

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

May 17, 2017  
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," 3<sup>rd</sup> Floor, Collier County Government Complex, Naples, Florida, with the following Members present:

**Chairman:** Richard Joslin

**Members:** Elle Hunt  
Terry Jerulle  
Kyle Lantz  
Gary McNally  
Robert Meister  
Matthew Nolton  
Patrick White

**Excused:** Michael Boyd – Vice Chair

**ALSO PRESENT:**

Ian Jackson – Supervisor, Contractors' Licensing Office  
Kevin Noell, Esq. – Assistant County Attorney  
James F. Morey, Esq. – Attorney for the Contractors' Licensing Board  
Joseph Nourse – Licensing Compliance Officer

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

**I. ROLL CALL:**

**Chairman Richard Joslin** opened the meeting at 9:01 AM and read the procedures to be followed to appeal a decision of the Board.

Roll Call was taken; a quorum was established; **six (6) voting members** were present.

**II. AGENDA- ADDITIONS OR DELETIONS:**

*(None)*

**III. APPROVAL OF AGENDA:**

*Terry Jerulle moved to approve the Agenda as presented. Gary McNally offered a Second in support of the motion. Carried unanimously, 6 – 0.*

**IV. APPROVAL OF MINUTES – APRIL 17, 2017:**

*Gary McNally moved to approve the Minutes of the April 19, 2017 meeting as submitted. Terry Jerulle offered a Second in support of the motion.*

*Carried unanimously, 6 – 0.*

*(9:06 AM – Robert Meister arrived. Quorum was increased to seven [7] voting members.)*

**V. PUBLIC COMMENT:**

*(None)*

**VI. DISCUSSION:**

- Elle Hunt noted she will be leaving at 12:30 PM

**VII. REPORTS:**

*(None)*

**VIII. NEW BUSINESS:**

**A. Orders of the Board:**

*Gary McNally moved to approve authorizing the Chairman to sign the Orders of the Board. Kyle Lantz offered a Second in support of the motion.*

*Carried unanimously, 7 – 0.*

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

**B. Kevin B. Kaulbers – Application to Qualify a Second Entity**  
(d/b/a "Green Effex, LLC")  
(proposed Second Entity: "Latitude 26 Lawn & Garden Care, Inc.")

**Kevin Kaulbers:**

- He had applied to work at "Latitude 26" on a part-time basis on weekends but was informed he could not be hired because he was a licensed Contractor and the owner was not licensed.
- He stated he could not be employed and do what he's qualified to do unless Latitude 26 holds his qualifications.
- He was advised to apply to Qualify "Latitude 26" as a Second Entity.
- He is currently employed as the General Manager of "Green Effex" and is the Qualifier for that company.
- He holds an Irrigation Sprinkler Contractor's License.

It was noted "Latitude 26" is not currently licensed to perform any landscaping or irrigation work.

**Ian Jackson** confirmed that "Latitude 26" was not a qualified business.

**Kevin Kaulbers** explained the company can mow grass and perform limited ground maintenance such as installing mulch and fertilizer. He stated he is not currently employed by Latitude 26.

**Elle Hunt** questioned the Applicant:

**Q.** And your role at Latitude 26 will be ....?

**A.** I will be doing the irrigation installation and landscape work for them on the weekends.

**Q.** Any ownership in the company?

**A.** No, ma'am.

*(9:10 AM – Matthew Nolton arrived. Quorum was increased to **eight [8]** voting members.)*

**Terry Jerulle** questioned the Applicant:

**Q.** The question is then: How are you going to control your license in a company that you have no ownership in?

**A.** That's my current position with "Green Effex" as well.

**Q.** You have no ownership in "Green Effex?" How do you control your license in "Green Effex?"

**A.** Right now, I'm financially responsible for the company. I make the schedule, do the production – I run it like a General Manager should. And that's what I'm going to do for Latitude 26 in those two specific fields.

Patrick White questioned the Applicant:

*Q.* Are you going to do that on any days – are those types of activities going to take place on any other days ...?

*A.* It might ... because of rain or because of drought or it might depend on some other things but that's mainly what I'm going to be doing on Fridays and Saturdays. That's my schedule.

*Q.* Let me pose a hypothetical: On a Monday, all hell breaks loose on a landscaping project where you've either done irrigation or landscaping or both on the Friday or Saturday before and you're locked into being the General Manager at Green Effex on Mondays for ten hours ... how are you – in a sense – going to be in two places at the same time?

*A.* A lot of the reasoning behind this is, currently, he's not even able to take on any irrigation as far as using other subs ... but by him being able to have that qualification, he would be able to do that. On a lot of his accounts, there's other irrigation companies that were hired by the management companies to do that. The problem is ... there are not a lot of good qualified irrigation guys who are able go on a Monday or Tuesday when it needs to be done. He's kind of at their mercy – trying to get the management companies to call in the irrigation companies to try and get that done.

*Q.* As president of our Association, I can assure you I understand the problem.

*A.* If he's able to get other subs – to go and hire other subs – when an emergency comes up, there's already a lot of other irrigation guys that work on those accounts that he has but, right now, he can't make that call.

*Q.* Would you be the one to make those calls as their responsible person for those types of work?

*A.* I think as far as the maintenance of those accounts, the wet checks, and the ongoing maintenance ... between the two supervisors that he has and himself – I think that he's more than qualified to call those companies that already have contracts on that.

*Q.* The only reason he would be able to make those calls would be because of your licensing ...

*A.* Correct.

*Q.* ... assuming you get a Second Entity.

*A.* Correct.

*Q.* If you're not aware of it – if you're not in the field chain of command, do you still see yourself as financially responsible for what may happen if one of those subs screws up?

*A.* Absolutely.

*Q.* That's reassuring.

*A.* I ran all central Florida operations for Davey Tree and I qualified their whole operation in that area – it's the same kind of situation where I had other offices that were still my responsibility ... that's the thing you have to be able to do when you work with people. I've seen his work in the community for a long time ... I've seen his product ... he works on the place where I live.

**Terry Jerulle** questioned the Applicant:

- Q.** Can you convince me that you're not a license for hire? If you're qualifying one company and you do not have any ownership in it, and now you want to qualify another company in which you will have no ownership ... and I don't see documentation that you will be responsible for any of the procedures of either company – how are you going to convince me that you're not just a license for hire?
- A.** Right now, I handle all the outgoing checks every day for our company. I'll be doing the same thing for Latitude 26.
- Q.** Can you explain to me what you mean when you say you "handle"?
- A.** I get the cash flow summary every day and I get a production summary every day, and I make the decisions every day about the stock; I review every invoice and sign off on those. I'll be doing the same thing for Latitude 26. I would have the same title that I have currently with Green Effex. Since we only work four days a week (10-hour days), I need the extra income from working on Friday and Saturday.

**Chairman Joslin** questioned the Applicant:

- Q.** By your packet, it shows your way of being paid for this work is going to be from salary?
- A.** Yes, sir.
- Q.** And there will be no other benefits to you as far as any other income coming to you because you are the license holder? Is it because you have no other interest in the company?
- A.** Yes.
- Q.** If the company has problems, serious problems -- you are aware that you are responsible for that?
- A.** Absolutely. I've also looked at both company's financials ... he usually sits on about \$140,000 in his account every day. He can also sit on \$100,000 to \$200,000 – so both businesses are financially stable. Green Effex has been in business for a long time. I would prefer just to go in and work on Fridays and Saturdays but I'm putting this together because that's what is required for me to work.
- Q.** I know that this is what you're telling us ... that in order to work for this company, you will have to put up your license to do that.
- A.** Absolutely.
- Q.** Which, in a sense, is what Mr. Jerulle's question was – it's really a license for hire. In other words, you won't have a job unless you qualify the company ... is that the case?
- A.** I won't be doing what I enjoy doing ...
- Q.** No, that's not what I asked. I asked you: If you do not license this company, then you won't have a job?
- A.** Not on Fridays or Saturdays ... not at Latitude 26.
- Q.** This is not comfortable for me.

**Kyle Lantz** questioned the Applicant:

- Q.** At Latitude 26, you're going to be the Qualifier and doing the work on Fridays and Saturdays. Are you going to be out in the field doing the work or running the stuff from a dispatch office?

- A. Right now, the amount of work that he has really isn't anything that's big – most of their stuff is just mowing. So we're talking about maybe doing a wet check and maybe a small repair on a Friday, and maybe doing a small install at the same time on a Friday or Saturday. It's not like there's twenty irrigation projects going on to worry about.
- Q. During the rest of the week, are they going to have an irrigation crew ...?
- A. Currently, the way everything is set up, there are other companies that maintain irrigation on those accounts – that's not what I'm trying to do ...going to do all the wet checks and trying to take irrigation from those other people ... those things that will happen on a Friday and Saturday will be scheduled installations or an irrigation repair.
- Q. What you're saying is ... you will work on Friday and Saturday. But what about the other five days of the week? Are they not going to do any maintenance or irrigation?
- A. There are irrigation companies on a lot of the properties so they can make calls and get the current contractor that's out there working.
- Q. But they are not going to have other irrigation employees? You are the "irrigation guy" there?
- A. (Applicant nods affirmatively.)

**Terry Jerulle** questioned the Applicant:

- Q. Regarding this Second Entity, do you have a contract with them?
- A. No, not currently.
- Q. So there's nothing that you can provide to us to show us what the terms and conditions are going to be?
- A. We talked about \$375.00 a week for about 20 hours – ten on Friday and ten on Saturday. I figured we'd go through this process first and if I needed to provide that, then I would.
- Q. For my benefit – I'd like to see that you're not just a "license for hire" and that you do have financial culpability in the Second Entity.
- A. I've got – I made them put me on as a signer on his account which was done and I'll go on his payroll at \$375.00 per week. I'll be working on Fridays and Saturdays for him. I can get it in writing if that would help.
- Q. Personally, I'd like to see something because if you're just an hourly employee, it means you can be terminated at any time.
- A. Yeah.

**Patrick White:** He didn't say he was "hourly," he said he was "salaried." But he didn't relate what the compensation would be.

**Kevin Kaulbars:** It breaks down to twenty bucks ... roughly ... an hour.

**Chairman Joslin:** Are you saying the company you are with now is sitting on \$200,000 worth of funds in the bank?

**Kevin Kaulbars:** Well, you know, it fluctuates up and down. I think the last statement I pulled was like seventy grand ... and when I pulled this, it could have been before a payroll.

Kyle Lantz questioned the Applicant:

- Q.* Do you do any sales?
- A.* For Green Effex, I do. I didn't for a couple of years. I ended up letting a couple of supervisors go. So, yes, I'm doing a little bit more sales currently. But for Latitude 26, I would not be.
- Q.* So if someone were to call you for any type of irrigation or landscape work, every call you get would go to Green Effex and not to Latitude 26?
- A.* No, I don't even answer the calls that come into our current office. And he's got secretaries that answer their calls ... so, usually, if there's something I would have to bid for them for irrigation or something, it would probably be on Friday or Saturday. But during the week ...
- Q.* Tommy Jones isn't going to call you and say, "Hey ..."
- A.* No. Our clients don't call me unless I need to go and look at a project and I get it sent from our office to me. And that would be the same thing I would expect to happen there – if I need to look at a job for Jason, and we need to set it up for Friday, then I would go with him to look at it and let him know what needs to get done, and how to price it.
- Q.* And how long have you known the owners of Latitude 26? Is it a good relationship?
- A.* Since 2007 ... 2008. You know, I could have done this a long time ago but ...
- Q.* Friends of yours or business or ...?
- A.* Just business. I know a lot of the Contractors in this town and in our industry and a lot of them I've hired ... a lot of them have started their own businesses. I've been doing this since 1994.
- Q.* So you've known them for a while and you know what you're doing?
- A.* Yeah. I know he's stable – I've seen his company ... I know they are 'legit.' They run really good service and I wouldn't be any part of that he wasn't somebody that I would recommend.

Patrick White questioned the Applicant:

- Q.* And did you have an opportunity to view the document that Jason Armstead provided on Latitude 26's letterhead dated April 26<sup>th</sup> – it's to GMD Operations & Regulatory Management? It's essentially an acknowledgement that you are currently qualifying Green Effex, LLC and requesting for landscaping and sprinkler to qualify Latitude 26 Lawn & Garden Care, Inc.
- A.* Yes, I saw that.
- Q.* Did you see the signature and the title below Mr. Armstead's name?
- A.* Jennifer Fewless?
- Q.* No – the title right below his name?
- A.* Jason K. Armstead?
- Q.* Yes.
- A.* Yes, sir.
- Q.* It says, "Managing Member." And yet the type of entity is – at least as far as I can tell – a corporation. Do you see any issue with that?

