guess so.

Terry Jerulle: So, if you’re asking the Board ... if there’s a permit on the house and he’s hired you to do a certain job, you should give him a proposal to do a certain job and get paid for that certain job. The definition of the Scope of Work should be laid out so that there is no question later.

Yvonne Herrera: No, no ... so we do that with the monthly maintenance, but this thing at the new house ... we just check customers ... guests ... into the other house.

Terry Jerulle: You’re cleaning up garbage on a construction site.

Yvonne Herrera: For that, yes, we did ...

Terry Jerulle: The question ... you asked me the question ... if you’re cleaning up garbage on a job site, a permitted construction job site, then you are either a laborer, an employee, or you’re a subcontractor.

Yvonne Herrera: I think the reason why he asked that question is because he [the homeowner] is pulling a permit and he has a definite proposal for the work that is going to be going on. Are we not allowed to be on the site ... making sure that ...
Terry Jerulle: That’s exactly what my point is ... you’re either a subcontractor or you’re an employee. If you’re going to be a subcontractor, then you must have a defined Scope of Work.

Yvonne Herrera: Then we’re going to have to give him an estimate for overseeing the job ...

Alex Herrera: That’s what it comes to ...

Yvonne Herrera: Yeah ...

Alex Herrera: ... for cleaning up?

Terry Jerulle: No, no, no. You can’t “oversee” a construction job - you’re not qualified.

Chairman Lantz: You might be qualified, but you haven’t proven to the State of Florida or to Collier County that you are qualified to oversee a construction job. That would require getting a Contractor’s License. So, when you say you were just “overseeing” it – overseeing a construction job means you must be qualified. I can’t hire some Joe-Blow handyman company and say I need them to oversee my construction job. There’s a difference.

Vice Chairman Nolton: If you were a friend of mine and I have a construction job and I have it permitted and I have somebody doing work and I ask you to go by and make sure that they were there and did the work ... but, you know, you can do that.

Yvonne Herrera: Okay.

Vice Chairman Nolton: You can let him know. You’re not “overseeing” – you’re not doing anything other than saying, ‘yeah, they showed up.’ You’re not directing them.

Yvonne Herrera: Right. We’re not paying anybody – we’re not directing ... they asked us to send pictures of the progress that has been going on because they’re trying to hurry up and get the house ready to rent. So, if we’re out checking in guests into the other house, and everything, we’re on the island -- we can go buy the house and take a picture. We can say, ‘yes, the roofer was here today,’ and that’s it.

Alex Herrera: I think that’s what I was saying about the word that we used because when you say “overseeing” – it’s like, you know the trade and you are making sure that the people is doing is correctly

Richard Joslin: Right.

Alex Herrera: ... but when you don’t know, so you can’t make sure the plumber is doing a good job, the electrician is doing good work, the framer is doing this, so ...

Richard Joslin: That’s what it kind of sounds like you were doing in my mind.

Alex Herrera: But, like he said, I was dusty – yes – because I was lifting the garbage.

Richard Joslin: Okay.

Alex Herrera: Ah – I’m sorry ... one more question, now that I’ve got you guys in front of me. I am trying to get a license ... a CAM license, and stuff like that ... does this (holding Citation) because this is under my name ...?

Terry Jerulle: That’s a question for Evy.

Everildo Ybaceta: If you pay for the Citations ... no. What kind of license are you ... better yet, after the hearing, come to my office and we’ll discuss what licenses you are looking for ... and does that affect you in any way, shape or form? The Citations must be paid. Okay?
Mr. Herrera asked how much time he was allowed to pay the Citations. Mr. Ybaceta explained that he had ten days to contest the issuance of the Citations and 45 days to pay them or a lien would be placed against them.

Chairman Lantz noted the forty-five-day period would begin today – assuming the Board chooses to uphold the Citations. Yvonne Herrera: We don’t want to be in default. Is it forty-five days from the date of the Citation or forty-five days from the date of the hearing?

Everildo Ybaceta: Actually, it’s forty-five days from the date of the Citations.

Yvonne Herrera: Okay, thank you so much ... and ...
Chairman Lantz: Are you making a motion, Mr. Jerulle?
Terry Jerulle: I was going to, but I don’t want to interrupt her.

Yvonne Herrera: Oh, no ... I don’t know if he stated this, but this past weekend, we were at the other home and, so as not to block the driveway, we parked our personal vehicles at 625 – it’s not that somebody is at the home –

Richard Joslin: Were you working?

Yvonne Herrera: ... we were staying at the other house, and so that we would not have a lot of cars in the driveway, we parked in 625’s driveway.

Chairman Lantz: My recommendation to you would be ... if it sounds like you probably shouldn’t be involved in it, stay away.

Yvonne Herrera: Okay.

Chairman Lantz: So, if sounds like you’re not doing anything wrong – then you’re probably not doing anything wrong. And I’m pretty sure you guys are smart enough to know what you’re supposed to do and what you’re not supposed to do. Right?

Alex Herrera: Oh, yeah.

Chairman Lantz: So, if somebody calls you and says he wants to hire you to manage his property but it just so happens that he tore half of it down and he’s in the middle of a total remodel, you’re probably smart enough to know, ‘I don’t need to do that.’

Alex Herrera: Oh, yes.

Chairman Lantz: I understand they are going to pay you a monthly fee but ... you don’t need to be there. I mean – it’s not rocket science. You guys know – you know if something is going on that shouldn’t be – it’s not right – or ask a few questions.

Terry Jerulle: So, Mr. and Mrs. Herrera, in light of your testimony, I wasn’t convinced that the Citations shouldn’t be issued to you.
Terry Jerulle moved to approve upholding Citation #10544 and Citation #10545 as issued to Alexander E. Herrera on May 9, 2019. Richard Joslin offered a Second in support of the motion.

Discussion:

Richard Joslin: I have one last question for you. In the packet, there is a Fictitious Name detail that shows your status as cancelled. Do you still have a license for maintenance and repair service?

Yvonne Herrera: Yes, we do. What they pulled was the first one. When my husband started, he was “Alex Herrera” and the Business/Tax Receipt said he was the sole proprietor. Then we changed it, but we kept the same name. So, they cancelled the first one and it’s now – we are Volta Herrera, LLC, doing business as Alex Herrera. You will find it under Volta Herrera, LLC – and that’s not cancelled. You guys just picked up the first one.

Richard Joslin: Okay.

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

Chairman Lantz: So, we wish you luck and hopefully we won’t see you again.

Chairman Lantz asked if Patrick Purnell was present but there was no response.

D. Gustavo Vargas: Application for Reinstatement and Request to Waive Exam(s)
(d/b/a “Everlast Finishes, Inc.”)

Lilla Davis provided background information:

- The Applicant has applied to reinstate his Painting Contractor’s license which expired in 2009.
- The Applicant has requested to waive the re-testing requirement by applying the results for the exam he took in 2002 to obtain a license in Lee County.
- He currently holds an active license with Lee County and the City of Cape Coral.

Chairman Lantz questioned the Applicant:

Q. How long have you been licensed – in general?
A. Sixteen years.

Q. And you have had a license the whole time?
A. Yes, sir.

Q. You were licensed in Collier County and you let it lapse in Collier County, but you were still licensed in Lee County?
A. Yes, sir.

Q. The whole time?
A. The whole time.

Q. And now you want to get licensed again in Collier County?
A. Yes, I do.
Q. So, a couple of questions. Why did you let it lapse?
A. Well, we didn’t have enough work down here. At the time, I was working out of the country – I was working in Costa Rica and Panama, so I didn’t want to have too many things here.
Q. Meaning you didn’t want to pay for a license if you weren’t doing any work here?
A. Exactly. I just kept the one in Lee County.
Q. You said you were out of the country, but were you still doing work in Lee County?
A. Yes. I have a friend who was working with me – well, he was running the business while I was doing some work in those two countries. I just came back about eight or nine months ago. So that’s when I re-applied for the license.
Q. And do you already have jobs in Collier County?
A. Not yet. I’m bidding on some work, you know. I want to do a little more commercial work – there’s a lot of work coming up in this area, so I want to take the opportunity, you know?
Q. Okay.
A. And that, basically, that’s what it is.

