

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

April 17, 2019
Naples, Florida

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

Chairman: Kyle E. Lantz
Vice Chair: Matthew Nolton

Members: Michael E. Boyd
Richard E. Joslin
Patrick G. White

Excused: Terry Jerulle

Absent: Robert P. Meister
Jeffrey Williams

ALSO PRESENT:

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

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

1. **ROLL CALL:**

Chairman Kyle E. Lantz opened the meeting at 9:06 AM and read the procedures to be followed to appeal a decision of the Board.

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

2. **AGENDA- ADDITIONS, CHANGES, OR DELETIONS:**

(None)

3. **APPROVAL OF AGENDA:**

Patrick White moved to approve the Agenda as presented. Richard Joslin offered a Second in support of the motion. Carried unanimously, 5 – 0.

4. **APPROVAL OF MINUTES: MARCH 20, 2019**

Patrick White moved to approve the Minutes of the March 20, 2019 Meeting as submitted. Michael Boyd offered a Second in support of the motion. Carried unanimously, 5 – 0.

5. **PUBLIC COMMENT:**

(None)

6. **DISCUSSION:**

- **Patrick White** inquired about the status of the Board members who were not in attendance.
Everildo Ybaceta, Supervisor – Contractors’ Licensing Office, stated Mr. Jerulle was “excused,” but since neither Mr. Meister nor Mr. Williams had contacted the office, they were considered to be “absent.”
In response to **Richard Joslin’s** question, **Mr. Ybaceta** confirmed that Jeffrey Williams was the new Board Member.
- It was noted Mr. Williams had been excused from the Board’s meeting in March.

7. **REPORTS:**

(None)

8. **NEW BUSINESS:**

A. **Orders of the Board:**

Richard Joslin moved to approve authorizing the Chairman to sign the Orders of the Board. Vice Chairman Matthew Nolton offered a Second in support of the motion. Carried unanimously, 5 – 0.

(Note: The individuals who testified in the following cases under Item 8, “New Business,” were first sworn in by the Attorney for the Board.)

B. Gislaine R. Lopez: Application for Reinstatement and Request to Waive Exam(s)
(d/b/a “*Martin’s Floor Covering, Inc.*”)

Lilla Davis, Administrative Supervisor – Contractors’ Licensing Office, provided the following background information:

- Ms. Lopez had applied for reinstatement of her Tile and Marble Contractors’ License,
- The Applicant’s license has not been renewed since 2014,
- The Applicant asked for a Waiver of the testing requirement,
- The last exams taken by the Applicant were in 2006 and 2007 in Lee County,
- The Applicant’s current license is “active” in Lee County.

Chairman Lantz questioned the Applicant:

Q. Has your Lee County license been active the entire time it was inactive in Collier County?

A. Yes – it’s been active for fourteen years.

Q. So, it was never inactive in Lee County?

Richard Joslin questioned the Applicant:

Q. Then why did you let it go inactive in Collier County?

A. I ran out of work at the time. I didn’t work in Collier County at all during those four years.

Chairman Lantz directed his comments to Staff: I’m going to ask the same question I ask every time we’re in this situation – “If she never had a license in Collier County, would she be here today?”

Everildo Ybaceta: No, sir.

Patrick White moved to approve reinstating the Applicant’s Tile and Marble Contractors’ License without requiring re-testing. Richard Joslin offered a Second in support of the motion. Carried unanimously, 5 – 0.

Patrick White: Welcome back.

Chairman Lantz reminded Ms. Lopez she will be required to pay fees before her license will be issued. He directed her to contact the Contractor’s Licensing Office.

C. Rene Lucas Mazariegos: Review of Experience
(d/b/a “*Royal Construction of SWF, Inc.*”)

Lilla Davis, Administrative Supervisor – Contractors’ Licensing Office, provided the following background information:

- The Applicant had applied for a General Contractors’ License - Registered,

- The Applicant's current Masonry Contractor's License is active in Collier County,
- The Applicant has been licensed in Collier County since May 2017.

Chairman Lantz questioned the Applicant:

Q. You have taken and passed the General Contractor's License test in Collier County – correct?

A. Yes, sir.

Q. The reason why you're here is because we want to discuss your experience. We want to know that you have experience doing structural work in your jobs. From what I've read, you've done a lot of pre-cast work – decorative, exterior finishes. What kind of structural work have you done or total home building projects have you overseen?