- A. No. I'm fine with that. That's how Green Effex is set up, too. There's one managing member.
- Q. Well, the difference with Green Effex is that – as I understand it – it's an LLC, not a corporation. The difference being that corporate entities don't have "managing members." They have a president, a vice-president, secretary ... whatever ... traditional corporate structure. LLCs on the other hand – like Green Effex – have a managing member which, in effect, would be an LLC or it could be a corporation or it could be an individual. What I guess I'm driving at here is the level of understanding and detail about the operation of Latitude 26. And the fact that Mr. Armstead apparently doesn't know that he's not a "managing member." He's not here so ...
- A. Yes, he's right there.

**Patrick White** directly his question to Jason Armstead.

- Q. Oh, I'm sorry. Perhaps if you'd clarify what your title is with respect to the company at some point.

**Chairman Joslin:** If I could ask, what does Staff say? You've looked into this thoroughly.

**Ian Jackson:** The section of our Ordinance pertaining to qualifying a second company is very brief. It's one line. No one can qualify two businesses of the same type without appearing before the Board. It leaves a lot of room for the Board's decision. Considering the amount of time that Mr. Kaulbars has been in this trade – 23 years – and the fact that – given the economy – he's trying to do it legally and do it right, personally, I am inclined to make a recommendation for approval.

**Chairman Joslin:** In the past, we've always looked at Second Entities very carefully because of the fact of one person qualifying two companies in the same type of business. And then the red flags come up when someone says that he has no ownership in the business – he is not a corporate partner – not a president or vice president ... just a figurehead in company and is being paid a salary. As Mr. Jerulle said, it leads us back to the point of saying – are you just being paid for your license? At any given time, that entity or company could just we don't need you anymore and you're gone. And if there are any outstanding things that have happened in the past, it could come back on you still or the Licensing Board could come back on you – and you'd be in serious problems.

**Patrick White:** And I'm okay with an individual accepting knowingly those risks and responsibilities – my concerns go more to the operational side ... how can you be in two places at the same time? From a management and control perspective ... when one of your pillars of responsibility has you here for this part of the week and the other one is supposedly there, but this is the real world – and stuff don't wait to break until Friday or Saturday. Plants don't wait to die on a schedule that humans would prefer. So, my comfort level has to be addressed in understanding how you are going to do those things. And I believe it would be more helpful for other Board members if, potentially, you were an officer of this corporate entity. So that you're not only in the chain of command relative to signing off on checks, potentially. Being a signatory doesn't mean that internal to the operation, you're the one who is required to co-sign a check. You may



have a right of approval or responsibility to approve invoices, payroll, whatever, but having that documented somehow is, I think, the concern that we have. At least in the past, it's traditionally been one that's required in some instances – is the review of a contract. And I think that the odds are that we tend to approve Second Entities more often than not when there is a demonstrated role in the management or ownership of the Second Entity.

**Terry Jerulle:** I agree completely.

**Chairman Joslin:** On the Fridays and Saturdays – just for my own sake – let's say you go and do two jobs on Friday and Saturday ... irrigation and install two new systems ... that part of it ... how are you paid for that? Are there any other bonuses – besides your salary – that you will get or this money is whatever the contract amount is ... and it goes right to the irrigation company?

**Kevin Kaulbars:** Yes.

**Chairman Joslin:** And you're just paid your salary to go and do this?

**Kevin Kaulbars:** At \$375, it doesn't sound like a lot of money – but there's not a lot of initial work to really get things done, you know. And that's kind of what I do with Green Effex, I manage how much we're selling and how much we're producing and understand what I'm left with. It's not a ... I'm not talking about a huge amount of money on Fridays and Saturdays that's going to be billed out and that's why I'm saying ... let's start with a comfortable salary that I know I can work with and I know the company can afford to pay. And that's what I've done since 1994 – I've been in business and I've sold business and I've worked for one of the largest companies in America. I've run \$6 Million in three months with over 600 guys in central Florida after the hurricanes. The systems have to be put together correctly. Green Effex runs paperless. They spent a lot of money last year ... all the crews are on I-Pads ... everything is streamlined and that business runs extremely well. If I've got to take five minutes on a Monday to talk to Jason on the phone or if I need to meet him somewhere during the week, our business isn't handcuffed by whether I'm there sixty hours a week or I'm there two hours because we've built this solid foundation so that the company can run how it needs to run electronically. So that constant twelve hours a day doesn't physically mean I have to be standing right there with Green Effex because we run it really tight.

**Kyle Lantz** questioned the Applicant.

**Q.** Let's just say on Tuesday, someone is mowing and they run over a sprinkler head and damage it. As it works now, the homeowner or the Condo Association calls a sprinkler company out and they fix it and they maybe charge the company to back charge them ... right? With you qualifying them, they'd be able to fix it themselves, right?

**A.** Right. I think, too, one of the issues that we're having with this drought is even if you've got an irrigation guy that holds a contract for that community, he can't even call somebody additionally to get out there to make those repairs. And then what starts to happen is those accounts that he just manages and mainly mows, he's handcuffed by the way that his properties look – and he's not able to fix one head or

make a call to me, it puts those properties in a bad situation with what's going on right now.

**Q.** How many employees does Latitude 26 have?

**A.** He's got 31 crew guys, he's got two supervisors, and he's got two secretaries.

**Q.** And of those 31 crew guys, how many of them would you say are qualified to do irrigation or ...?

**A.** Maybe two. But he has two supervisors and they've been in the industry for over twenty years each, so ...

**Q.** And they could do a repair and if they had any questions, they could call you on the phone on Monday – Tuesday – Wednesday – Thursday.

**A.** Absolutely.

**Q.** And you would oversee.

**A.** Maybe not so much a pump or if a valve goes down or something like that, but what's happening out there in the industry is that there's not enough qualified irrigation companies to meet the demand of what we're seeing right now with the lack of rain and lack of water. Our company is buried. And when you can't make a call to get a different company out there to do that ... and you're able to do a couple of heads that could save the lawn on the property and it may be worth it -- if it's a \$250,000 contract and because the lawn is starting to look bad over a head -- you may end up losing that contract over one sprinkle head.

**Patrick White:** That's exactly the circumstance that we had with our current provider and our GM had to find a back-up.

**Kevin Kaulbars:** Irrigation guys are hard to find right now. And when you can't even call out to try and get some of those guys who currently have the contract, it's been difficult.

**Kyle Lantz:** Well, personally, I think he's done his research. I think he is in control enough of both companies in the industry alone that I think he ... me, personally, I don't have any problem with him.

**Terry Jerulle:** I don't think there's a question of his ability.

**Kyle Lantz:** His management ability is what I'm talking about.

**Terry Jerulle:** I don't think there's a question there. I think the question is his role ... documenting his role in the other entity and having him be an officer in the other entity.

**Chairman Joslin:** I would much rather if you came here with something showing that you had an interest in that company. Not only a check writing position but an actual interest in the company to protect yourself, your license, and the people of Collier County. I would feel more comfortable, too.

**Patrick White:** For me, it is perhaps less the issue of an ownership issue or the number of shares in the corporation and more about management and control by being one of the decision-making officers. And I don't know whether that's a conversation you can have with this gentleman, or not, about how that could be structured because, from my perspective, I'm comfortable with what you're saying and what the size of what the respective businesses are as of today -- but based on what I perceive you to be in these two companies to have the opportunity to do --

there's growth potential there. No pun intended. And so – what happens when it's more than just Friday and Saturday? And so I would like there to be some way of understanding between Green Effex and Latitude 26 – what happens if things really get better? And you being an officer, to me, and a required co-signer, not just a signatory to accounts – mandated by contract – is something that to me would give the type of responsibility and authority that's commensurate with the risk that you're taking from a financial perspective.

**Kevin Kaulbars:** I respect that. I think that, by me qualifying both entities, makes it very clear to both businesses how important I am to those companies because I hold those licenses. As far as full ownership or partial ownership, if that's something that I decided I didn't want – and I've owned several businesses – and you know what I'm saying?

**Patrick White:** Absolutely. And that's why I started my last set of comments with the idea that it was more about management control through structure and, if you will, the documentation by way of a contract than it is about an ownership interest. I mean, you bare the same responsibility if you're a 49% owner because of qualifying because of your licensure than if you have a 0% stake.

**Kevin Kaulbars:** I understand that but I also believe that two successfully operational businesses understand that financial –

**Patrick White:** Yeah. You know, God forbid, you get yourself an entity for both licenses and the very next day somebody is on his way to work and he doesn't get there. Done – life over. Those are the real things that do happen. And so preparing for those by having things documented beforehand is really the way to manage that risk.

**Kevin Kaulbars:** I will take your suggestions as far as putting some sort of a better agreement together with Latitude 26 as far as the ownership goes. I think that's something that I would have to make a decision on and, you know, seeing that I believe ...

**Terry Jerulle:** Kevin, just to be clear ... he's not asking you to be an owner. If you're a corporate officer, you do not have to be an owner. I don't know if you are aware of that or understood what he's saying. He's just saying that he would like some documentation that you would have control and one of those is being an officer of the company – not being an owner.

**Elle Hunt:** Contractual control.

**Patrick White:** Right.

**Elle Hunt:** You are asking us to give you – or to allow you that license with just a level of influence. You have no ownership and no contractual control. That's a huge risk to us and to Collier County's consumers. That is our biggest issue here.

**Kyle Lantz:** Do you have any contractual control with Green Effex?

**Kevin Kaulbars:** What do you mean as far as contractual ...?

**Kyle Lantz:** Do you have a contract – are you an officer?

**Kevin Kaulbars:** I have full control of the business if I'm there every day and the same would be expected of Latitude 26. My prior years of experience have shown that. Even when I worked for Davey Tree – I didn't have an officer sign off when I was managing that kind of money in central Florida. It's a duty I believe between a license holder and a business owner to take responsibility when you join those two

things together – no matter if there's a piece of paper that says that this is the way that things can go – a lot of times, those things don't go that way. So you've got to have some trust with the people that you're working with – I wouldn't be going into business with him and work with him if I felt like there was ever going to be an issue. But you don't know that. Guys go into do things with their friends all the time and they start a business and the next thing you know – everybody is suing everybody. I've been through it all. And that's why if I went and said, "hey, make me an officer in the business," it wouldn't be a problem. If I went to Green Effex and said make me an officer in the business, it wouldn't be a problem. But when I have full control of writing any check or making any decision for that business – for Green Effex – it's the same expectation that I'm going to have with Latitude 26. And a piece of paper making me an officer – I don't think to me is really going to do anything other than ... if it doesn't work, it's not going to work anyways. People are going to see people whether there's a piece of paper or there's not. And my history has always been to take care of responsibilities on my end and I've proved that working in this County for as long as I have.

**Kyle Lantz:** And how long have you been with Green Effex?

**Kevin Kaulbars:** Since it started in 2008.

**Kyle Lantz:** And have there been any issues?

**Kevin Kaulbars:** Nothing. We've moved several times – I think that we're a benefit to this community ...

**Patrick White:** Well, simply, from my perspective, any corporate entity and business that chooses to and has the capital and the foresight to make themselves more efficient – technology wise – it just seems to me that it's the best way to provide customer service – to be the most efficient business operation. I'm not saying that's going to be a requirement for licensure in the future but it indicates to me that there's a kind of forethought and planning. And, as I said before, things growing and being bigger and being able to manage it.

**Kevin Kaulbars:** Yeah, and I think far as that goes, you know, we looked for three years to upgrade our software – trying to get away from paper. We didn't even discuss any of this this year. What we've tried to do was to make it better for our size ... for our company. We're happy where we're at and we do a great amount of revenue every year and we show a profit. It actually costs us a lot of money last year to go into that decision to ... and I actually took a big pay cut by doing that – that's a decision that I made -- it's going to cost us "x" amount of dollars and am I willing to give up pay to make this easier and more effective for Green Effex? And I did. I gave up quite a bit of money last year. So – if I wanted to get bigger or if I wanted to take over Naples, I would have done it a long time ago. Right now, I'm happy where I'm at ...

**Patrick White:** I understand.

**Kevin Kaulbars:** ... you know.

**Chairman Joslin** asked the members if there was any other discussion and opened the floor for a motion.

*Kyle Lantz moved to approve Kevin Kaulbars application to obtain a Second Entity. Patrick White offered a qualified Second.*

**Patrick White:** Assuming for the sake of discussion that you're making the motion with respect to both the Landscape Restricted Contractor's License and the Irrigation Sprinkler Contractor's License?