Richard Joslin:
Q. Are you still operating Everlast Finishes in Fort Myers, too?
A. Yes, sir.
Q. And that’s the name of the corporation?
A. Yes, Everlast Finishes, Inc.

Chairman Lantz directed his question to Staff: So, if this gentleman never had a license in Collier County, would he be here right now?
Everildo Ybaceta: That is correct, he would not be here right now.
Chairman Lantz: Okay.
Richard Joslin: How about continuing education? Did you have to take that?
Gustavo Vargas: I’m sorry?
Richard Joslin: Continuing education – you had to take fourteen hours?
Gustavo Vargas: Yes.
Richard Joslin: Are you up to date with that?
Gustavo Vargas: No.
Chairman Lantz: Wait – wait – wait ... for a Painting Contractor, there’s no Continuing Education.
Gustavo Vargas: I applied for one in Broward County, and they made me take a ... Continuing Education class for four hours.
Chairman Lantz: Really?
Gustavo Vargas: Yes.
Richard Joslin: How many hours is it? Is it still fourteen?
Gustavo Vargas: Well, in Broward County it was only four hours.
Richard Joslin: Four?
Gustavo Vargas: I could do it online and Lee County doesn’t make me take any.
Richard Joslin: Right. Well, Broward is different.
Gustavo Vargas: Yeah.

Vice Chairman Matthew Nollon moved to approve the application of Gustavo Vargas for reinstatement of his Painting Contractor's License and grant his request to waive the examination requirement. Richard Joslin offered a Second in support of the motion. Carried unanimously, 5 – 0.

Chairman Lantz congratulated the Applicant and advised him to contact the Contractors' Licensing Office to schedule an appointment to obtain his license.

Everildo Ybaceta noted that Patrick Purnell had arrived.

C. Patrick Purnell: Application for Reinstatement and Request to Waive Exam(s) (d/b/a “Clear Choice Shutter, Inc.”)

Lilla Davis provided background information:
- The Applicant has applied to reinstate his Hurricane Protection Installation license which has not been renewed since 2012.
- The Applicant has requested to waive the re-testing requirement by applying the results for the exams he took in 2007 to obtain a license in Collier County.
- Additionally, he is a (state) Certified Building Contractor and his license is active.

Chairman Lantz questioned the Applicant:
Q. So, as a Certified Building Contractor ("CBC"), why do you want to have just a Hurricane Shutter license and not a Building Contractor’s License?
A. We ... I had a Hurricane Protection Installation License as Guardian Hurricane Protection, Inc., and we were denied a permit because we were above the 3rd floor or 4th floor ... I was told because of the loads or something. I got the CBC license and we've been doing windows and shutters over the 4th floor for years. The reason why I got the Hurricane Protection Installation license was because, in the past, when we did an opening and modified the opening in a wood structure – I had to have the CBC license. I asked if I had CBC would I be good for everything with hurricane protection, and they said yes. And just recently, I was denied a permit. I don’t mind, you know, the rules have changed, basically. The CBC was good for everything and then, suddenly, it wasn’t. I let the Hurricane Protection Installation License expire because I didn’t need it – I was using the CBC. Then I was told even if it's over four floors, I can use the Hurricane Protection Installation license.

Chairman Lantz directed his question to Staff: So, they consider the hurricane shutter to be structural – because CBCs can do windows over ...?

Everildo Ybaceta: Our Building Official believes that shutters are part of the structure and it is considered “structural.” And he has deemed that ... so, making it impossible for a Building Contractor to pull a permit for structures above three floors.
Chairman Lantz: So, can a Building Contractor pull a permit for windows above three floors?
Everildo Ybaceta: No, because that is considered structural.
Patrick Purnell: We used to with a CBC.

[Members began talking to each other—not into the microphone—the comments could not be heard distinctly.]

Terry Jerulle: Mr. Purnell, since the rules have changed ... 
Patrick Purnell: Yes, sir.
Terry Jerulle: ... and you’re just finding out what some of these rules are ... why wouldn’t you want to take the exam?
Patrick Purnell: I already took the exams.
Terry Jerulle: But that was in 2007 wasn’t it?
Patrick Purnell: You know, I understand, but I already took the exam. And I was told with the CBC, I could do the windows. And I have been doing them—I have a list of projects that were over the 4th floor that we have done. Then about two months ago, I was here for the last meeting when they said, ‘no, no—you can’t do structural.’ I was read this statute, or rule, or whatever it was that came out ... and it said because of the “loads.” Well, the only loads that we would be concerned with would be the wind loads which is engineered by the window manufacturer—we’re just screwing them into the wall. And I don’t know how that’s structural. I’m sure that’s a debatable issue.
Chairman Lantz: Let me clarify. We don’t have any power to change that policy.
Patrick Purnell: No, I understand. But, I mean, I think it’s pretty vague when it says “loads” — it’s obviously the wind load that they’re concerned with which is engineered by the window manufacturer and we’re just putting it into a client’s wall. I don’t see—I can’t debate it, obviously, but—we’ve been doing it ... is my point. We’ve been doing it over the years. Like I’ve said, I have a list of projects that we’ve done over the 3rd floor.
Chairman Lantz: With a permit?
Patrick Purnell: Yeah, and permitted and then, suddenly, bang! You can’t do it anymore unless you have a Hurricane Protection Installation License ... which I passed the test for ... I have the score here ... I got a 92%. I mean, I know how to do it ... I just want to see if you fellows will let me re-sign-up with this test score.
Vice Chairman Nolton: And the test score is from 2007?
Patrick Purnell: Yes, sir.
Richard Joslin: When did the law change?
Terry Jerulle: The Codes have been changing since 2007. Since the Codes have been changing, why wouldn’t you want to take the exam to be brought up to date with the new Codes?
Patrick Purnell: Just so ... I don’t have a problem taking the test ... it’s just that we have contracts to put shutters and windows in and over the 3rd floor. It’s just a matter of speed. I just want to get going.
Chairman Lantz: Are you saying that you taking the test is a waste of time because you’re clearly ...?
Patrick Purnell: Well, no ... I’m not saying ...
Chairman Lantz: ... well, it’s an added burden because you’re clearly competent in doing this because, even though the Codes have changed, you’ve been doing this ... continually doing this – staying in the industry – keeping up on the Codes by actively doing it and getting your projects inspected since 2007?
Patrick Purnell: That’s correct.
Vice Chairman Nolton: Are you licensed in Lee County?
Patrick Purnell: Yes, sir, licensed in Lee and Collier.
Vice Chairman Nolton: How are you licensed in Lee County – under what license?
Patrick Purnell: CBC.
Vice Chairman Nolton: So, you don’t have your Hurricane up in Lee County?
Patrick Purnell: No. I’ve been using the CBC.
Chairman Lantz: And is it the same thing in Lee County – they won’t allow you to do shutters anymore?
Patrick Purnell: We haven’t done anything in Lee County above the 3rd floor in a while.
Richard Joslin: But if you were to ... up there ... they wouldn’t allow it anyway?
Patrick Purnell: I don’t know ... I don’t know ... this is the first time that we’ve run into it and that’s why we got scheduled two months ago to come before you guys to see if you would waive my taking the test so we could just move forward with the contracts we have.
Vice Chairman Nolton: He could have taken the test.
Patrick Purnell: I could have but two months ago, you didn’t have a quorum ... and we pushed it off until today.
Vice Chairman Nolton: I was wasn’t here.
Patrick Purnell: I was, and I wasn’t late. I got there on time. (laughing)
Richard Joslin: It’s funny – I saw the Clear Choice truck this morning when I got here.
Chairman Lantz: You know – if I was in his boat, I’d be doing the same thing as well ... I mean ... if I’d been installing ... if I’d been doing the same work?
Vice Chairman Nolton: How long have you been in business?
Patrick Purnell: For the last twenty-plus years here in Florida and sixteen in New Jersey.
Vice Chairman Nolton: So, for the past twenty years ... you’ve been installing shutters ...
Patrick Purnell: I’m a contractor – we put in windows, shutters, build homes, remodel homes.
Vice Chairman Nolton: What is the size of the company? How big is the company – how many people?
Patrick Purnell: Ten.
Chairman Lantz: (directing his question to Staff) So, as a Hurricane Protection Installation Contractor, can he do windows as well?
Patrick Purnell: I have a Glazing License also.
Chairman Lantz: What’s that.
Patrick Purnell: I have a Glazing License also.
Chairman Lantz: But the Glazing License doesn’t allow you to do shutters?
Patrick Purnell: No ... I don’t ... I have everything, you know, and when they said the CBC would cover everything – I could do everything. But I have all my tests ... glazing ... hurricane protection ... CBC ... I have everything here.