A. I have been working in construction since 2001. I have been working for General Contractors like Pine Country – I did some walls. This past couple of years, when I started the business, we started on pre-cast, designs, working with builders. And then I decided to become a General Contractor. I have experience since 2001 and helping in Naples with luxury homes, decorations, designs. I love my work. I would like to do general contracting to work on luxury homes and to give an education to my kids. They are growing up and I need money to invest in their education. My son is ten years old and sometimes he will go with me on the weekend to see what I do.

The Applicant discussed his experience working for General Contractors laying blocks, installing footers (16-inches deep) and rebar (every foot). He stated his goal is to build houses. Currently, his priority is installing pre-cast as well as painting, stucco, and carpentry.

The Applicant further stated his intention is to build his own house in his own style which he would design. He would hire "the right architect" and follow the blueprints. He noted he can read blueprints and follow drawings, and knows to contact the County for inspections.

Q. I would like a little more detail on your structural experience. You mentioned you had done some block work, some slab work – can you go into a little more detail on that? Specifically, on larger buildings.

A. On large buildings? I didn't work on large building. Just, like, pouring concrete – the layout – the soil has to be – the right base so that later on, when you pour the concrete, it doesn't crack. You know? It has to be strong and then compact, and then you pour the concrete. That's the only experience I have ... but not with large buildings. I'm not planning to work on large buildings.

Q. But the license that you're applying for as a General Contractor would allow you to build a high rise ... what's that?

(*Vice Chairman Nolton* made a comment to the Chairman which was not audible.)
I thought he was going for a "General" – not Building – right?

A. No, this only allows, like, three stories.

Q. So, it's a Building Contractors' License? Because the packet shows a General Contractor.

A. The "General" is only two or three stories – not a high-rise.

Richard Joslin: He is applying for a General Contractors – that's what is listed.

Patrick White: Which type?

Chairman Lantz: There is Residential, Building, and General. He's applying for a General which is unlimited – correct?

Vice Chairman Nolton: Is it General?

Everildo Ybaceta: It is General. He did take the test for the General Contractor, unlimited.

A. When I went to the desk at Collier on Horseshoe Drive and I said I would like to do more trades, and they recommended to do a General Contractor. I took the test and I passed the test.

Q. Right. The test and the license you're applying for as a General Contractor allows you to build a high-rise.

A. Allows ... oh.

Q. It would allow you – clearly, you would have to have someone to pay for it and hire you

A. To be honest with you, I don't have experience on high-rises and my priority is to do more trades and, in the future, to build a house ... my own house in my own style. Then from that, I would continue building houses ... one story – I'm not planning [to build] high-rises.

Richard Joslin: Sounds like he's looking for a Residential Contractors' license.

A. Yeah, like that. But these guys at the County – they gave me the information and I did it.

Q. What kind of block and slab work have you done?

A. What kind of ... what?

Q. You said you did block work and you poured some slabs. Give me an example of what you did that – when you put the rebar in – what were you building?

A. Regular houses. I worked at a company to pour the concrete ... like, four inches to six inches thick and to pour the driveways, too. On the bottom, we put the way they want it ... like, rocks or sand, with the soil compact, and then after that, we build the rebar – number 5 – and then we pour the concrete.

Q. So, you did slabs for new construction of houses?

A. For houses. And then we started laying the block ... every 48-inches ... and the rebar between the blocks was #5 ... then the columns.

Q. Okay.

A. Yup.

Q. It sounds like you have a decent amount of concrete experience for residential. Do you have any commercial experience ... with commercial buildings?

A. With commercial buildings, I have [experience] in pre-cast.

Q. Decorative pre-cast?

- A. With pre-cast, decorative I have experience. Also, I got my OSHA Safety Officer ... I have the course ... so if I bring my guys to a house, I have the instructions on how to protect our people from falling and all that stuff. Also, I submitted with my petition [application] my certificates.
- Q. Okay. Does anybody else have any questions?