**Kyle Lantz:** Correct.

**Chairman Joslin** asked if there was any discussion. There was none.

*Chairman Joslin called for a vote on the motion.*

*The vote was tied, 4 – "Yes"/4 – "No." Terry Jerulle, Elle Hunt, Matthew Nolton, and Chairman Joslin were opposed.*

*Chairman Joslin stated the motion carried for the Applicant.*

**Chairman Joslin** explained that if a motion is tied, it is considered to be "carried" or approved.

**Attorney James Morey**, attorney for the Board: If that has been the Board's policy – I'll be honest ... it's the first time that this has occurred in my five years with this Board.

**Chairman Joslin:** It's been that way for the past twenty years that I've been on this Board. If the motion is a tie, the motion carries in favor of the Applicant or Respondent.

**Attorney Morey:** I would defer to that experience.

**Terry Jerulle:** Mr. Morey, can you check to see if there's any documentation as far as rules.

**Elle Hunt:** I would like that, yes.

**Attorney Morey:** I am can check on that – I'm not sure that I will have everything at our disposal.

**Terry Jerulle:** Because I assume the opposite, but I don't want to assume it without some documentation.

**Elle Hunt:** Is there – I mean, I know Kevin just walked out, but if we find that we just erred here, is there any remediation that we would be able to take due to a ...

**Ian Jackson:** I can reschedule a hearing.

**Attorney Morey:** If we discovered that this was an issue, we would have to reschedule.

**Elle Hunt** (directed her question to Attorney Morey): Can we have you look into that and then discuss findings with Ian so we can rectify this as soon as possible, please?

**Attorney Morey:** Absolutely.

**Elle Hunt:** Thank you.

**Attorney Morey:** After this meeting, I will work on that and get to the bottom of it right away.

**Chairman Joslin:** I think – in the past twenty years that I've been on the Board – I think this only happened maybe twice. I'm pretty much sure that's the way it went. But I could be wrong ... so let's get to the bottom and make sure we are correct.

**Attorney Morey:** Will do.

**Patrick White:** There's always a line of reasoning ... in theory, if you will, that says if you do not have a majority of the Board in favor of the motion ...

**Elle Hunt:** Right.

**Patrick White:** ... that the motion, therefore, fails.

**Elle Hunt:** Exactly.

**Chairman Joslin:** When we do the Citations, if the motion is a tie – doesn't the motion carry in favor of the Respondent?

**Patrick White:** Well, it depends upon – of course – the form of the motion. If the form of the motion was to reduce a fine, for example, which is an option – well – not to reduce it, excuse me, but to enhance the fine or to eliminate it completely, then it seems to me that it wouldn't carry because you didn't have a majority in favor. We're in a sense dead-locked and the application or, in that case, the request wasn't approved.

**Elle Hunt:** Right.

**Assistant County Attorney Kevin Noell:** I think – if I can join in as well – I think under Roberts' Rules of Order, I think a motion has to be, in this situation, approved by the majority.

**Elle Hunt:** Right.

**Assistant County Attorney Noell:** And if it's not a majority and it's a tie, I think the motion is lost.

**Elle Hunt:** Yes, so – let's have this resolved.

**Attorney Morey:** That's likely not in our Code. I think you're right – I think it's more akin to Roberts' Rules.

**Elle Hunt:** But we've adopted Roberts' Rules here – so if that is the truth, then we need to conclude that as soon as possible and get back to the Applicant here because it changes the outcome – it changes his follow-up at this point.

**Attorney Morey:** Right. It changes his follow-up. And I would respectfully then suggest that you have him come back in because – just because this particular motion may not have carried with a majority of the Board, it doesn't mean that the Board would not have gone down another path.

**Patrick White:** I could easily see what that path would be to correct and gain one more vote with a condition for approval.

**Assistant County Attorney Noell:** Well, I think one of the issues that – in my mind now – is raised is if there is an effective Order in place at this point granting a motion that, under Roberts' Rules of Order, I believe should not be granted and I almost think there needs to be either a motion to rescind or to suspend it and to come before the Board at the next hearing, timely noticed to the Applicant.

**Patrick White:** I think in the interest of fairness given it's – in a sense – our responsibility for how things have proceeded thus far, that *I would make a motion to suspend whatever lawful approval may have been granted by the tie-vote-motion until such time as we have a final determination and, if necessary, reschedule for next month.*

**Elle Hunt:** *Is that a motion?*

**Patrick White:** *It is a motion.*

**Elle Hunt:** *I second it.*

**Chairman Joslin:** There is a motion and a second.

Discussion:

**Assistant County Attorney Noell:** May I just interject on the motion – my concern is that it would then give either Mr. Morey, through research, or the County Attorney's

Office by advising Staff, some sort of authority on it if it is currently suspended ... and that would give us some sort of authority which may be able to be delegated. I just didn't want to give the appearance of authority on either Staff or Mr. Morey as being kind of the decision maker on the validity of the Board's action.

**Elle Hunt:** Agreed.

**Patrick White:** Absolutely agreed and I think – what I infer from what you've said – is that if the conclusion is, from a legal perspective, that the motion would stand ... then the license would go forward. On the other hand, if the conclusion were simply that the motion failed, then the license would be – based on this motion *not* being made and to be voted on – suspended until such time as the Board had an opportunity to further consider licensure. I understand that there's a sticky legal issue there in the sense that we're pretending to grant a license that we arguably didn't have the authority to grant but, by it being suspended, it has no legal effect. And so, to me, that's the safest path to cover both outcomes.

**Kyle Lantz:** I have a question. Can you say that in English, please? I have no idea what you're asking us to ...

**Patrick White:** Well, the form of the motion is say ...

**Elle Hunt:** Let's hold off and see if that is a legally-binding decision. If it is, we're going to let it stand. If it isn't, he's going to come back and talk to us again and, hopefully, convince either a ninth member or one of the four who voted against him in favor of his preferred outcome.

**Kyle Lantz:** So when he shows up to Ian's office, now or tomorrow, looking for his license – somebody has to be the bearer of bad news.

**Elle Hunt:** That's Ian.

**Patrick White:** What he's going to be told is that, at this point, the license is suspended until a determination is made.

**Chairman Joslin:** That the Second Entity has not be granted ... even though ...

**Patrick White:** But, by your own words, you believed that it had been. So, we have to deal with that.

**Chairman Joslin:** Right.

**Patrick White:** And the only way to deal with it fairly ...

**Elle Hunt:** Is by suspending it for now.

**Patrick White:** ... until a determination is made.

**Elle Hunt:** That it was legally binding.

**Patrick White:** That we had the authority ... that the motion carried or we didn't.

**Assistant County Attorney Noell:** And just for clarity of the Order ... would the determination be made by the Contractors' Licensing Board's attorney?

**Patrick White:** Yes, but I believe there has to be concurrence from the County Attorney's Office.

**Elle Hunt:** Correct ... yes.

**Kyle Lantz:** Well, just to play Devil's Advocate here – because that's what I do – let's just say I were to call the Licensing Board and say, "hey, I want to know – I want to check the license on Latitude 26 because I'm thinking of hiring them to do my lawn and do they have any issues?" Now Ian is going to say, "Their license was suspended"?

**Patrick White:** Correct. And I would characterize it – if I were Ian answering the phone – that it is suspended pending a legal analysis.

**Kyle Lantz:** No, no, no. But I'm saying – say they get their license and then, in a year, somebody calls and says, “hey – I just want to check” and then he says, “yes their license is good right now but they were suspended for a little while.”

**Patrick White:** I don't know that they ever go back ...

**Elle Hunt:** ... it doesn't look like on line ...

**Kyle Lantz:** Well I know for mine -- my State license, I can look up and it will say any disciplinary or anything and it has it all listed ...

**Elle Hunt:** Yes, it does.

**Patrick White:** This will be determined today.

**Terry Jerulle:** Let's assume Ian is going to process his [Kevin Kaulbars] license tomorrow. Correct?

**Patrick White:** This will be determined today ... one way or the other.

**Assistant County Attorney Noell:** And the other issue is that it would not affect the suspension of an issued license – it would be a suspension of the Order ...

**Elle Hunt:** Right.

**Assistant County Attorney Noell:** ... the license just would not be issued yet until the determination is made today.

**Patrick White:** That was the intent of the motion. Does the second maker agree?

**Elle Hunt:** Yes, I agree.

**Terry Jerulle:** So if you could reiterate the motion and your intent so we can vote upon it.

**Patrick White:** The intent is to cover both outcomes of the determination of the effect of the tie-vote motion. If the determination is that the motion was passed from a legal perspective, the license suspension ends and it is granted. On the other hand, if the determination is that the motion failed – procedurally – then he is required to come back and the license is continued in suspension and he has to appear before the Board for further consideration. I'll tell you now that I won't be here next month.

**Assistant County Attorney Noell:** Would the Board entertain tabling this for a moment and I can reach out to ...

**Patrick White:** Absolutely.

*Patrick White withdrew his previous motion and moved to approve tabling the issue for further consideration. Elle Hunt offered a second in support of the motion. Carried unanimously, 8 – 0.*

**C. Jeffrey Darman – Application to Qualify a Second Entity**

**(d/b/a “Terance Beard, Inc.”)**

**(proposed Second Entity: “Lombardo Irrigation, LLC”)**

**Chairman Joslin** noted Mr. Darman was also applying to qualify a Second Entity. He stated Mr. Darman would be asked the same basic questions as the previous Applicant. He asked Mr. Darman to state his reasons for wanting to qualify a Second Entity.



Jeffrey Darman provided the following background information:

- Terance Beard, Inc. is the current entity
- He is the Qualifier for and an officer in the corporation
- Has been licensed as an Irrigation Contractor in Collier County since the late 90s
- Sold his business to Terance Beard in 2001
- There was a contractual agreement for three years regarding compensation for qualifying the business
- The business has become successful and employs eight people
- Terance Beard – “The Sprinkler Man” – is an irrigation company which works west of 41 from Pelican Landing down to Port Royale
- He is a direct employee of Terance Beard, Inc.
- Lombardo Landscaping is primarily a hardscape water feature and outdoor kitchen contractor
- The company is responsible to repair any irrigation system that it breaks
- Lombardo Landscaping wants to be licensed in Collier County to in-house and own irrigation demolition and re-build business
- Lombardo Irrigation is an LLC was formed because he did not have any interest in owning part of Lombardo Landscaping
- He is a managing owner of the LLC with a 10% interest in the business

**Patrick White** questioned the Applicant:

**Q.** In the LLC's structure, are you a managing member?

**A.** Managing partner. Matthew Lombardo and I are both listed as equal Managing Partners in the Articles of Incorporation. In an LLC, I believe the title is Managing Partner.

**Patrick White** stated the Agenda listed the company and implied it was the Second Entity.

**Mr. Darman** confirmed the Second Entity was Lombardo Irrigation, LLC.

Patrick White clarified the difference between an LLC and a corporation: LLCs have managing members while corporations have officers (president, vice-president, secretary and treasurer).

**Q.** What are your roles and titles regarding Lombard Irrigation, LLC?

**A.** Managing Partner.

**Q.** Okay. Do you have an operating agreement that you are part of?

**A.** Yes.

**Q.** It designates you as a “Managing Partner”?

**A.** Yes. I am a 10% owner with a stake in Lombardo Irrigation, LLC. I am not an expert in Business Law.

**Q.** I am not trying to make you one, either. I'm just trying to find out ...

**A.** The Articles of Incorporation in your packet list me as a Managing Partner and Matthew Lombardo as the same thing.

**Elle Hunt** noted the Merit Credit Report cited the only principals as Mr. Lombardo and

Mr. Cappucci. She stated she didn't see Mr. Darman's name listed while Mr. Lombardo was listed as Manager and Mr. Cappucci as Vice President of Operations.

**Jeffrey Darman:** There are two: Lombardo is Lombardo Landscaping and I am not part of that entity.

**Elle Hunt:** It states the entity's name is Lombardo Irrigation, LLC.

**Jeffrey Darman:** Okay. I don't know who the other gentleman you mentioned is besides Matthew Lombardo, and Mr. Lombardo is here. Perhaps he can inform us.

**Chairman Joslin:** On the questionnaire for qualifying the Second Entity, Question #11 asks "What percentage of ownership do you have in the present business you qualify and what percentage of ownership will you have in the business you are attempting to qualify." It lists ten percent for Terance Beard and ten percent for Lombardo Irrigation.