Everildo Ybaceta: The answer to that is, “no.” The Aluminum Contractor’s License would allow you to do it though.

Patrick Purnell: I have that – if you’d like to see it.

Chairman Lantz: So ... well ... let me just clarify this ... maybe I can save you some money here.

Patrick Purnell: Okay.

Chairman Lantz: (directing his question to Staff): If he had an Aluminum Contractor’s License, he could do windows and shutters?

Vice Chairman Nolton: “Active”

Everildo Ybaceta: Yes.

Chairman Lantz: So, I’m just cheap and trying to look out for you. If you said you’ve already taken the test for the Aluminum Contractor’s License, and you activated that instead of the Hurricane, you could do windows and shutters with one and you’d only be paying $230 year once ... instead of twice.

Patrick Purcell: Again.

Chairman Lantz: I know it’s only $230 ...

Patrick Purcell: I don’t have a problem with any of that ... it’s just a few years ago, the CBC was fine for everything and now it’s now.

Richard Joslin: We get that because it’s not now, so we get that, okay? The CBC doesn’t work anymore.

Chairman Lantz: So, what happens ... do you do much in windows?

Patrick Purcell: Yes, windows.

Terry Jerulle: So instead of trying to find different ways for the guy, why don’t we just waive the exam requirement and let the gentleman leave?

Richard Joslin: I think he should take the test –

Chairman Lantz: I’m sorry?

Richard Joslin: I think he should take the test ... only because of the changes in the Code.

Chairman Lantz: Even though he’s been active in the ...?

Richard Joslin: Maybe he’s it wrong or doing it the same way he did back in 2007.

Patrick Purcell: But they passed inspection – how could it be wrong?

Terry Jerulle: He’s been getting inspections. He cannot do it wrong.

Vice Chairman Nolton: He’s done Continuing Education. I don’t see that this is any different than the other ones we’ve passed – he’s had a business in place for twenty years – he’s been licensed – he’s been doing the work.

Vice Chairman Matthew Nolton moved to approve the application of Patrick Purnell for reinstatement of his Hurricane Protection Installation Contractor’s License and grant his request to waive the examination requirement.

Terry Jerulle offered a Second in support of the motion.

Motion carried, 4 – “Yes”/1 – “No.” Richard Joslin was opposed.

Vice Chairman Nolton: The reason for this change is because the County is
enforcing the Building Code. Anything that was a threshold building, is still considered to be a threshold building and any work done to that building is considered as “threshold” ... so that’s the reason why all those components are structural now. That’s the reason why they’re enforcing it accurately whether they did in the past or not. Every day we run into things that are being enforced that weren’t before now, per the Building Code.

**Terry Jerulle:** And if other municipalities, cities, counties are not enforcing them, they may do so in the future.

**Chairman Lantz:** You’re good.

**Patrick Purnell:** Thank you – thank you very much.

9. **OLD BUSINESS:**

A. **Case #2019-02:** Peter E. Wozniak (d/b/a “Florida Roof Services, LLC”) – Update

B. **Case #2019-03:** Peter E. Wozniak (d/b/a “Florida Roof Services, LLC”) – Update

*(Note: The individuals who testified in the following cases under Item 9, “Public Hearing,” were first sworn in by the Attorney for the Board.)*

**Everildo Ybaceta:** Mr. Wozniak was supposed to give an update on Florida Roof Services – the two permits and the two Complaints we had from Desiree Suarez on behalf of her parents, Mr. and Mrs. George Reyes, and Mr. Rolex Simon. Both properties were inspected and finalized.

**Chairman Lantz:** This is 9-A and 90bB?

**Everildo Ybaceta:** Yes, that’s correct. The Board did find that he was in violation and the case was continued for the Imposition of Sanctions phase.

**Chairman Lantz:** Correct me if I’m mistaken ... but isn’t he is a state-certified Roofing Contractor?

**Everildo Ybaceta:** Yes, he is – that’s correct.

**Terry Jerulle:** Before we decided what to do, we wanted to make sure the outstanding permits were finalized and settled.

**Everildo Ybaceta:** That is correct.

**Chairman Lantz:** So, administratively, do we have to re-open the case or is this just an update because we didn’t impose any penalties or anything like that?

**Everildo Ybaceta:** No, you didn’t.

**Jeb Schneck, Esquire, Attorney for the Board:** The case was never formally closed, so you don’t need to re-open it. The only action you need to take is the recommendation or findings for disciplinary sanctions. Those are limited to revoking his permit-pulling privileges as well as making a recommendation to the State, or you could just find that there is no further action to be taken by the Board – or something to that effect.

**Chairman Lantz:** Can you give us a quick breakdown on what are the options as far as a state-certified contractor?

**Attorney Schneck:** Those are your options: You are limited to revoking his permit-pulling privileges or restricting them by putting conditions on them. The second step
is to send a recommendation to the State’s Construction Industry Licensing Board (“CILB”) to take further action against the state-certified contractor.

Chairman Lantz: And that’s it?
Attorney Schneck: That’s it.
Chairman Lantz: Or, we can do nothing.
Attorney Schneck: You can do nothing. That’s true ... that’s an option.
Chairman Lantz: So, both homeowners have been made whole which is the Board’s main goal.
Terry Jerulle: The homeowners are not here, I take it?
Everildo Ybaceta: Ms. Suarez was here – she wanted to talk about some minor items ... like tar on the driveway, but ...
Chairman Lantz: We don’t need to hear that again.
Richard Joslin: The leaks have been stopped?
Everildo Ybaceta: Yes, sir.
Vice Chairman Nolton: Have the roofs been completed?
Everildo Ybaceta: The roofs are completed, and a Certificate of Completion was issued.
Vice Chairman Nolton: And the permits have been closed out?
Chairman Lantz: I think I saw on one of them, it showed the inspections had been completed but it didn’t show that the permit had been closed out. On the other one, it showed it had been finalized but are the fees still due on one of the permits? I think it was the first one.
Everildo Ybaceta: I’m not sure of that – I’m sorry – but that’s probably it. Probably upon re-inspection, to close a re-inspection – there is a minor fee to be paid. I did talk to Mr. Rayl, and I did discuss with him that there are some open permits which are complete but have payments due. It does not pertain to this case, though. He needs to come to our office to pay the fees and close out the permits. But the final inspections were done.
Terry Jerulle: Does Mr. Wozniak need to be sworn in again?
Everildo Ybaceta: This is Mr. Rayl. Mr. Wozniak apparently has some medical issues and he could not be here.

(Jeff Rayl was sworn in by the Attorney for the Board.)

Jeff Rayl: My name is Jeff Rayl and I’m the manager for Florida Roof Services, LLC. Pete Wozniak is the owner and the license holder. He has some heart issues and, quite frankly, I am driving around to the job sites as necessary and things like that.
Chairman Lantz: How do you spell your last name?
Jeff Rayl: R-a-y-l.
Everildo Ybaceta: There is a $120.00 fee that is due.
Jeff Rayl: On which job?
Everildo Ybaceta: That was on ...
Jeff Rayl: I’ve received the Certificates of Completion on both of these jobs – on Rolex Simon and on Reyes.
Everildo Ybaceta: Okay, so you did pay those and received the Certificate? I may have some old information. I do apologize.