**Patrick White:** And in Question #13, it lists your title, along with Mr. Lombardo, as "Manager."

**Jeffrey Darman:** Right.

**Patrick White:** And that's an appropriate designation for an LLC.

**Jeffrey Darman:** Yes, I understand that.

**Patrick White:** So is your testimony the same as the application?

**Jeffrey Darman:** I am a Manager in the LLC – Lombardo Irrigation, LLC. Correct.

**Patrick White:** You can dispense with the key word, "Partner."

**Jeffrey Darman:** Okay, yes.

**Patrick White:** Thank you.

**Elle Hunt:** I'm just concerned, though, with the independent third party – Merit Credit – has this individual who is unknown to you and that you are also not listed on this report.

**Jeffrey Darman:** I think that the individual is the CPA who manages the books – he is the registered agent for the LLC.

**Patrick White:** If you look at the Experian Credit Report – it has him correctly designated by title with Lombardo and Mr. Darman as Managers.

**Elle Hunt:** But the State also says the same thing that Merit Credit has, and he's not listed on the State. There is some inconsistent collaboration on some of this.

**Jeffrey Darman:** I apologize for the inconsistencies. I know that the SunBiz.org Articles of – I don't know if it is called "Incorporation" because it is not ...

**Patrick White:** "Organization"

**Jeffrey Darman:** ... lists me as the Manager. That is the document that should be included in the application.

**Kyle Lantz:** Yes. Article V has "Manager – Matthew Lombardo" and "Manager – Jeffrey Darman." So somewhere in the State, I think, it got a little messed up.

**Jeffrey Darman:** I did not have access to the credit reports so I wasn't able to see any other maybe potentially erroneous information.

**Patrick White:** I would encourage your Registered Agent or someone else to contact the Division of Corporations to have the public records corrected.

**Jeffrey Darman:** Okay.

**Patrick White:** If Mr. Brian Cappucci has that title, that's fine. But what seems to me to be is an error of omission from the State's Division of Corporation not listing you in the State's records as a Manager. Understood?

**Jeffrey Darman:** I do.

**Patrick White:** Okay.

**Elle Hunt:** Do you by chance have anything with you showing us this – because as we just pointed out – two entities are showing misinformation?

**Jeffrey Darman:** I don't.

**Elle Hunt:** Okay.

**Patrick White:** It's been my experience that LLC are hesitant to share their operating agreements so I go back to the Articles of Organization that has the public record and to me those trump the record that you see online.

**Patrick White:** The address 7200 Bucks Lanes?

**Jeffrey Darman:** That's the address for Lombardo – that's the physical address.

**Elle Hunt:** So one out of three documents is correct? You probably need to fix the other two.

**Jeffrey Darman:** Yes.

**Patrick White:** You will not be able to fix Merit but Merit will fix itself once the State's records ...

**Elle Hunt:** The State's records are correct. Yes.

**Chairman Joslin:** I have looked at his credit app and it is pretty much impeccable. You pay your bills on time, all the time.

**Jeffrey Darman:** Terance Beard, Incorporated is a really top-notch organization. He's doing a great service to the residents of Collier County. We are – we're very proud of that.

**Kyle Lantz** questioned the Applicant:

**Q.** What is your role in both companies? I know you are the Qualifier but what do you actually do for the company you currently qualify and what do you intend to do for the proposed company?

**A.** For Terance Beard, Inc., the current entity, I am a day-to-day salaried employee. I haven't always been but I've always had direct supervision of this entity. Terry has a really good staff. We know as license holders, regardless of the contract in trade – we have a staff of people who go out and represent us and our license. Terrance has guys who have been learning from me – I've mentored his people including Terry who is a heck of an experienced irrigation contractor – it's been sixteen years at this point for this relationship – it has been ongoing – Terry completely understands and "gets" Matt Lombardo. Matt currently subcontracts his irrigation repairs and we have been his subcontractor from time to time when the schedules have worked out and we've been competitive. Matt Lombardo doesn't really have an operation up and running yet. We are going to be developing that. Terance Beard certainly understands that – we are allies and friends in business. He understands that my time is going to be diverted helping Matt to get his operation up and running. I am really as the Manager of the entity – I have full control of hiring and firing,

estimating, I do have access to the checkbooks. This is all a friendly arrangement, not only in terms of the personalities and the way we all agree on things, but we have pretty much legalized it the way the Board wishes.

- Q.** So for the Lombardo – you’re going to be hiring guys, training guys, getting them up to speed?
- A.** Yes. I mean, it’s a small operation and we’re looking for a tech – and they are hard to find. As soon as we can, we will hire a technician and get him out there on the road, and I will absolutely be supervising and overseeing that. I will be splitting my time and that’s perfectly okay. I know you have the letters from Mr. Beard and from Matt acknowledging the same. We’re all good sharing that time and responsibility. It’s not necessarily a Monday-Tuesday here – it’s “as needed.” I’m mobile and flexible.

**Kyle Lantz:** I have to disclose. Is Terry’s wife named Laurie?

**Jeffrey Daman:** That’s correct.

**Kyle Lantz:** Okay, so I have to disclose – I don’t know Terry and I don’t know Laurie but my wife is very good friends with Laurie. It won’t affect my vote – I just want to disclose that. I didn’t put two and two together until just now.

**Attorney Morey:** It won’t affect your financial interest in any way?

**Kyle Lantz:** No.

**Chairman Joslin** stated he would open the floor for a motion.

*Patrick White moved to approve the Jeffrey Darman’s application to Qualify a Second Entity. Elle Hunt offered a Second in support of the motion.*

Discussion:

**Terry Jerulle:** I just want to make the distinction between this case and the last case where this case has documented that the Qualifier has an interest and control of the entity that he is going to qualify. In my opinion, the previous case did not.

**Patrick White:** I think the point is that, not to split hairs, but to identify that there are two strands. One is the ownership interest in the LLC and the other is the management and control function by the Manager in the LLC. So both strands are met. In my opinion, the distinction from the former one is that – at least for my vote – having either of them would have been sufficient. Having both in this case isn’t anything more than a double assurance, if you will, that they not only understand the intent of the regulation but they fully demonstrate the capability to comply.

**Terry Jerulle:** And I would also like to point out – at least for my own edification – that one company is really not going to be competition with the second company.

**Patrick White:** I think the point of the distinction that it is somewhat similar to the first case and I think we need to talk more about that, too.

**Chairman Joslin:** We have a motion on the table and a Second. If the motion is approved, he will qualify a Second Entity.

*Chairman Joslin called for a vote on the motion.*

*Carried unanimously, 8 – 0.*

**Assistant County Attorney Noell:** Mr. Kaulbars is back if the Board wants to ...

**Patrick White:** Before we proceed – Mr. Morey ...

**Attorney Morey:** In our own Code of Ordinances, Section 22-165 deals with the internal operating procedures of the Contractors Licensing Board. Subsection (b) of Section 22-165 states:

*“Five members shall constitute a quorum for any meeting. And a majority vote of those present shall be required to make any decision.”*

We did not receive a majority, so my recommendation is – and I talked about it with the County’s Attorney – my recommendation is to discuss and consider rescinding the Order as stated orally and to reopen the case and have another vote.

**Patrick White:** I agree except for the very first part – because if the legal determination is that the vote we took did not and could not create anything because the motion failed, then all I would suggest is – *and I’m going to make this now in the form of a motion – that we reconsider the prior application based on the failed motion.*

**Attorney Morey:** It did fail and as Mr. Noell and I discussed, it did fail. But in an abundance of caution, it was stated orally at this meeting as the gentleman walked away – it was stated orally that it was approved by the Chairman. I think we get to the same place if it is reconsidered.

**Elle Hunt:** Don’t we need to rescind it first?

**Chairman Joslin:** *I rescind the fact that I did grant the motion for Mr. Kaulbars regarding the Second Entity that was granted when, in fact, it was not. It was a failed motion. I will have to reopen the case for the application.*

**Assistant County Attorney Noell:** For me, and it’s definitely built “in-suspenders.” I agree with what Mr. White is saying. Essentially what we have is an invalid Order – a verbal Order at this point that has no effect. The one concern that is a very minimal concern but the Board loses nothing by doing this – by taking the motion to rescind the Order to the extent that it could be construed as an Order of the Board because I don’t believe you [directing his comment to the Board’s Chairman] would have the power – with all due respect – I don’t believe that you would have the power to rescind the Board’s Order by yourself. So my thought is just from a built-in-suspenders standpoint, the Board loses nothing by the technical procedural point of going through a motion to rescind – everyone agreeing to the Motion to Rescind – and then bringing it back before the Board.

**Chairman Joslin:** So I need a motion.

*Terry Jerulle moved to approve rescinding the previous Order which granted the application to Qualify a Second Entity of Kevin B. Kaulbars, per Rule 22-165(b).*

*Elle Hunt offered a Second in support of the motion.*

*Motion carried, 7 – “Yes”/1 – “No.” Patrick White was opposed.*

**Patrick White** stated he objected just on procedural grounds.

**Chairman Joslin:** We are going to reopen the case. Mr. Kaulbars, if you will come to the podium.

***Patrick White moved to approve reconsidering Kevin Kaulbars' application to Qualify a Second Entity as a Landscape Restricted Contractor and an Irrigation Sprinkler Contractor. Chairman Joslin offered a Second in support of the motion.***

Discussion:

**Terry Jerulle:** Can I ask why we're going to reopen the case that we already voted on?

**Patrick White:** You only voted to rescind. You did not vote to reconsider. That's why I voted against the motion. It was incomplete and, in my opinion, unnecessary. But I don't want to conflict with the County Attorney's position. I'm simply trying to be procedurally accurate and complete by indicating that, in order to consider it, we have to open it.

**Elle Hunt:** Why? Why can't we just vote?

**Patrick White:** Because the prior motion – because the man walked out of the room, then we took a vote to rescind that, and procedurally you have to open the door again in my opinion.

**Kyle Lantz:** We want to give him the option that we can maybe change the circumstances and get a different motion that might pass.

**Patrick White:** It's no different than from when the County Commission, for example, makes a decision and then wants to reconsider it later in the same meeting. You have to have some formal procedural act that this Board takes to reopen the matter.

**Elle Hunt:** I guess what I'm asking is why do we need to reconsider it? You think we do but some of us don't.

**Patrick White:** Because we considered it once.

**Elle Hunt:** Okay.

**Patrick White:** We thought we took some action and we just voted to rescind that action. And he's here. The only way we can open the door is to have a motion that lets him in.

**Attorney Morey:** There is a pending motion to reconsider. It has been made and seconded.

***Chairman Joslin called for a vote on the motion.***

***Motion carried, 6 – "Yes"/2 – "No." Elle Hunt and Terry Jerulle were opposed.***

**Chairman Joslin:** Mr. Kaulbars, we are going to rehear your case – only because of the vote that went through was a tie vote. I inadvertently granted the motion which failed. We are going to reopen it to possibly hear the case a little further so that maybe it can be either dismissed or it can be granted.

**Patrick White:** Mr. Kaulbars, you indicated that you would be willing to consider speaking with the owner of the business about the potential to be added as an officer and, for your own purposes, to consider the potential for ownership? Have you had an

opportunity since you were last at the podium to have a further discussion with the owner about either of those issues?

**Kevin Kaulbars:** I think that we are both in agreement – Jason and I – to do whatever we need to do to get this done. I don't know exactly what it is going to take. If you tell me what you need to see from us.

**Patrick White:** Let me tell you, from my perspective, I believe that in order to get a majority vote of this Board, you will have to offer – and have an agreement on the record from Jason – that: (1) you will be designated as an officer – in my opinion, preferentially as Vice-President; and (2) you will either have co-signing responsibility on the checking account – meaning two signatures, one of which is yours – or potentially in addition to that, a percentage ownership in the corporate entity.

**Kevin Kaulbars:** Can I ask him if he'd have a problem with that?

**Patrick White:** Mr. Chairman, I have no objection if we take a ten-minute recess to give him an opportunity for this discussion.

**RECESSED: 10:18 AM**

**RECONVENED: 10:28AM**

**B. Kevin B. Kaulbars – Application to Qualify a Second Entity**

*(d/b/a "Green Effex, LLC")*

**(proposed Second Entity: "Latitude 26 Lawn & Garden Care, Inc.")**

**Chairman Joslin** reconvened the Hearing on the application of Kevin Kaulbars to Qualify a Second Entity as a Landscape Restricted Contractor and an Irrigation Sprinkler Contractor.

Mr. Kaulbars was again sworn-in by the Attorney for the Board.

**Chairman Joslin** explained the earlier vote was tied and that he, as the Chair, granted the motion. It should have been denied. He re-opened the case.

**Chairman Joslin** asked if there was any further discussion.

**Terry Jerulle:** I believe that Mr. White asked a question.

**Patrick White:** Yes, we talked about three points. Can you give us any indication of what the result of your conversation may have been?

**Kevin Kaulbars:** I told him that he would have to make me Vice-President of the company and he'd have to give me 10% ownership. I currently have check writing ability which he had already given me. Those were the three items that we addressed.

**Patrick White:** And is the Latitude 26 owner in agreement?

**Kevin Kaulbars:** Yes. He is.

**Patrick White:** Are you prepared to come to the podium and put that on the record?  
*(The off-microphone response was affirmative.)*

**Patrick White:** As to the check-writing authority, is it an "either or" or are two signatures required and is one of them yours?

**Kevin Kaulbars:** Currently, we do two signatures on our company checks and now he only has one-line checks.

**Patrick White:** It's whatever the cards at the bank say.

**Kevin Kaulbars:** We can do whatever way that would work. If you want two signatures on a single check, he's willing to do ...

**Patrick White:** Either of two things are acceptable to me: one is that you are the only signatory or you are a co-signatory meaning that two signatures are required and one of which is yours. I want your name on the checks.

**Kevin Kaulbars:** That's fine. (He directed his question to Jason Armstead.) I don't think that's a problem, is it?

**Patrick White:** Okay, then what I would suggest is Jason is sworn in and get his statement on the record. At that point, I would be prepared to make a motion.

**Jason Armstead** was sworn in by the Attorney for the Board.

**Jason Armstead** identified himself and stated he was the owner of Latitude 26.

**Patrick White** questioned Jason Armstead:

**Q.** You are a Managing Member?

**A.** I am the President.

**Q.** You heard the prior discussion. Can you put on the record essentially your agreement with those points?

**A.** Absolutely. I think the request was reasonable and I am in full support of that to make Kevin have 10% ownership of my company and he'll be a co-signer on all checks. Both are reasonable and I can accommodate that.

**Q.** V-P?

**A.** Yes, Vice President and 10% ownership, and again, reasonable requests, and co-signing on all checks immediately. That's no problem.

**Q.** Then the only thing, I think, from a logistical perspective – we have it on the record. I am assuming that you are going to make the changes relative to the State of Florida – Division of Corporations as soon as possible.

**A.** Right – that's public information. Absolutely, so we'll go ahead and do that.

**Q.** Okay. I don't want to delay the granting of the license but I'm kind of in a stuck place where I want to assure the other Board members that the licenses won't become active until there's at least that demonstration in the public record.

**A.** I agree. I am here today simply to comply. If that's part of the compliance, I am in full support of that – no problem.

**Kyle Lantz:** I think it would be reasonable to have Ian – and you can discuss it with the County's Attorney – if he were to do it today and bring something in tomorrow, I don't know how that works with the bank but if Ian could verify it and we put in our motion that it is verified ...

**Patrick White:** As for the check writing, yes. I am talking more about the Department of Corporations –

**Kyle Lantz:** They can do that online and print it out.



**Terry Jerulle:** I agree with everything and everybody. And I just want to make sure that we're doing the right thing. (He directed his question to Jason Armstead.) Is there a time frame that you need to have this today or is next week acceptable or next month acceptable? I don't know.

**Jason Armstead:** That's a fair question. I want to comply with the request – a reasonable time frame to get this done – the paperwork – I'm not sure of the exact details but I'm going to start on this today. I would think that within a week would be reasonable.

**Patrick White:** I agree. Seven days ought to be plenty.

*Kyle Lantz moved to approve the application of Kevin Kaulbars to Qualify a Second Entity as a Landscape Restricted Contractor and an Irrigation Sprinkler Contractor with the understanding that the licenses will not be issued until Mr. Kaulbars provides verification to Staff that he has been made a Vice President in Latitude 26, has a ten percent ownership in the company, and is a co-signatory on the company's checks. Patrick White offered a Second in support of the motion.*

Discussion:

**Gary McNally:** I agree with everything but in order for me to be satisfied with this, I would like Ian to have the County Attorney's office look at this and make sure that this contract is legally binding. And then once that is, in fact, done that Ian could issue the licenses.

**Chairman Joslin:** There is no contract.

**Gary McNally:** That's what I'm saying – this documentation that he's going to be doing needs to be verified by the County Attorney's office.

**Patrick White:** The form of the motion would be that if the Licensing Supervisor had any question about the legal authenticity or accuracy or completeness of any of the three things that are conditions, per their standard operating procedure, Ian would check. There is no requirement in the motion for there to be a contract. As to the signatory responsibility, simply providing a copy of the card from the bank will be adequate documentation. And an Amendment to the Articles of Incorporation showing that there is a 10% shared ownership, the change of officers filed with the State of Florida's Division of Corporations would be demonstrated in both the Amendment to the Articles and in what would show the change of officers. The three pieces that we've talked about are ones that I think can be done without a contract and through the bank's signatory card and what will appear ultimately in the public record.

**Elle Hunt:** You are assuming that the ten percent is outside of a contract. I think what the concern may have been is if there had been some kind of contract between the two that gave him the ten percent and if there was any type of exchange of rights or responsibilities ... conditions of that ten percent that we were in question of.

**Patrick White:** I think the way that it is addressed is very straight-forward. The Articles of Incorporation designate a certain number of shares and they can indicate that a ten-percent number of those shares are held by the Qualifier. And that Amendment to the Articles will simply serve as a substitute for and better evidence of anything a contract would say.

**Chairman Joslin** reiterated the terms of the motion: accept the responsibility of being a vice president, ten percent ownership in the company, and a co-signer on all checks writing privileges. Correct.

**Jason Armstead:** Yes, and I find it very reasonable.

**Terry Jerulle:** And that is the condition for granting and maintaining the license?

**Chairman Joslin:** Yes.

**Terry Jerulle:** So if any of those changes then ...

**Chairman Joslin:** That is the motion.

**Assistant County Attorney Noell** reiterated that providing proof to Staff was part of the motion.

**Chairman Joslin:** As long as Staff is comfortable with the information provided, then the licenses can be issued. Correct?

**Patrick White:** Correct.

**Chairman Joslin** asked Kevin Kaulbars to return to the podium.

**Patrick White** thanked Kevin Kaulbars for being willing to return to have a further conversation with the Board.

**Kevin Kaulbars:** I learned a long time ago that the County works in different ways and you have to work around that.

*Chairman Joslin called for a vote on the motion.*

*Motion carried, 7 – “Yes”/1 – “No.” Elle Hunt was opposed.*

**C. Michael J. Cannivet – Petition for Waiver of Exam(s)**  
(d/b/a “Pro-Trim Millwork, Inc.”)

**Ian Jackson** provided the following information:

- Mr. Cannivet took the Business and Law exam in 2003 for the issuance of a Cabinet Installation and Millwork License
- He did not renew his license in 2009
- His license became null and void in January 2011
- He has applied to waive the re-testing requirement

**Michael J. Cannivet:**

- I am trying to get back into business again
- I let my license expire because I had been diagnosed with Cancer and I was not worried about keeping my license going at that time
- Now I am doing better and am able to get back to work – I need to make up for lost time

**Patrick White:** I believe that the concern is why do you not want to take the exam again? Are you afraid you won't pass it – is it too much for you to study?

**Michael Cannivet:** I would have to study again. I took it before and I had an 84 score, I think. It would be kind of redundant. I'd like to get to work as soon as possible. I've never had any issues with anyone or customers, or anything like that.

Everybody has been pleased with the kind of work that I've done for them. All my business comes from word of mouth basically.

**Patrick White:** How large is your business?

**Michael Cannivet:** You're looking at it.

**Patrick White:** Is it fair to say that you feel comfortable managing yourself from a financial perspective?

**Michael Cannivet:** Yes, I'm very familiar with me – you know?

**Patrick White:** And with respect to compliance with Workers' Comp and other laws ... ?

**Michael Cannivet:** I have a Workers' Comp exemption for myself.

**Chairman Joslin:** Do you plan on working alone, then?

**Michael Cannivet:** Yes.

**Terry Jerulle** questioned the Applicant:

**Q.** It says that you are a veteran?

**A.** That is correct.

**Q.** Thank you for your service. One of the questions that we typically ask people who don't want to take the test is have you been working in the industry in the last several years?

**A.** Not in the last couple of years. I had bladder cancer so you can't go very far or do too much.

**Q.** At least in my business, there have been changes in my test since 2003.

**A.** I build things and put things together – do architectural woodwork – that kind of stuff. Years ago, before I came to Naples, I used to manufacture the stuff in Chicago. Now I just install it.

**Q.** In the business that you want to qualify, can you tell us what that business is and how you're going to do that business?

**A.** The company is Pro-Trim Millwork, Inc. I have had that name for years and years – again, going back to Chicago before I came here to Naples. What I do is – bookcases, wall units, miles of crown molding, architectural woodwork, flat-panel woodwork – things like that.

**Q.** So you're going to manufacture it in your shop and then go out in the field ...?

**A.** I don't have a shop – I'll just do it in the field.

**Q.** Okay. So when you come to having electrical items, what are you going to do?

**A.** Hire an electrician.

**Q.** And how are you going to do that?

**A.** I know several electricians who are licensed – they are good people.

**Q.** So you're going to hire the plumber or electrician to go do the work?

**A.** Well if you give me an example. If I need a pipe moved or something like that because of a cabinet installation, or an electrical box or whatever, yeah – I would have them do it.

**Patrick White:** I think the form of the question is, "Would you hire them or someone else?"

- A. It depends – the homeowner may do it – it’s hard to say. Usually, I would have the homeowner do it. I have a few people who I know who do good work.
- Q. I think the precise point of the question is, “Would you hire them or not?” Let me ask it a different way. In the past, have you ever hired a plumber for a homeowner?

**Elle Hunt:** Or any other contractor?

- Q. What we’re trying to get at is you’re not a G.C. (General Contractor).
- A. Correct.
- Q. So you can’t.
- A. Right.
- Q. The homeowner can.
- A. Right – right.

**Kyle Lantz** questioned the Applicant:

- Q. One of the reasons why you said you don’t want to take the test is because of the time – correct?
- A. Time and expense.

**Kyle Lantz** questioned Ian Jackson:

- Q. How often are the tests offered? Daily, monthly, once a year?
- A. The tests are offered by one of the testing companies at Florida Gulf Coast University four days a week.
- Q. So he could go and take the test tomorrow or the next day?
- A. If he were to get sponsored today, he could take the test on Thursday or Monday.
- Q. This application was filled out April 18<sup>th</sup>. Theoretically, he could have taken the test and if he passed the test, he wouldn’t be here because he would have his license?
- A. Theoretically, yes.

**Patrick White:** We also need to consider, though, the amount of time – as testified to by the Applicant to prepare for the exam.

**Kyle Lantz:** Yes.

**Patrick White:** And the application fails to consider what the cost would be.

**Kyle Lantz:** I am just addressing the time portion.

**Kyle Lantz** resumed questioning the Applicant:

- Q. We have the ability to waive the testing if the Board agrees to it. But one of the constraints is that you have to prove to us that it is a waste of time because you already know it all.
- A. I do. I’ve been in the building business all my life in one form or another.
- Q. I’m not trying to be mean – I have a very hard time rescinding the Business and Law Test. The trade test I can, but people tend to forget the Business test. When people are in here – in trouble – it’s never because they nailed something wrong or because they built something wrong, it’s because of something business-wise

that we contractors tend to look at as the other side of the horn. So if you already know it and it is so easy, then why don't you just take it? If you have to study for it, then you probably might not know it. I'm just going from what you're saying with the question about the plumber and the electrician. It seems to me that studying for a test might be a good review.

- A. When you asked me if I would get a guy if I needed a plumber – in other words, I assumed what the question was – am I going to perform plumbing – am I personally going to do electric? I would never do that.
- Q. Or are you going to contract someone to do that?
- A. I'll give someone's name and it's taken care of.

**Terry Jerulle:** Kyle made a good point. It is incumbent upon you to convince us that you shouldn't have to take the test.

**Michael Cannivet:** I have never had an issue with anybody about anything.

**Patrick White:** Mr. Cannivet, may I encourage you to allow a Board member to finish asking his question before you answer.

**Michael Cannivet:** I'm sorry.

**Patrick White:** That's number one.

**Michael Cannivet:** Excuse me.

**Patrick White:** Number two, we are not looking to be mean or adversarial. We are simply saying it's your responsibility to assure us, from a business and law perspective, you are as familiar with and able to conduct your business with the potential to cause harm to one of your customers – a consumer – notwithstanding the gap of a few years with not operating a business. We all understand that you had a medical issue and we are certainly glad you are back to provide your services to the community. The point is – from Mr. Lantz's perspective – you probably could have spent the past month boning up on Business and Law – taken the test and passed it. And so – to have not done that – you are here today to ask us to waiver that. We need to understand that anything and everything you knew about operating a business and complying with the law, are things that you are still as capable as you were before and that because you think you need to bone up for the test before you can pass it, casts some doubt on you. We are trying to get rid of that doubt.