Jeff Rayl: That’s okay. At the last meeting, upon your recommendation regarding the Reyes job, we thought it would be a good idea if I went to the property and did a final punch list because it has been ongoing with punch list after punch list after punch list. So, I did that – I took your recommendation. I was at the property for a grueling two-hour walk around. We created a final punch list and performed that work personally – within two or three day after that meeting. It was a seven-item list – six had to do with the roof and the seventh item had to do with some spots of tar on the pavement and on the driveway. I explained to her that I would return with the proper cleaning fluid and when I returned to perform the work, they had already attempted to clean the spots – they weren’t home so I don’t know what they used, but it turned a little spot of tar into a schmeer. I didn’t know where to take it from there, so I wrote them a letter but didn’t get a response, so I presumed it had been resolved by that point. When I received the Certificate of Completion and I provided that to them and, from my perspective, the case was over.

Terry Jerulle: What do you suggest that we do?

Jeff Rayl: Okay. The violation was regarding Rolex Simon. I think regarding the roofing issue with Reyes ... I think there’s nothing to be done. To refresh your memory, the violation on the Rolex Simon job was this: We had contracted for a concrete tile roof with Mr. Simon on a property (5329 Mitchell Street) in the Golden Gate Estates, and then he hired us to do a second job at another property (4842 12th Street NE). That was a metal job with a flat roof, and we were going to put Taper board insulation on it as well. What happened was I applied for the permit and got my guys started on the job, but I didn’t pick up the permit before sending the guys to the job – that was the violation.

When we got to the job, we found an electrical riser pole that was bent. I told my guys to just remove the metal on that portion of the roof and then stop. I called Mr. Simon and explained to him that he must hire an Electrical Contractor to change out the riser pole before we could continue with the work. He did, but there was some miscommunication because he thought I could get the permit for the riser poles. This went on for a few weeks, but he finally hired an electrician who changed the riser pole. The reason why I didn’t pick up the permit, after talking with people at the Permit Office, was because I hadn’t given them the right sheets for the product approval – I gave them the first three but they needed the first ten. I had to re-submit those, we got the permit, went back to the job and completed it. The job has been completed, inspected, C/O’ed, and paid in full.

Both of these projects – or all three projects – have been finished, paid in full, and the Certificates of Completion are done.

I would ask, in answer to your question, that you do nothing to penalize Florida Roof Services, LLC, myself included. For several reasons, in completing a lot of these jobs around here, I have been monetarily penalized pretty substantially and it’s still going on. In particular, in the concrete tile roof jobs, because getting the concrete tile has
been a pulling a wisdom tooth project kind of thing. The underlayments were exposed to the sun for too long a period of time – causing us additional expense for the material and labor to re-dry-in these properties before we could finish the tile work – to the tune of between six or seven thousand dollars per house. I had four houses that we had to do this for and we’re currently doing the 4th one – we’re in the middle of that project now. But it’s a substantial hit for a contractor to have to do this, and I’ve already talked to the attorney who represents the Southeastern United States Tile Manufacturers’ Association. Even though he represents the enemy, he said he would sue the tile supplier on our behalf which I thought was pretty interesting – that the guy who represents them wants to sue them on our behalf to get reimbursed. I haven’t gone that route yet – we’ve eating the additional expense, which has been pretty substantial, getting the jobs done, and making the customers whole. It’s time to move on. So, I respectfully request that you do nothing to penalize us now that these customers have been made whole and we have the Certificates of Completion.

**Terry Jerule:** What assurances do we have that this isn’t going to happen again?

**Jeff Rayl:** Well, in the future, the first thing I would say is my word that it’s not going to happen again because, quite frankly, I just turned down a tile job about three weeks ago for this very issue. I told them the only way I would take another tile job is if you pay for the tile in advance and wait. I’m not going to come out and touch your house until the tile manufacturer tells me the tile is ready to be delivered. When they asked how long that would be, I said that in some cases it has been ten months. I’m not doing any more tile for this reason – it’s absolutely ridiculous to go through what we’ve had to go through on these tile jobs here. And I put the blame back on the tile manufacturer, but now that I know the routine is so desperate – this happened to us – this is not something new – we’ve been doing tile roofs for 22 … 24 years. The excuse we got then was China had eaten up all the aggregate around the world and we couldn’t get tile for over a year … sometimes, a year and a half. This has happened before and its happening again now. I don’t think for the same reasons but whatever the reason is tile is not coming in a timely fashion. So, we’re simply not taking any tile jobs unless the customer will agree to our terms … and that is give us the amount of money it takes to order your tile – pay for the tile – get it on order and wait. In the meantime, if they have a leak, we are willing to do an emergency repair to keep water intrusion from happening. But if they are not willing to do that, we are just not taking any more jobs.

The issue with the permit on Mr. Rolex Simon’s house completely rests with me – it was completely my fault. I sent the guys out there and drove down to the Permit Office and realized I had sent them out there prematurely. They were already on the job site for an hour before I walked into the Permit Office, and that was my fault. That is something I will make sure never happens again. I’m the Project Manager and I’m on the job sites all the time – it’s something that I control for the company and it was my mistake. And I’m here to tell you that mistake won’t happen again.

**Richard Joslin:** Is there something in your contract that would prevent this from happening again – say you do take a tile job? Knowing that this was probably a hurricane situation anyway – hurricane damage – isn’t that why you took the jobs
and how you got there to begin with? Knowing that there could be delays ... is there something in your contract – or that you could add – where, once the roof is off and you’re in the middle of demolition, if something happens that you could not have prevented, there would be an additional charge, or you could go back to the insurance company to pay for the extra charges that you are “eating” now?

**Jeff Rayl:** I could do that contractually in the current atmosphere ...

**Richard Joslin:** Right.

**Jeff Rayl:** ... that is something that relates to the conversation I just told you about – the customer I walked away from recently. I can write it into the contract that this is the way it’s going to be done. I don’t think I can pre-print it in the contract. But in retrospect, over the last 15 or 20 years, this hasn’t been an issue and I didn’t feel that it had to be addressed contractually. We go under the assumption that we’re not doing to have dry-in exposed for six months – that the tile will come in a timely fashion.

**Richard Joslin:** Other than the permit issue and not getting the tile at the right time, I can understand your situation – having to wait for the tile and having to eat those expenses because of it. I’m in the pool business and I went through the same situation with screened enclosures and damages that happened that we couldn’t get to ... so, I am aware of that type of thing. I don’t see the need for any further penalty.

**Vice Chairman Nolton:** Just another possibility for you – and what I see happening is – people are putting on mineralized sheets instead so that they can be exposed, and then they put the tile over it because they don’t know how long it’s going to be.

**Jeff Rayl:** Oh, mineralized underlayment? See, back in the day when we were hot-mopping 30-lb. or 90-lb., there wasn’t a regulation that said 180 days.

**Vice Chairman Nolton:** There are mineralized sheets that you can put on – and I see other people doing that ...

**Jeff Rayl:** And that will give you more than 180 days?

**Vice Chairman Nolton:** ... will give you more than ...

**Jeff Rayl:** That is brand new information to me. I didn’t know such a product existed.

**Vice Chairman Nolton:** With some of the big homes, that’s what they’re doing – they are just putting those on because they don’t know how long it’s going to be before they get to the roof.

**Jeff Rayl:** I was just on the phone with the PolyGlass manufacturing representative four days ago. I didn’t ask her that specific question, but she didn’t volunteer that kind of information, and I would assume that if anybody is making it that PolyGlass would since it’s a leader in the industry.

**Vice Chairman Nolton:** I don’t know ... but I do know ...

**Jeff Rayl:** That I will do a little research on it. I appreciate the suggestion because I was not aware of such a product. I’ll be looking into it.