**Michael Cannivet:** Well, it's just an issue – I took it before and I scored well. Again, I never had any issues ever with any customers ... anything ... any problems ... I've never done anything wrong ... I've never broken the law as far as any kind of Contractor Licensing. I know about ... I can't subcontract other trades ... I mean, I know the business. I've never had problems.

**Patrick White:** So as far as managing a checkbook, paying invoices, paying suppliers ...

**Michael Cannivet:** Yeah ... sure.

**Patrick White:** ... those are the things we are talking about.

**Michael Cannivet:** Right. I never even used credit. I always paid cash on the barrel head when I bought materials and stuff.

**Elle Hunt:** What have you done over the last five to ten years to maintain current knowledge of legal and business aspects of the trade?

**Michael Cannivet:** I'm aware that certain things haven't changed that much – other things have. I'm a little contractor. As far as my issues, it's been the same for quite a while. It's not like I'm behind the curve on anything.

**Chairman Joslin:** When is the last time you actually worked in the trade?

**Michael Cannivet:** Not too long ago I worked on my mother's house. I inherited that, so I did some work there.

**Kyle Lantz:** Do you hang a lot of crown molding?

**Michael Cannivet:** Yes.

**Kyle Lantz:** Do you do it – I'm not talking around a cabinet – I'm talking about in a room? Do you do that single-handedly or do you have a helper come in?

**Michael Cannivet:** For the most part, I do it myself.

**Kyle Lantz:** How do you hold up the other end?

**Michael Cannivet:** Pardon me?

**Kyle Lantz:** How do you hold the other end?

**Michael Cannivet:** I put a nail up or whatever. There are several ways that I've learned to do that.

**Kyle Lantz:** Do you ever get into jobs where you need to bring a helper or an assistant?

**Michael Cannivet:** Have I?

**Kyle Lantz:** Have you or do you intend to?

**Michael Cannivet:** Not lately, no. When I was working on my mother's house, I had my wife help me.

**Kyle Lantz:** So if you got into something where you needed someone, would you have your wife come in and help you?

**Michael Cannivet:** Yeah.

**Kyle Lantz:** Is she an officer of the corporation?

**Michael Cannivet:** I don't believe she is ... no.

**Kyle Lantz:** Cause she's probably not Workers Comp exempt?

**Michael Cannivet:** She owns the company just like I do because we're married. She's the one who pays the bills that you brought up and all of that.

**Chairman Joslin:** I think the real question here with the Board is since been so long – I mean, it's been so many years since you've actually been in the business or the trade and had a license that required you to do the work, and do the business and law portions of the business, that's where we're kind of stuck on ... because of the time span and the laws have changed. Knowing these laws is something that we have to understand that you know.

**Michael Cannivet:** I am definitely not going to make any mistakes – I can promise you that. There isn't a whole lot that I have to do other than generate a proposal, put together an agreement with a customer, keep up my insurance and that type of thing. There's not that much involved.

**Kyle Lantz:** Do you have a Workers' Comp exemption?

**Michael Cannivet:** Yes.

**Kyle Lantz:** But your wife does not?

**Michael Cannivet:** No.

**Kyle Lantz:** So if she is on your jobsite, are you following the law?

**Michael Cannivet:** It's not an everyday thing – I was talking about when I worked on my mother's house.

**Kyle Lantz:** If she's holding a piece of crown molding and falls off a ladder ...?

**Michael Cannivet:** I would never take my wife to a customer's hold and have her be a worker if that's your question. I'm not going to do that.

**Chairman Joslin:** Don't you think that just taking this business and law test would give you a kind of refresher from 2007?

**Michael Cannivet:** I really don't believe I need it. Sorry. I took it before and scored an 84.

**Chairman Joslin:** That was in 2003.

**Michael Cannivet:** Right.

**Chairman Joslin:** This is 2017. That was fourteen years ago. Right? A lot of things have changed in fourteen years.

**Michael Cannivet:** I appreciate your patience. I hope you let me slide – that's all I can say. I know I've lost a lot of time.

**Terry Jerulle:** It's not just about you – it's about Collier County and other Contractors in County. There have been other people who have come before the Board who we have denied that request and they had to go take the test. That's what I was starting to ask you when we were interrupted. It's up to you to prove to use that knowledge so in good conscience we can waive it. But I haven't heard any testimony – from the construction side, I think you probably have the ability. I think you're a good guy and an honest guy and will run the field correctly. But from the business standpoint, you haven't really assured – at least myself – that you shouldn't take the test. The license that we're going to give you is a license that will allow you to replace cabinets in a kitchen, is it not? To replace cabinets in a kitchen, do you not need a permit?

**Ian Jackson:** It's situational – it depends on the type of building.

**Terry Jerulle:** Exactly. If you happen to need to relocate electrical or relocate plumbing, you will need a permit for that. Okay? So, right now, you haven't convinced – and I'm sorry to say – I think you're a good guy but you haven't convinced me to waive the exam.

**Michael Cannivet:** I wish I knew what to tell you. I'm not going to break the law. I've never been in trouble. I've always done the right thing. And I'm very proud of the work that I do. I have a great reputation – had. I haven't done much lately but ...

**Terry Jerulle:** But Mr. Cannivet, taking the exam isn't the end of the world. And it may make you better.

**Michael Cannivet:** Well the last time I took the exam, I remember I studied for quite a while – I had to pay for a study course ...

**Terry Jerulle:** Just like every other contractor in town.

**Michael Cannivet:** I studied for that for quite a while.

**Terry Jerulle:** Just like the other contractors in town.

**Michael Cannivet:** I understand but I did it and to make me do that again, I was hoping you would waive that.

**Terry Jerulle:** I understand.

**Michael Cannivet:** I'm not going to play General Contractor if that's what is the issue.

**Patrick White:** The issue is we asked you to tell us about how a business is managed, how you comply with the law and by your own answers, you suggested there were circumstances that could potentially be seen as not knowing what the law was and how to comply with it. Example one: your wife is not an officer of the corporation but she handles the books. Example two: you indicated that she may act as a helper and if you are the homeowner, that's perfectly appropriate. I think you can do that. But you certainly made the suggestion that you might have somebody else come in who isn't an officer in the corporation or is otherwise entitled to have a Workers' Comp exemption and you didn't clarify or understand the distinction that was being discussed.

**Michael Cannivet:** Let me clarify, if I ever do need additional help, I will do it with subcontractors who are licensed and insured. I was never interested in having any employees.

**Elle Hunt:** You are not a General Contractor, though. You can't hire subcontractors.

**Ian Jackson:** He is allowed to subcontract work within the same trade.

**Patrick White:** Was that the intention of what you were saying?

**Michael Cannivet:** Yes.

**Patrick White:** Again, it wasn't clear.

**Michael Cannivet:** Sorry.

**Patrick White:** The apology is certainly appreciated but you're the Applicant. You're the one asking us to waive a requirement. You're the one who is offering reasons why we should and, although I may have been more convinced earlier in this process here today, I am now less convinced.

**Chairman Joslin:** I think you mean well. I think you have a good knowledge of the business. But I think, in all honesty, that what you have testified to – I think you do need to take the test. I think it would do you well and I think you would probably gain a whole lot more confidence in the business that you're going to run. Knowing that the laws have changed and you may say, "oh, I thought I knew that." And that's what the Board members are trying to tell you.

**Michael Cannivet:** All I've got to do is control myself.

**Patrick White:** You know, I started from that proposition – I started from that place – with that idea. But the more I listened to with what you responded to with your own answers, I became less convinced. I appreciate your apology but that isn't testimony that is going to convince me, either.

**Chairman Joslin** called for a motion.



*Terry Jerulle moved to deny Michael Cannivet's request to waive testing. Kyle Luntz offered a Second in support of the motion. Carried unanimously, 8 – 0.*  
**Chairman Joslin:** Good luck. Take the test and you won't have to come back and see us.

**IX. OLD BUSINESS:**

*(None)*

**X. PUBLIC HEARING:**

**A. Case #2017-02: The Collier County Board of County Commissioners, Plaintiff, vs. Edward W. Rozanski, d/b/a ER Pools, Inc., Respondent.**

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

**Patrick White:** In the interest of full disclosure – this is not about a Form 8-B – there's nothing about a pecuniary interest that I have that would inure to my gain or loss, but I need to disclose that I had a prior business contact with the Respondent – unrelated in any way to today's proceeding but to do with the aspects of his dissolution of marriage when I represented his ex-wife relative to the way that they would handle ownership of the business.

**Chairman Joslin:** Okay.

**Chairman Joslin** read the procedures to be followed during the Hearing:

1. The Hearing will be conducted pursuant to procedures set out in Collier County Ordinance #90-105, as amended, and Florida Statutes Chapter 49.
2. The Hearing is quasi-judicial in nature but 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. Once the County has closed its Case in Chief, the Respondent may present his/her defense and may call witnesses and do all the things described earlier, that is to call and examine witnesses, to introduce exhibits, to cross-examine witnesses and impeach any witnesses regardless of which party called the witness to testify, and to rebut any evidence presented against the party.
12. After the Respondent has presented his/her case, the County may present a rebuttal to the Respondent's presentation.
13. When the rebuttal is concluded, each party may present their *Closing Statement*.
14. The County will have a further opportunity to rebut after the conclusion of the Respondent's closing statement.
15. The Board will then close the Public Hearing and will begin its deliberations.
16. Prior to the beginning of deliberations, the Attorney for the Board will give the charge which is similar to a Charge to a Jury, setting out the parameters on 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) First, 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. At this point, the Board's attorney will advise the Board of the Sanctions which may be imposed and the factors to be considered. The Board will discuss Sanctions and take another vote.
19. 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 forth the basic outline of the Order but may not be exactly the same language as the Final Order.
20. The Final Order will include the full details as required under State law.

***Patrick White moved to approve opening the Public Hearing for Case #2017-02 – The Collier County Board of County Commissioners, Plaintiff, vs. Edward W. Rozanski, d/b/a ER Pools, Inc., Respondent. Elle Hunt offered a Second in support of the motion. Carried unanimously, 8 – 0.***

**Patrick White** asked if the County wished to introduce its Administrative Complaint information packet in this case into evidence.

***Patrick White moved to approve entering the County's information packet in the above-referenced case into evidence. Terry Jerulle offered a Second in support of the motion. Carried unanimously, 8 – 0.***

**Officer Joseph Nourse** presented the County's *Opening Statement*:

- The County is prepared to show by sworn testimony and documented facts that the Respondent, Edward W. Rozanski, violated Collier County Ordinance #90-105, as amended, Section 22-201(2) by contracting outside the scope of his

Certificate of Competency in his contract for pool modifications for the Swan Lake Condominiums, and Section 22-201(6) by commencing said modifications without first obtaining a required permit.

**Chairman Joslin** asked the Respondent if he wished to present an Opening Statement. **Edward Rozanski** admitted that he did work outside the scope of his license and had not obtained a permit as required. He admitted his guilt to both charges. He further stated he had contacted Ian Jackson, Contractors' Licensing Office Supervisor, and had obtained the proper license. He is in the process of obtaining his State license as a Commercial Pool Construction Contractor. He stated he does not intend to construct pools but his goal is to obtain every applicable license for his business to avoid the necessity of hiring subcontractors since he will be allowed to do the work. He continued that he had learned his mistakes and does not want to ever appear before the Board in the future.

**Patrick White** asked if he had obtained a permit and the response was, "I have a permit now."

**Edward Rozanski** explained he has been in contact with the management company and has contacted the Health Department. There were two suggested changes to the renovation. He stated the corrections have not yet been completed because he was waiting to do so after the Hearing had concluded.

**Chairman Joslin** asked if the pool had been closed and the response was, "No. The pool was never closed."

**Chairman Joslin** questioned the Respondent:

**Q.** What were you thinking?

**A.** To be honest, I wasn't thinking. My father was dying. I was in a pretty bad place – I lost my mother and my father, and then my wife as Mr. White knows, literally within three years. So I was not in a place to be thinking clearly and it took this, basically, to make me clear my head and come to the realization that I have eight employees and I am putting their lives in jeopardy, their well-being, and my own. That's why I went through every step. I told them I had problems passing the test because I have ADHD (Attention Deficit Hyperactivity Disorder). I've been sitting here listening to the Board but my mind was going all over the place. I had to take the test seven times to pass it. I struggled through high school. I went to college for one year and struggled through that because it was just too hard for me to grasp the constant stuff. I know this work – I've been doing it for twenty years – and I knew I was wrong. And I never want it to happen again so that's why I took every means possible to – so that I'm never going to stand in front of you again.