**Terry Jerulle:** Do you have any other open permits with the County?

**Jeff Rayl:** Yes, yes, as a matter of fact, the job – we have a job that we are re-drying-in ... it’s the very same situation ... as we speak. We started a couple days ago re-drying-in the roof and that is an open permit.
Terry Jerulle: So, you have one then ... just one?
Jeff Rayl: The others – there’s one that’s going to be a civil suit by a man who waited so long for his tile and he was so upset with us that he fired us. I told him we would not accept being fired. We were ready, willing and able to finish the job, but he turned it over to his attorney ... so I guess we have two.
Terry Jerulle: And it’s an open permit on that job?
Jeff Rayl: I would assume you would call that an open permit, yes. I pulled the permit, pulled it off and got it in. Normally, what ...
Terry Jerulle: And a permit for a roof is only good for what ... six months?
Everildo Ybaceta: What is the question?
Terry Jerulle: A roof permit is only good for six months?
Everildo Ybaceta: 180 days ... it’s like a standard permit.
Jeff Rayl: We’re beyond that period so it may not be an open permit.
Vice Chairman Nolton: Then it’s just sitting there and needs to be.
Everildo Ybaceta: Could you ... what is the name of the gentleman?
Jeff Rayl: I almost said Flores, but that doesn’t sound quite right. I can find out for you by the end of the day.
Everildo Ybaceta: Okay.

Chairman Lantz: We have three options: We can restrict his permit-pulling privileges. Does anybody feel that’s going to do more good than harm to anyone?
Terry Jerulle: There’s no probation that we can require?
Chairman Lantz: No.
Attorney Schneck: No, it’s not available.
Chairman Lantz: Is anybody in favor of restricting his permit-pulling privileges?
Terry Jerulle: That’s why I asked if there were any other open permits. I wanted to make sure he’s not doing anything and then, in a month from now, we’ll have another problem. But you say you only have one active permit open?
Jeff Rayl: I actually have two ... one is an extended permit because it’s beyond the 180-day period, so we extended it, went down and paid that fee, and extended it. We went back to work on that house two or three days ago. We’re in the middle of that project now – the tile has already been delivered. That job is in process and will probably be done within ten days from now.
Chairman Lantz: And you’re going to continue to do work in Collier County?
Jeff Rayl: Yes, I intend to, yes.
Richard Joslin: Just no tile roofs, right?
Jeff Rayl: Right. We’ll do what we have to do to not let this happen again.
Richard Joslin: It’s hurricane season ... so ...
Everildo Ybaceta: Earlier, we discussed another permit that you have ... a Mr. Quigley is that the one ...?
Jeff Rayl: That’s the one I was referring to – we’re in the process of ...
Everildo Ybaceta: “Flores?” I’m sorry ... okay – so, it’s not Mr. Flores, it’s Mr. Quigley that you’re talking about?
Jeff Rayl: Mr. Quigley is the one I’m talking about where we extended the permit. We’re finishing that and will be done in about ten days.
Chairman Lantz: So ...
Richard Joslin: I see no reason to penalize him any further.  
Chairman Lantz: Neither do I.  
Richard Joslin: He’s pretty much admitted he’s taking care of the problem because of the permit – he’s explained that. He’s taken care of the issues – all have been finalized. I’m not sure about the driveway or what that has to do with the permit ... that wasn’t part of it anyway.  
Chairman Lantz: I am all for no further action.  

Richard Joslin moved to approve taking no further action against Peter E. Wozniak, d/b/a Florida Roof Services, LLC, under Case Number 2019-02 and Case Number 2019-03.  

Vice Chairman Nolton: You realize that if you ever come back before this Board, this will not be the action that will be taken next time?  
Jeff Rayl: I have no doubt.  
Richard Joslin: No doubt.  
Jeff Rayl: I certainly hope to never come back before you – other than to meet you in a coffee shop and say hello.  

Vice Chairman Nolton offered a Second in support of the motion.  
Carried unanimously, 5 – 0.  

[Vice Chairman Nolton asked Mr. Rayl how he was drying-in the roof and he explained the process to him.]  

Chairman Lantz: Procedurally, do we have to do anything else now to close out the case?  
Attorney Schneck: No, that’s it. The Board doesn’t need to take any formal action to close it out. The next step is to formalize it into a written Order which will be signed at the next meeting.  

10. Public Hearing:  

A. Case #2019: Collier County Board of County Commissioners, Plaintiff, vs. Luis Patino, d/b/a “The Oasis Group of SWFL,” Respondent  

(Note: The individuals who testified in the following case under Item 10, “Public Hearing,” were first sworn in by the Attorney for the Board.)  

Luis Patino stated:  
• This is in regard to a debt.  
• At the time, we – my partner and I – had a company called Oasis Builders.  
• What happened: the client went to Canada for about a week or so. We had given her three templates to choose from and we had to skype – her husband was in town, so he was able to see the one she picked – the texture for the pool deck.
• At the time that we furnished the texture – the husband was happy but when the lady came back from Canada, she was upset.
• My guy [employee] was working on site and she made him try something different on another part of the pool deck and she liked it. But without my authorization, he continued to move forward because we had enough Portland cement on site, and he continued to lay it intact.
• I would have stopped him if I had the option to – I ended up firing him. And he finished the deal.
• When I found out, it was already too late – it’s not like you can go back and pressure ...

Richard Joslin: Sir, before we go any further, let’s open the case.
Assistant County Attorney Kevin Noell: We have someone from the County ... there is a Stipulation that we will present for the Board’s consideration. But if you want to open the case and read the procedures.

Chairman Lantz: The procedures to be followed during a Public Hearing are:

1. This Hearing will be conducted pursuant to the procedures set forth in Collier County Ordinance #90-105, as amended, and Florida Statutes Chapter 49.
2. The Hearing is quasi-judicial in nature and the Formal Rules of Evidence will not apply.
3. Fundamental fairness and due process shall be observed and shall govern the proceeding.
4. Irrelevant, immaterial, or inconclusive evidence shall be excluded but all other evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida.
5. Hearsay evidence may be used for the purpose of supplementing or explaining any evidence but shall not be sufficient by itself to support a Finding unless such hearsay would be admissible or objected to in civil actions in court.
6. The Rules of Procedure shall be effective to the same extent that they would now be hereafter recognized in civil actions.
7. The general purpose of the proceeding is for the County to set out its Opening Statement which details its charges against the Respondent.
8. A Respondent may or may not make his/her Opening Statement setting out in general terms the defenses to the charges.
9. The County then presents its Case in Chief, calling witnesses and presenting evidence.
10. The Respondent may cross-examine these witnesses.
11. After the County has closed its Case in Chief, the Respondent may present his/her defense, and may call witnesses; introduce evidence; cross-examine witnesses, impeach any witness regardless of which party called the witness to testify, and rebut any evidence presented against the Respondent.
12. After the Respondent has presented his/her case, the County may present a rebuttal to the Respondent’s presentation.
13. When the rebuttal has concluded, each party may present a Closing Statement.
14. The County will have a further opportunity to rebut the conclusions of the Respondent’s Closing Statement.
15. The Board will then close the Public Hearing and begin its deliberations.
16. Prior to beginning deliberations, the Attorney for the Board will give a Charge which is similar to a Charge to a Jury, setting out the parameters upon which the Board can base its decision.
17. During deliberations, the Board can ask for additional information and clarification from the parties.
18. The Board will then decide two different issues:
   a. Whether the Respondent is guilty of the offense as charged in the Administrative Complaint and a vote will be taken on the matter;
   b. If the Respondent has been found guilty, then the Board must decide upon the Sanctions to be imposed.
19. The Board’s Attorney will advise the Board concerning the Sanctions that may be imposed and the factors to be considered. The Board will discuss the Sanctions and take another vote.
20. After the two matters have been decided, the Chair (or in his/her absence, the Vice Chair) will read a summary of the Order to be issued by the Board. The summary will set for the basic guidelines of the Order but may not be exactly the same language as the Final Order. The Final Order will include the full details as required under State law.