**Q.** What kind of experience have you had in the past?

**A.** As far as pools: I started working with Panther Pools in 1997 or 1998. I moved to Orlando for a few years and I worked for Disney World and for Wet 'n Wild at their beach and doing pools for them. I took care of all the ground maintenance and changing out filters and everything they required there. Here, I've been in business since 2003.

**Q.** What kind of construction experience?

- A. I don't plan on doing construction but we do physically do tile work – I've done tile work since ... my dad owned a construction company, so I've done tile work forever.

**Terry Jerulle** questioned the Respondent:

**Q.** You said you've taken the State license or ...

**A.** I have taken the County license – I've already got the County license. I've got all the books to take the State license next.

**Q.** Have you signed up to take the test?

**A.** No – I just got the books ... it's an extreme amount of books. I know nothing about excavating or all that stuff, so that was why when I sat down with Ian the first time, he said, "I think you should look at this form because it's kind of what you're doing." But as I took that test and passed it, I felt that I should take the next step after that.

**Ian Jackson** provided background information:

- Mr. Rozanski was operating with a Swimming Pool/Spa Servicing Contractor's license which is a very limited license.
- He has since obtained a Swimming Pool/Spa Servicing Repair Contractor's license.
- Both are registered Collier County licenses

**Elle Hunt:** So would we consider him compliant today if he were to do the work in question?

**Ian Jackson:** Yes.

**Elle Hunt:** So he would now be compliant based on this new Contractor's license?

**Ian Jackson:** Yes.

**Patrick White:** From a licensure perspective – yes. From a permitting perspective, obviously no.

**Elle Hunt:** No – he's got the permit.

**Edward Rozanski:** I have a Notice of Commencement and I have the permit number. I brought a copy of it with me if you need to see it.

**Ian Jackson:** I have confirmed with the City of Naples that the permit has been applied for.

**Kyle Lantz:** Issued or applied for?

**Ian Jackson:** Applied for.

**Edward Rozanski:** And they've given me a Notice of Commencement. I am waiting for the Health Department – there was a form that had to be filled out on their end. Because, really, this isn't a Building Department thing. When it's inspected, it's going to be the Health Department inspecting the job ... not the Building Department. So the application for the City is missing the part from the Health Department. The application from the County has that in there. Originally when I went down to the City, they said I didn't need a permit. It was after three or four months of this going on that I figured out that – yes, you do need a permit. Because, initially, I was told that you don't need a permit. I spoke to Joe and Ian about that, and they got together and figured out that the information was incorrect and a permit was required for this job.

**Chairman Joslin:** I know as a Licensed Commercial Pool Contractor, that question has come up many, many times. The Florida Building Code and the Florida Health Department are on different paths.

**Edward Rozanski:** I've been to the City five times to try to figure all this out and each time I go, they need another form. Hopefully now that I have the Notice of Commencement and they will have the other thing, they will issue the permit. The article that has to be fixed is a cross-base ladder which means unscrewing screws on the deck to put in a cross-base ladder and then on the deep end of the pool, it says 8 ft. 4 in. on the top of the coping and on the side – it has to be changed to 8 ft. 1 in.

**Chairman Joslin:** Do you know what the depth marker requirements are – the limitation on depth markers?

**Edward Rozanski:** They are every twenty-five feet.

**Chairman Joslin:** I know but do you know how far down they have to be?

**Edward Rozanski:** It's two feet from the side of the wall.

**Chairman Joslin:** That's not exactly what I meant. Do you know the amount of depth markers? If it's five-foot or six-foot, would you be in compliance? If it's a five-foot pool?

**Edward Rozanski:** It's three or four inches. It's four inches – you're allowed four inches but ...

**Chairman Joslin:** Three inches.

**Edward Rozanski:** Three inches – sorry.

**Chairman Joslin:** Either way – up or down.

**Edward Rozanski:** It says 8'4" and it should be 8'1". And that was originally what was there – I mean, we just put ... we followed the example that was there ... so it was a twenty-year-old mistake that was approved twenty years ago.

**Chairman Joslin:** What you have to understand is if you're going to be doing this in the future, it's your responsibility to know it – know what those codes are ... and when you go in to do a job, you are responsible to change it to the correct numbers ... not to go by what happened twenty years ago.

**Edward Rozanski:** Yea – I understand that now and I actually know how to measure – where the Health Department is going to pull the measurement from – they showed me as well.

**Chairman Joslin:** There are a lot of other measurements as well. It's important. Okay.

**Patrick White:** That was one heck of an Opening Statement.

**Ian Jackson:** If I may, with the Respondent's acknowledgement that he is in violation, I suggest possibly voting as to whether the violations exist and moving to the penalty phase.

**Terry Jerulle:** Ian, is it correct that he could have worked something out with you prior to coming here or did he have to come here, no matter what?

**Ian Jackson:** I didn't have the latitude to not schedule a Licensing Board Hearing because of previous Citations that were issued for like violations.

**Terry Jerulle:** Because sometimes they can work something out with you and we will not have a Public Hearing?

**Ian Jackson:** Sometimes.

**Terry Jerulle:** And in this case, that couldn't happen because of previous violations?

**Patrick White:** Previously unlicensed violations.

**Chairman Joslin:** For the same type of work.

**Edward Rozanski:** Ian told me that and obviously, he was straight-forward with me and told me I could do but I got caught – I admit it, I was wrong. That's why I sat down with the two of them together and I've tried to do everything – I think I did meet everything that he required me to do.

**Terry Jerulle:** I agree with Mr. White ... it was a very good Opening Statement.

**Chairman Joslin:** You mentioned that you were going to take the next step test which would be a commercial or residential test?

**Edward Rozanski:** Commercial State test.

**Chairman Joslin:** For the same repair contractor?

**Edward Rozanski:** At that point, maybe a Certified Pool Contractor – I don't want to do any kind of construction.

**Chairman Joslin:** What you need to remember is that you're going to need the experience factor. And not working in the construction industry means you will need a little bit of time getting it.

**Edward Rozanski:** Right.

**Chairman Joslin:** That's for the State ... so remember that before you do take the test.

**Chairman Joslin:** I understand you have someone here from the City. I'm just curious as to the permit process with the City of Naples as far as what is deemed as a renovation or a modification for this particular pool.

**Ian Jackson:** Mr. Chairman, Craig Mole, City of Naples Building Official, is here to answer your questions.

**Craig Mole** was called to testify on behalf of the County.

**Chairman Joslin** questioned the Witness:

**Q.** I am a State-certified Commercial Pool Contractor, and I've been in this town for a long time. Years ago, no permit was required to do renovation-type work that you are now requiring for – until the Florida Building Code changed or was added to it. I am curious – does the State's Health Department Codes still list it as something that is more of a repair rather than a modification that needs to have a permit? Is that the perception now – that it has to have a permit?

**A.** This work would have to have a permit. I think what the Respondent said was not entirely correct. When I was first notified of this work, I was told it was just refinishing of the pool. In that sense, I responded the work would not require a permit. In the Building Code, it's clear – and I'll read it to you:

*“Resurfacing the pool interior to original nontoxic, slip-resistant and smooth specifications or equivalent replacement of equipment are not considered modifications.”*

In that case, the Building Code says that if you're not modifying the pool, you will not need a permit. But in this case, I believe electrical work was done – lightening

fixtures were changed on the pool. There was a ladder that was changed. There were pool tiles that were changed. Once pool tiles are changed on a public pool, we require a permit because a certain type of tile is required. This is only for a slip resistant type of finish. Also, here, I think the deck was resurfaced. Was it not part of this work?

*(Off microphone comment: Overlaid.)*

It was overlaid. That requires a permit in the City – a site work permit. We have very strict regulations on the height of decks and at that time, when a deck is resurfaced, we also require the pool barriers to be brought up to Code. Now, we are more strict than other municipalities, but we do require a permit for decking because we also require the pool barriers.

- Q.** Okay – that’s one that I didn’t know because I have been told by several paving contractors that they didn’t need a permit to do the decking and I questioned that many times because of the heights of the risers and all that. My last question is after the permits are issued, who does the inspections? And what inspections are necessary or required? What is your criteria? As a Contractor building a pool, I have a list of inspections that I have to call in to get passed. Have an inspector come and check them. Because there was a repair, there was tile, and a ladder installed, what inspections would have to be on this that would have to be followed?
- A.** When the Code changed and Florida Statutes put the requirements for inspections and permitting to the Building Department, we do all the permitting and inspections for public pools. Now the Department of Health still maintains the pool operating license and all inspections required for that. In this case, once the permit is obtained and the inspections are completed, then we work very closely with Collier County’s Department of Health and I work closely with their inspector. And we do a joint inspection prior to me approving the Final Inspection for the pool. And then the Department of Health takes over from there and issues a license to operate. We work very closely with the Department of Health here in Collier County on every public pool. I don’t know how the County does their permitting but we work very closely.
- Q.** My concern was getting the two municipalities or whatever municipalities that are doing the inspection in this particular area to be on the same page because I know the County has different rules or different thoughts on who does what inspections and how they are done. I know they are all basically the same but some say you don’t need a permit and some say you do. So it’s very difficult when you go into the City of Naples than when you go to the County and the County says a permit is not required but the City says yes.
- A.** For decking, we have very strict Planning Codes and if you are going to overlay a deck that may be existing and non-conforming, our Planning Department would not approve that. We have decks that may be in the right-of-way or in an easement and we would not review that. So just because there is a deck there, doesn’t mean you can modify it or improve it without a permit. A site work permit is always required. And as we all have read the news about Cape Coral and pool fences being removed, typically when a decking project is done, the pool barriers have to be removed. And

that's why we require the pool barriers always to be inspected when decking work is done.

*Q.* Could you just state your name for the record, please.

*A.* Craig Mole, Building Official for the City of Naples. I would also like to state that the permit has not been obtained, it is in "rejected" status at this point.

*Q.* It is? Based on ... ?

*A.* Based on not submitting the Department of Health application. The Building Code requires that the Department of Health's application for operating is submitted and a copy of it is submitted with the building code application. That was not done so it was rejected on that standpoint. Until we have that, we won't move forward with it.

**Patrick White** questioned the Witness:

*Q.* I understood from the Respondent's testimony that it had been submitted through the County and that he needs to get the copy to the City.

*A.* That's how I understand it at this point.

**Chairman Joslin:** In my understanding, you have to take a copy of what's going to be done to the pool to the Health Department. They will analyze it and give its approval and then you can go to the City and continue on.

**Craig Mole:** We only require by the Code to have a copy of the application. We work closely with the Department of Health and with the County and we always coordinate every public pool project with them. The Code only requires a copy of the application.

**Chairman Joslin:** Does the County have anything else?

**Joseph Nourse:** Nothing further.

*Patrick White moved to approve closing the Public Hearing. Terry Jerulle offered a Second in support of the motion. Carried unanimously, 8 – 0.*

*Patrick White moved to approve finding the Respondent guilty on both Counts as set forth in the Administrative Complaint in this case. Elle Hunt offered a Second in support of the motion. Carried unanimously, 8 – 0.*

**Attorney Morey:** Now that the Board has determined the Respondent was guilty of the violations, it may consider Sanctions. The Respondent, Edward W. Rozanski, is the holder of Collier County License #34950. If the Board finds that there has been misconduct, it may, but shall not be required to, impose any of the following Sanctions, either alone or in combination:

- Revocation of the license;
- Suspension of the license;
- Denial of the issuance or renewal of the Certificate of Competency of the license;
- Imposition of a period of probation of a reasonable length of time, not to exceed two years, during which time the Contractor's contracting activities shall be under the supervision of the Contractors' Licensing Board;



- Requiring participation in an accredited program of continuing education related to the Contractor's activities;
- Restitution;
- Imposition of a fine, not to exceed five thousand dollars (\$5,000);
- Public Reprimand;
- Denial of the issuance of Collier County or City Building Permits, or requiring the issuance of permits with certain conditions;
- Repayment to the County of reasonable investigative and administrative costs.

**Attorney Morey** continued: When considering the imposition of any of the above-referenced Sanctions, the Board should also consider all the evidence presented, as well as:

- The gravity of the violation;
- The impact of the violation on the public health/welfare/safety;
- Any actions taken by the violator to correct the violations;
- Any previous violations committed;
- Any other evidence presented at the Hearing relevant to the Sanctions which are appropriate to the case, given the nature of the violation.