Terry Jerulle moved to approve opening the Public Hearing in Case No. 2019-05, Luis G. Patino, qualifying The Oasis Group of SWFL, Inc., d/b/a Oasis Renovations & Pools. Richard Joslin offered a Second in support of the motion. Carried unanimously, 5 – 0.

Chairman Lantz stated the Public Hearing was opened.

Chairman Lantz: Representative from the County, would you like to introduce the Administrative Complaint in this case into evidence as County’s Exhibit “A”?

Assistant County Attorney Noell: Good morning. Kevin Noell on behalf of Collier County and I request to submit the information packet into evidence as County’s Exhibit “A.”

Richard Joslin moved to approve accepting and admitting the information packet for Case Number 2019-05 into evidence as County’s Exhibit “A.” Terry Jerulle offered a Second in support of the motion. Carried unanimously, 5 – 0.

Assistant County Attorney Noell: Mr. Chairman, I think we can have somewhat of a truncated hearing if I may approach?
Chairman Lantz: Yes, of course.

[Note: Assistant County Attorney Noell distributed a document to the members of the Board. His comments were made off-microphone and not recorded.]

The Public Hearing was paused while the Board Members reviewed the document.

Chairman Lantz: I have a question. “Recommendation A: Respondent’s license shall be placed on probationary status, effective as of this hearing date, for a period of at least one (1) year, and Recommendation B. Respondent shall pay restitution to the homeowner, Craig Panzera, in the amount of Ten Thousand Dollars ($10,000) prior to September 30, 2019.”

Then Paragraph 6 states, “Should Respondent make full payment to Craig Panzera prior to the September 30, 2019 deadline and provide sufficient proof thereof to the Contractors Licensing Department Supervisor, Respondent’s probationary status shall automatically be lifted and returned to normal status upon completion of the one (1) year period of probation.”

What’s the difference? Is he on two different probationary tracks?
Assistant County Attorney Noell: No, that means he would not need to come back before the Board. If he does not pay before the September 30, 2019 date, then we would bring him back before the Board for further consideration. So, the way it is stated, it would serve as an automatic lifting of the probationary period, provided he pays it by September 30th.

Chairman Lantz: So, he would be on probation starting today for one year regardless of whether he pays the fine or not?
Assistant County Attorney Noell: Yes.
Chairman Lantz: If he doesn’t pay the fine by September 30th, then he returns to face possibly steeper penalties or something to that effect?
Assistant County Attorney Noell: That would be the consideration for lifting the probation if he paid it by the one-year mark. If, for all intents and purposes, if he pays it by the September date, he would not need to come back before the Board at all at the one-year mark, provided there are no other violations or issues. If he doesn’t pay by the September 2019 date, then he will be back before the Board toward the end of the one-year period.

Terry Jerulle: Does he make any reimbursement of costs back to the County – any fees?
Everildo Ybaceta: No.
Chairman Lantz: I have a question ...
Terry Jerulle: And so, excuse me, Kyle ... but the way this was presented to us ... is this for our consideration to do this or to not do this ... or is this for our consideration to do this or something like this?
Assistant County Attorney Noell: Our recommendation is to do that as set forth in the recommendation portion. We agree that whether the Board does something entirely different or follows that exactly, he admitted to the two violations and we
withdrew the other two violations. So, the County’s recommendation is set forth within that but, certainly, the Board is free to do what the Board pleases.

Terry Jerulle: So, my Agenda shows there are four violations. But as of right now, per your testimony, there are only two violations?

Assistant County Attorney Noell: Correct. And I just had a – because we’re quite a bit into the Hearing process but I’m trying to truncate it – and I wanted to ask the Respondent: Sir, do you admit to Violation #1 and #4 as set forth in the Administrative Complaint?

Luis Patino: (Nodded his head in agreement.)

Assistant County Attorney Noell: Okay. And now the County will formally withdraw Violations #2 and #3 from the Administrative Complaint.

Chairman Lantz: I have a question ... I guess for our Attorney. How long are we allowed to place someone on probation? I think there’s a limit – we can only place someone on probation for a certain amount of time.

Attorney Schneck: I’m not sure if there is a limitation.

Vice Chairman Nolton: Let’s go back to the County. Are there fees that should be assessed ... I mean, this cost the County dollars.

Everildo Ybaceta: It did. We did have investigations and we did put in our time for it but upon the Stipulation, we removed those.

Vice Chairman Nolton: In lieu of him paying the ... ?

Everildo Ybaceta: Right.

Chairman Lantz: So, the County is taking a loss ...?

Vice Chairman Nolton: But the homeowner is being made whole.

Chairman Lantz: ... but in favor of the homeowner – hoping that the homeowner gets ...?

Everildo Ybaceta: Right.

Terry Jerulle: Which brings up a good point – has the homeowner seen this?

Everildo Ybaceta: Yes, sir.

Terry Jerulle: And the homeowner is good with it?

Everildo Ybaceta: He knows ... Mr. Patino has also been in contact with the homeowner and he has agreed to the date and the amount.

Terry Jerulle: Who has been in contact with the homeowner?

Everildo Ybaceta: Mr. Patino, and also Jack – Mr. Gumph – who was the officer at the time. He verified that everything was correct.

Terry Jerulle: So, what you’re saying is – the County has been in contact with the homeowner and the homeowner is good?

Everildo Ybaceta: Correct.

Richard Joslin: I am a pool contractor I am a bit upset after examining this packet and seeing there are six ... seven violations in your past. It’s a track record of how you’re doing, which isn’t good. I don’t understand that reasoning. I’m not in support of keeping a one-year probationary period without adding more to it.

Chairman Lantz: Let’s see what our Attorney says.

Attorney Schneck: Two years – it’s up to two years.

Richard Joslin directed his question to the Respondent: I’d like to hear an explanation from you. Why are you continually putting yourself in these situations? Knowing that you’ve already been ...?
Luis Patino: Like I said, there’s more to the picture than meets the eye. We had Oasis Builders also in the mix – a different corporation with a CRC license (Certified Residential Contractor’s License). We were also in litigation for a year and a half with the people who we sold a part of the company to, and ... we’ve had a stirred pot of a mess over the last couple of years. To be honest with you, I’m ... I ... I’ve hit them all straight on and ran with it, and I’m still here showing my face. For the most part, I’ve have a good reputation in the field. There aren’t too many of us who know what the heck they’re doing out there. I think that’s the problem out there.

Richard Joslin: How long have you been doing this?

Luis Patino: Fifteen years. I came from distribution – I was an Operations Manager for one of the biggest corporations that sold products to the pool industry – Superior, SUP PoolCorp. I lived in Wisconsin for a few years. I’ve cleaned houses and I pretty much did a lot of odd jobs for that company and acquired my license throughout the years. I came back to sunny Naples and started my own company but ran into a lot of obstacles. I started my business when I was 27. I’m self-made, in a sense, because I’ve done it on my own. And I’ve learned through trial and tribulation in the process and, you know, nobody walked me through or held my hand in other words. I am 37 and the father of two. My guys get a paycheck every week and I worry about them as much as I worry about myself and my family.

Richard Joslin: What kind of work are you doing now?

Luis Patino: Renovations.

Richard Joslin: Only renovations?

Luis Patino: Renovations now. Since the litigation was over in August and we won the right to keep our logo – they were trying to steal our logo – our reputation was being tarnished and we were granted the right to compete again on the maintenance and repair side, so we’re now picking up again on that. We extend from Marco Island all the way to Port Charlotte. We have an operation in Port Charlotte – Oasis Pools.

Richard Joslin: Have you had any issues in any other counties – as far as penalties or anything?

Luis Patino: No.

Richard Joslin: Just Collier?

Terry Jerulle: So, I looked at the report and I looked at the Settlement Agreement and I think it’s a little light. I think from what I’ve seen and read, it should have been harsher with more of a penalty. So, let me ask you – convince me that that’s not the case.