**Elle Hunt:** Does the County have costs?

**Ian Jackson:** The County has costs in the amount of \$350.

**Elle Hunt:** Are we aware of any costs to consumers based on these two counts?

**Ian Jackson:** No.

**Terry Jerulle:** Does the City of Naples have any costs?

**Ian Jackson:** No.

**Chairman Joslin:** The pool is not completed yet, correct?

**Edward Rozanski:** It is not completed. Still waiting for the form from the Health Department.

**Chairman Joslin:** So there may be costs later down the road?

**Ian Jackson:** Costs incurred to whom?

**Edward Rozanski:** I will have to pay for the permits and any other thing but the company that I did the work for – I've agreed to pay for anything that has to be changed.

**Ian Jackson:** I do have a recommendation. Had we been able to issue Citations for this as unlicensed, rather than working out of the scope of his license, the Citations for a second offense would have been \$2,000 each. I recommend imposing civil penalties for Count One in the sum of \$2,000 and for Count Two in the sum of \$2,000, along with the investigative costs of \$350 for a total fine of \$4,350. The fines are to be paid within thirty days.

**Patrick White:** Would the license be suspended until the fines are paid?

**Ian Jackson:** The license could be suspended. You have to bear in mind he is now operating with two licenses: the initial license that he had been operating with and the new license that he has since obtained which has nothing to do with this case. The license for which this case is being heard is the original license.

**Patrick White:** I think I hear you not saying that under his other license, even if we suspend it or require a period of probation, he could continue to work during the thirty days that would potentially be imposed to pay the fines and costs.

**Ian Jackson:** Correct.

**Patrick White:** Meaning that although it could be imposed, it would have no practical effect.

**Ian Jackson:** And there should be consideration for him coming into compliance as well.

**Elle Hunt:** Agreed. He's done a lot to remediate and comply.

**Chairman Joslin:** I am more than concerned about the second offense.

**Patrick White:** That, I think, is addressed by the County's recommendation that it be treated as the equivalent of Second Offense for a Citation, if these were Citation enforcement steps. We all know the third strike is you see the Judge.

**Terry Jerulle:** Mr. Jackson, in your recommendation, is there any recommendation for a time frame to complete the project that he is on?

**Ian Jackson:** The project has been substantially physically been completed – it is not in a state of disarray right now. All that's left to be done are the modifications to satisfy the permit and the Health Department requirements, and to have the permit finalized.

**Chairman Joslin:** The whole point of the commercial aspect of this is for health and safety issues. That's the reason why we're here. The health and safety issue is the depth markers – that's one of the main ones. The depth markers tell the depth of the pool. If some unknowing person would jump into a pool that's eight-foot deep – thinking it was only eight feet deep – and then jumping into a pool that's eight-feet, five inches deep – if the depth marker hasn't been changed, are we doing the public a service by not having that changed in a reasonable amount of time?

**Patrick White:** I'd say that's not an issue. But, if it was the other way around, that it said it was eight-foot, five inches and it was only eight feet deep, that would be an issue.

**Elle Hunt:** It is – it states it's eight-foot, four inches and it's really only eight-feet, one inch deep. So it is more shallow than is stated.

**Patrick White:** But I think I understood there to be a three-inch variable allowed.

**Chairman Joslin:** There is a three-inch variable but this stems from the whole pool – it isn't just the eight-foot depth marker ... there are more depth markers that may be incorrect.

**Edward Rozanski:** The other depth markers are okay. It's just the deep end where it says eight-foot, four inches and it's supposed to say eight-foot, one inch. There are no diving tiles mounted on the top.

**Terry Jerulle:** I'm okay making a motion per Ian's recommendation but I just need some help with ... there's something out there that I just want to be wrapped up in a certain time frame and I don't know how to ...

**Patrick White:** How long will the building permit stay active? Six months, typically, I think?

**Terry Jerulle:** There is no building permit because the application isn't ...

**Edward Rozanski:** The job could be finished in thirty days, so it's not like we need six months.

**Elle Hunt:** You need inspections done.

**Edward Rozanski:** Yeah. And I don't know how long that will take.

**Terry Jerulle:** Can we put him on probation, Ian, until that work is done?

**Ian Jackson:** Yes. You can put him on probation for a certain amount of time.

Probation, in the past, constitutes a situation where if we find that a violation has been committed – again, we wouldn't have the latitude to address that violation any other way than by an administrative hearing. I don't know if probation would wrap everything up in a timely manner.

**Terry Jerulle:** In my mind, it's not just about getting more money for the County. He is here because something wasn't done right in the field and I want to ensure that the something in the field is done right.

**Ian Jackson:** The Respondent committed to thirty days which could be part of the Board's Order. If that is not met, it could constitute another charge of misconduct and that is something that we could bring back before the Board.

**Terry Jerulle:** If I asked Mr. Mole a question?

**Craig Mole** was recalled to the podium.

**Terry Jerulle** questioned the Witness:

**Q.** Mr. Mole, would it be possible for the Respondent to submit an acceptable permit and do the work within thirty days, in your estimation?

**Elle Hunt:** And get inspections done, etc., to close it out?

**A.** Yes, I think it could be done.

**Q.** I just don't want to impose something that can't be done.

**A.** The City's goal is to have this project obtain a permit, have the inspections done, and closed out. So thirty days, I think, would be reasonable.

**Chairman Joslin:** But that also entails the fact of the Health Department's issues and their final inspection, right? Or is it just your permit that we're talking about?

**Craig Mole:** Just our permit. The Department of Health issues their own operating permit.

**Chairman Joslin:** I'm just wondering if the Health Department goes in and finds other things wrong, it would open up another situation where there are still things to be done and would still not be closed out, technically.

**Craig Mole:** I probably would suggest sixty days.

**Chairman Joslin:** There we go.

**Elle Hunt:** Thank you.

**Terry Jerulle:** Thank you so much.

**Ian Jackson:** If the work is not done by the time set by the Board, there could be an additional civil penalty – a monetary penalty. Another consideration for the Board.

**Terry Jerulle:** I'm not sure how to word that.

**Patrick White:** I'm not sure I would want to put him in a position where – through no fault of his own –

**Elle Hunt:** Right.

**Terry Jerulle:** You came before the Board and admitted you made a mistake, you went and got ...

**Edward Rozanski:** If you give me sixty days – I didn't want to bring my personal life into it ... but my father died. He has a twin sister and she lives in France, she's having stents put into her heart and I'm her last living relative. She asked me to come from June 8<sup>th</sup> to June 18<sup>th</sup> to take care of her. It's an obligation as it is but, I mean, I'm her last living relative on the Rozanski side other than my daughter who will carry on my name.

**Chairman Joslin:** We totally understand your situation. We're just trying to make sure that some type of criteria and some kind of time frame ...

**Edward Rozanski:** I think sixty says as he said would be fair and would be us at ... into ....

**Elle Hunt:** Mid-July.

**Edward Rozanski:** .... mid-July ... I think so.

**Chairman Joslin:** This time, the Board is being very lenient.

**Edward Rozanski:** I understand and I appreciate that. I figured I'd try to make this as easy as possible.

**Patrick White:** Is there any issue on your end relative to paying the two fines of \$4,000 and the County's costs of \$350?

**Edward Rozanski:** It's a lot of money but I don't want to have my license suspended for one day so I'll figure out how to pay the \$4,200. To have the license suspended is just another black mark on this whole event. I don't want that as well.

**Terry Jerulle:** You said you had the permit number in your pocket?

**Edward Rozanski:** Yes.

**Terry Jerulle:** May I have that?

**Elle Hunt:** This is the one that's been rejected, though?

**Patrick White:** It would still be the same number.

**Elle Hunt:** Understood.

**Edward Rozanski:** It's 172362 – City of Naples.

**Elle Hunt:** One comment that I have for the Board is I think that sixty days is a generous amount of time. However, what I would not want to do is to impose any penalty just at the sixty days ... maybe for him to come before the Board in case – as Mr. White pointed out – of some extenuating circumstances that were no fault of the Respondent. So not an automatic fine but a return to us.

**Terry Jerulle moved to approve imposing the following Sanctions upon Edward Rozanski:**

1. *Restitution of \$350 to the County;*
2. *A \$2,000 fine for Count One of the Administrative Complaint;*
3. *A \$2,000 fine for Count Two of the Administrative Complaint;*
4. *To complete Permit Application #172362 within sixty days or his license will be suspended until such time as he appears before the Board for a Hearing;*
5. *The fines and costs are to be paid to the County within thirty days*

**Patrick White offered a Second in support of the motion. Carried unanimously, 8 – 0.**

**Chairman Joslin:**

*Orders of the Board:*

- This Cause came for a Public Hearing before the Contractors' Licensing Board on May 17, 2017 for consideration of the Administrative Complaint filed against Edward W. Rozanski, d/b/a "ER Pools, Inc."
- Service of the Complaint was made by certified mail, personal delivery, and publication in accordance with Collier County Ordinance #90-105, as amended.
- The Board having heard testimony under oath, having received evidence, and heard arguments respective to all pertinent matters, hereupon issues its Findings of Fact, Conclusions of Law, and Order of the Board as follows:

*Findings of Fact:*

- Edward W. Rozanski, d/b/a "ER Pools, Inc." is the holder of record of a Certificate of Competency, License #34950.
- The Collier County Board of County Commissioners is the Complaint in this matter.
- The Board has jurisdiction of the person of the Respondent who was present at the May 17, 2017 Public Hearing and was not represented by Counsel.
- All notices as required by Collier County Ordinance #90-105, as amended, have been properly issued or personally delivered.
- The Respondent acted in a manner than is in violation of Collier County's Ordinance and is the one who committed the act.
- The allegations as set forth in the Administrative Complaint as to Collier County Ordinance #90-105, as amended, Section 22-201(2) and (6), respectively, are:
  - *Count One*: Contracting to do any work outside the scope of his competency as listed on his Competency Card and as defined in the article or as restricted by the Contractors' Licensing Board;
  - *Count Two*: Disregards or violates, in the performance of his contracting business in the County, any of the building, safety, health, insurance, or Workers' Compensation laws of the State or Ordinances of this County.
- 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 Two* are approved, adopted, and incorporated herein, to wit:
  - The Respondent violated Ordinance #90-105, as amended, Section 22-201(2) in Count One, and Section 22-201(6) in Count Two 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.

*Order of the Board:*

- Based upon the foregoing Findings of Fact and Conclusions of Law, and pursuant to the authority granted in *Florida Statutes*, Chapter 49, and Collier County Ordinance #90-105, as amended, by a vote of **eight (8)** 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 #34950:

1. *Restitution of \$350 to the County;*
2. *A \$2,000 fine for Count One of the Administrative Complaint;*
3. *A \$2,000 fine for Count Two of the Administrative Complaint;*
4. *To complete Permit Application #172362 within sixty days or his license will be suspended until such time as he appears before the Board for a Hearing;*
5. *The fines and costs are to be paid to the County within thirty days of the date of this Order.*

**Chairman Joslin:** So ordered.

**Additional Reports:**

**Ian Jackson** announced that this was the last meeting for the Board's Attorney, James Morey. He thanked Mr. Morey for his time and professionalism during the past five years.

**James Morey:** Thank you. It has been a pleasure to have served the Board and the community. He explained in 2012, there was a two-year contract that was awarded and was then extended twice. There was a public solicitation in December 2016. Several firms applied, including his, but the bid was awarded to a different firm by the Board of County Commissioners.

**Mr. Morey** further stated that since he is under contract until the end of June, he would be perfectly willing to meet with Ian and the new Counsel to share the forms of orders and the "mechanics" of the Board meetings.

Various Board members thanks Mr. Morey for his service and stated he would be missed.

**Assistant County Attorney Noell** stated in his opinion, as a representative of the County Attorney's Office, Mr. Morey has done an excellent job and his departure was in no way a reflection of his expertise. He extended his thanks to Mr. Morey on behalf of Staff and the County Attorney's office.

**Patrick White** reminded the Board that he will not attend the July meeting.

**NEXT MEETING DATE:**

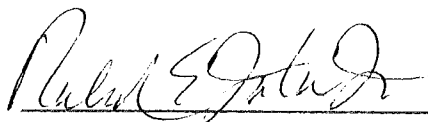
**WEDNESDAY, JULY 18, 2017**

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

May 17, 2017

There being no further business for the good of the County, the meeting was adjourned by order of the Chairman at 12:00 Noon.

**COLLIER COUNTY CONTRACTORS'  
LICENSING BOARD**



\_\_\_\_\_  
RICHARD JOSLIN, *Chairman*

The Minutes were approved by the Chairman on July 19, 2017,  
"as submitted"  - OR - "as amended"