Luis Patino: It’s not the case, in spite of ...

Terry Jerulle: So, convince me.

Luis Patino: Well, Mr. Evy knows first-hand all the – everything that I went through. I lost about $150,000 and he’s aware of the litigation that took place ... the lawyers that I had to pay ... the money that I lost.

Terry Jerulle: On this case you lost $150,000?

Luis Patino: Not on this case.

Terry Jerulle: Not on this case – so it doesn’t matter.

Luis Patino: On this case ... what happened was the husband approved – I had three samples – and the husband approved ...
Terry Jerulle: Convince me that it’s not going to happen again. Convince me that I should accept this.

Luis Patino: It won’t happen again. I’m being aware and I’m trying to stay out of the public view now ... you know, this was a fluke and I never had a chance to even say, ‘hey – you know what, there’s going to be a disclosure on this. I, for one, know that you’re not supposed to lay a second layer – a cap of Portland – on top of a texture that had already been done.’ I was very angry – I had fire the guy who actually went for it without my authorization. I was a little upset that the lady, you know, forced him to go – well, not “forced” him but really pushed him and obviously, Greg Panzera is no longer with his lady for many different reasons, but he and I had a good relationship ... he didn’t want to take it to this point ... we had a good relationship. I’m coming forth on my way of paying him, you know, the money that he lost to have it re-done. But, you know, the thin cap layer did crack, and I called it. I said that isn’t going to work. I just wish that I had ample time to see it, get it approved with the disclaimer stating that we would not be responsible for this, and we wouldn’t be here ... but I didn’t get that chance.

Chairman Lantz: Do you consider that the $10,000 reimbursement is fine, or do you consider it paying back his restitution?

Luis Patino: I feel that it’s a combination of both because I don’t think that $10,000 would have been the cost of fixing what was there – I thought it was more along the line of maybe $7,000.

Chairman Lantz: Now, did you offer – or were you given the opportunity to ...?

Luis Patino: I was never given the opportunity to fix it or re-do it and so ...

Chairman Lantz: I’m sorry – you were given, or you were not ...?

Luis Patino: I was not.

Richard Joslin: Was the $17,000 ... $17,873.16 ... was that the total amount of money that you received for this job or did you get the whole contract?

Luis Patino: Okay, so, he had other issues going on with another contractor who was running the project. I was contracted to do the renovation of the pool and the deck work.

Richard Joslin: Okay, correct me – I’m confused ... I see that the total contract was $53,619.47.

Luis Patino: Right.

Richard Joslin: Was that your contract?

Luis Patino: Yes.

Richard Joslin: And of that $53,619.47, you collected $17,873.16 upfront as a deposit?

Luis Patino: Right.

Richard Joslin: And I’m not seeing a balance.

Luis Patino: Oasis Builders was in the mix on this, too. Our company – the separate company that I had with another partner – and we did the deck expansion with Oasis Builders. So that’s where a few little things got convoluted, but the portion that went to the pool renovation side was a different number ... amongst the companies, I guess.

Chairman Lantz: So, you’re separate from Oasis Builders now?

Luis Patino: Yes, we’re in the process of trying to ... getting the loose ends tied up and ... yeah, I think the corporation is, kind of, already being ... dissolved.
Chairman Lantz: And you guys are doing strictly pools ... not ...?
Luis Patino: I'm back to my ... just my own identity ... I had enough with the
litigation with other people who were tarnishing and breaking contracts with Oasis
Pools. I took control and ownership again, and I'm back to being the pool guy.
Chairman Lantz: So, it's Oasis Pools ...?
Luis Patino: It's Oasis Renovations and Pools now.
Terry Jerulle: And how many employees do you have now?
Luis Patino: I have four ...
Terry Jerulle: When you say only four ...
Luis Patino: ... or six ... it's six with the maintenance guys.
Terry Jerulle: What I was wanting to hear from you ... for me to accept this
agreement ... is: Count Number 1 is contracting to do work outside the scope of –
correct? You admitted that you were doing work outside the scope of your license.
Luis Patino: Correct.
Terry Jerulle: And you got there – I think I know how you got there from your
erlier testimony ... but that's not what I want to hear from you ... what I want to hear
from you is if you’ve met with your people ... if you’ve met with your employees and
they know what the scope of work is, so this won’t happen again. Count Number 4 is
proceeding to work without obtaining a permit. What I want to hear from you is that
you know what work requires a permit and what work doesn’t require a permit ... and
that won’t happen again.
Luis Patino: Correct. And to that respect, the owner had pulled a homeowner permit
– he had a homeowner permit ... he pulled his own permit. He had a contractor
working ... running his operation who he was apparently paying like $1,500.00 a
month – which I thought was ridiculous ... but, nonetheless, I was cited to do a
specific job. And then with ... as far as Count Number One which ... I don’t have it in
front of me but ...
Terry Jerulle: Count Number One is contracting to do work outside the scope of our
license.
Luis Patino: ... outside the scope. But where it got convoluted was with Oasis
Builders doing business with Oasis Pools, and that’s where it got convoluted. So,
Oasis Builders was capable of doing that work and furnishing that work. So then,
hence, the ladies in the office screwed up the contract – we had it all written wrong –
it should have been separated out by companies but that was an internal issue. They
are no longer with us ... the company has been dissolved, in a sense, internally. So, I
took my portion back and my people that I could ... who I could afford ... took the
losses, took the hits ... (sighs).
Richard Joslin: It seems like there were a lot of losses and a lot of hits coming out
of there, and a lot of money.
Luis Patino: A lot of money ... yeah.
Richard Joslin: Let me ask you another question. You said you worked at SUP as
... what did you do there?
Luis Patino: Operations Manager.
Richard Joslin: Operations Manager – so you knew the industry to a degree. How
much construction training did you have before that?
Luis Patino: Well, I worked – I remember – with Aquatic Architects back in the day.

Richard Joslin: Okay – I’ve been doing this for thirty-five years, so I know them all.

Luis Patino: So, I worked for quite a few companies prior and then I ended up working for Eddie’s – and then PoolCorp ... and I was with PoolCorp for about six years. I mean ... I’ve been in the business ... I guess a little longer if you want to add all that ...

Richard Joslin: Selling product doesn’t really qualify as knowing the construction industry, I know that. Anybody can sell ...

Luis Patino: Right ... right ... that was my way to get into ...

Richard Joslin: Was that part of the problem? Are you unfamiliar with the trade that you keep making these big mistakes that are costing you a lot of money?

Luis Patino: As far as what?

Richard Joslin: As far as knowing who will do what job and when and how it’s done?

Luis Patino: Not necessarily. I mean ... at the beginning of the business, I had a lot of learning curves and then as I progressed and took on having partners, that brought on a lot of headaches and made things look more troublesome to the extent that I had to just revert ...

Richard Joslin: How did you end up with a partner? Did you into it as Oasis Pools and then decide to go into general contracting with a partner to help you do more work or build houses or build pools with the houses?

Luis Patino: Of the accounts that I had ... I had about 150 accounts that we sold and that helped me push into a different venue and just focus on renovations and construction because I was getting very busy on the renovation side ... and then this individual brought the CRC and we decided it would be a good match. He was a little younger ... he went through a divorce, you know, ... then he went buck wild, I guess, being single. And in the six months of being in business, he had already taken five vacations and I was here was pushing the business and running a lot of things ... and it just didn’t make sense at that point ... and I said, ‘What’s going on?’ Anyway, it’s cost me a lot of money and a lot of time and, I mean, it’s been almost like a four-year setback in a sense but ... it is what it is.

Terry Jerulle: Mr. Chairman, are we going to ...?

Chairman Lantz: It’s up to the Board. Do we want to accept this Stipulated Agreement, or do we want to accept it with revisions or completely hear the case from the beginning? Personally, my opinion is, I feel they’ve probably gone back and forth a bunch, and everyone has gotten to where they are happy. I feel we should probably accept it but I’m only one of nine ... but one of five today, and so ...

Richard Joslin: I would accept it ...

Terry Jerulle asked Staff about status of the license.

Richard Joslin: I would accept it as far as ...

Everildo Ybaceta: Oasis Builders – also referred to in the packet – the Qualifier was Melvin Alfaro. He removed his license and the company is now inactive. That company, as the gentleman stated, I guess is being dissolved.

Richard Joslin: As I said, I would accept the Stipulation other than the $10,000 fine, as long as the homeowner is in agreement, and you said that he had?
Everildo Ybaceta: Yes.

Richard Joslin: I would like to see probationary period added ... to two years rather than one. Even after he pays the fine, that he would remain on probation for two years ... only because of his past and what I’ve seen of his track record ... maybe it was because of his involvement with Oasis Builders. But, being a pool contractor for as long as he has been, I think that he still has not learned enough about the business, so I want to monitor him.

Assistant County Attorney Noell: It I could just interject. I think procedurally – and I certainly would defer to Mr. Schneck for legal advice to give to the Board ... but I think if it’s the finding of a violation stage that he’s admitted to the two violations ... so, if that would be the next step, I guess, that yes, we have found that he violated these two Counts that are currently before the Board and then close out that side of it. Then the penalty phase, pursuant to our agreement, we have agreed that whatever the Board ultimately decides to do – the Board ultimately decides to do and that does not affect the admission of the two violations –

Richard Joslin: I’m sorry ...

Assistant County Attorney Noell: No, that was just for clarification.

Chairman Lantz: So, procedurally, does anyone want to make a motion about finding him guilty of Counts One and Four and not guilty on Counts Two and Three?

Assistant County Attorney Noell: And we have withdrawn ... yes, the County has withdrawn Counts Two and Three, so they are not before the Board.

Richard Joslin moved to approve finding the Respondent, Luis Patino, guilty of violations as alleged in Counts One and Four of the Administrative Complaint in Case #2019-05. Terry Jerulle offered a Second in support of the motion. Carried unanimously, 5 – 0.

Chairman Lantz: So now, we’ll work on the penalty phase.

Chairman Lantz directed his question to the Board’s Attorney: So, do you want to go over our options first before we begin to discuss?

Attorney Schneck: Sure, I can give you your options for local contractor. We’ll start with the probationary period – you’re aware of that – there’s also:

- revocation or suspension of the license,
- denial of the renewal of the license,
- paid restitution,
- payment of a fine not to exceed $10,000,
- a public reprimand issued by the Board,
- requiring re-examination for the license,
- denial of permit pulling privileges or restricting the permit pulling privileges with specific conditions, and
- reimbursement to the County of reasonable investigative costs incurred by the County for the prosecution of the case.

Terry Jerulle: When did you get your license?

Luis Patino: 2015
Richard Joslin: Now, understand ... and you can check with Staff on this one ... but as far as the license that you hold – you do know what you are allowed to do under that license – correct?
Luis Patino: Resurfacing, renovations, repairs ...
Richard Joslin: Right. And no permits are required. You’re aware of that – right?
Luis Patino: No permits are required?
Richard Joslin: No permits are required to do what you do, unless you are doing a commercial project. A permit is required for a commercial project. Now, there are certain things on a commercial project that you cannot do if it involves, basically, having to rebuild a pool. There are certain things that you are not allowed to do. To make a long story, short – there’s no way that the County or Staff is going to be able to monitor any permit privileges because permits are not required. So, it will be monitoring your work while on probation.
Luis Patino: Well, we pretty much do ... almost specialize in doing commercial and I do pull permits for.
Richard Joslin: You do?
Luis Patino: Yes.
Richard Joslin: Okay.
Mr. Patino stated he has been in contact with various individuals within the County and he often asks Mr. Ybaceta for advice.
Richard Joslin confirmed he would accept the Stipulated Agreement as long as the fine was $10,000 and the probationary period was extended to two years. He further stated if the Respondent did commercial work, he would like to have Staff monitor the project.

Richard Joslin moved to approve accepting the Stipulated Settlement Agreement presented to the Board provided that the probationary period is increased to two years and that any commercial work undertaken by the Respondent is to be monitored by the County at the discretion of Staff.
Robert Meister offered a Second in support of the motion.
Carried unanimously, 5 – 0.

There was a discussion concerning the procedures to be read into the record by the Chairman.

Assistant County Attorney Noell: I just wanted to be sure that you didn’t feel the need to read through the Stipulation and Order since it’s already been voted on, and it has been memorialized. I think we did that a couple of times, though, in a more formal but whatever you are going to read, Mr. Chairman, I would read that. I apologize.

Chairman Lantz stated:
- This cause came for a Public Hearing before the Contractors’ Licensing Board on July 17, 2019 for consideration of the Administrative Complaint filed against Luis G. Patino, qualifying The Oasis Group of SWFL, Inc., d/b/a Oasis Renovations & Pools, Respondent.
• Service of the complaint was made by certified mail, personal delivery, or publication in accordance with Collier County Ordinance #90-105, as amended.
• The Board having heard testimony under oath, received evidence, and heard arguments respective to all pertinent matters hereupon issues its Findings of Facts, Conclusions of Law, and Order of the Board as follows:

**Conclusions of Law, Findings of Fact, and Orders of the Board:**

• Luis G. Patino, The Oasis Group of SWFL, Inc., d/b/a Oasis Renovations & Pools, is the holder of record of a Collier County Certificate of Competency, License No. LCC20180002312.
• Mr. Patino is also registered and holds a State License No. RP2525S5416.
• The Collier County Board of County Commissioners is the Petitioner in this matter and Luis G. Patino is the Respondent.
• Mr. Patino was present at the July 17, 2018 Public Hearing and was not represented by counsel.
• All notices required by Collier County Ordinance #90-105, as amended, have been properly issued or personally delivered.
• The Respondent acted in a manner that is in violation of Collier County Ordinance and is the one who committed the act.
  - The allegation set forth in the Administrative Complaint as to Collier County Ordinance #2006-46, as amended, Section 4.3.2 and Section 4.3.3, states:
    **Count 1:** “Contracting to do any work outside the scope of his/her competency as listed on his/her competency card and as defined in this Ordinance or as restricted by the Contractors’ Licensing Board” and
    **Count 4:** “Proceeding on any job without obtaining applicable permits or inspections from the City Building and Zoning Division or the County Building Review and Permitting Department.”
  - The allegations were supported by the evidence presented at the Hearing.

**Conclusions of Law:**

• The allegations set forth in the Administrative Complaint as to Count One and Count Four are approved, adopted, and incorporated herein, to wit:
  o The Respondent violated Ordinance #2006-46, as amended, Section 4.1.2 in Count One and Section 4.1.18 in Count Four in the performance of his contracting business in Collier County by acting in violation of the Section set out in the Administrative Complaint with particularity.

**Orders of the Board:**

49
Based upon the foregoing Findings of Fact and Conclusions of Law, and pursuant to the authority granted in Florida Statutes, Chapter 489, Florida Statutes, and the Code of Laws and Ordinances of Collier County, Florida, by a vote of five (5) in favor and zero (0) opposed, a majority vote of the Board members present, the related Sanctions and following Order are hereby imposed upon the holder of Certificate of Competency #LCC20180002312:

- The Respondent, Luis G. Patino, is to make restitution to the homeowner, Craig Panzera, in the amount of Ten Thousand Dollars ($10,000) on or before September 30, 2019;
- The Respondent will be placed on probation for a period of two years commencing with the issuance of the Orders of the Board, and,
- If the Respondent engages in any commercial work, said jobs are to be reported to the Contractors Licensing Office and will be monitored at the discretion of the Contractors Licensing Office Supervisor and/or Staff.

Chairman Lantz: The Public Hearing is concluded.

NEXT MEETING DATE: WEDNESDAY, AUGUST 21, 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 11:58 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 9/18/2019, “as submitted” [X] - OR - “as amended” [___]