Patrick White questioned the Applicant:

- Q. What work have you done on single-family residences or duplexes ... tie-beams, trusses, on up through roofs?
- A. Tie-beams, truss to roof? Like, um, the trusses ... you know, laying down the trusses and we follow the blueprint – like on the spaces where the straps ... and, also, you guys send the guys to pass the inspection. When we finish, we put on the headers ... you know, the concrete headers on the slab ... and on the windows ... they have to be waterproof ... not leaking ... [gesturing with his hands to indicate a roof peak] ... the straps provide support against the hurricanes ... and Naples has had hurricanes.
- Q. You mentioned reading blueprints.
- A. Yes, sir. I took the class ... I know how to read a blueprint.
- Q. And what experience do you have in helping to prepare or submit and respond to reject comments for permit applications?
- A. For permit applications?
- Q. Yes.
- A. For permit applications, I am working with the guys, like, hourly, like in 2001, I was working with the guys. I was not involved in permits. But now I have more experience and I have to run the business – to do pick-up and to send all the stuff, to read the blueprints, and ... yeah, I started the business – also I have been paying on my taxes. I like to work in orderly – I don't like to be working under someone I don't know ... I like to do it the right way.
- Q. Have you worked on any multi-family buildings ... condominiums?
- A. Condominiums ... no ... only singular family houses.
- Q. And duplexes – multi-family duplexes?
- A. No. I have been working in Collier County and in Lee County, too. If you guys approve me, I will go there the same way as when you guys approved me for my Masonry license, I went there, too. I work in two counties. I would like to work more in Naples because I am local. I do jobs for guys in Miami. Because I am local, I can do it.
- Q. Have you worked on anything more than two stories?
- A. More than two stories? I worked, like, two times before but I'm not interested. Right now, in my experience, I would like to do more trades and then later on, like I said, I would like to do my own house – my own style – and show to Naples that I can do it ... that I have the skills to do it.
- Q. What experience do you have in overseeing the work of the other trades ... electrical, mechanical, plumbing?
- A. I don't have – I mean, plumbing, I have a little bit, but electrical – I don't have experience in electrical. But I'm going to hire the right company with experience to do the electrical. I want to provide from them ... signing ... like, they have to be

responsible – you know? You have the right job and you hire the right people – right?

Chairman Lantz questioned the Applicant:

Q. What additional trades do you want to do? Why did you ...

A. What I want to do ...

Q. ... with an Owner/Builder permit, you don't need to be a licensed contractor to do it. But you want to do other trades as well. What other trades do you want to do?

A. I going to do painting, stucco, carpentry, and floors. Pre-cast I have. I want to do my own house.

Q. But, besides your house, do you want to do painting for ...?

A. I do sheet-rock and framing ... framing, too.

Q. But you want to do that for other people. You want your business to start doing that?

A. Yeah, I want my business to do it.

Richard Joslin questioned the Applicant:

Q. You want to contract with other General Contractors so to speak ... I guess ...

A. Yes.

Q. ... and sub for them – is that the case?

A. Yes, but ... I also ... yes ...

Q. ... and contract with homeowners and build houses and move on?

A. Yeah, but in the beginning, I'm going to do my own house because I have a lot of ideas to design my own house and show to Naples that I can do it, too.

Q. Not for a model?

A. I got to find out ... get those skills to do it. Like, also, like you guys, hire people to do inspections and hire the right architect, you know? I would like to have the opportunity.

Q. On some of the paperwork you filled out for the construction experience, some of them show you were a supervisor in the field.

A. Yeah.

Q. What did you do?

A. As a supervisor, I run the crews, and make sure I read the blueprints, and make sure the job is going right, plus work with the other supervisors. That's a couple of years ago ... that was. But in the beginning, me – running crews ... that doesn't say on the application. I run the crews, and reading blueprints, and do this ... do this ... always when I start on the job, you know, I start, like, I work there, like hourly, and they see my skills and they give me a higher level – okay? They see it. I prove my work. Right. Okay – I can do it. Also, it's not my natural language. I never stopped in high school ... I studied my English in my country.

Chairman Lantz: Any other questions from the Board?

Patrick White: One perhaps for Staff or others on the Board who may know, would the license allow work within the trades of electrical, plumbing, or mechanical?

Everildo Ybaceta: He would have to sub.

Patrick White: Absolutely required that he sub?

Everildo Ybaceta: Yes.

Chairman Lantz: We don't have the ability to give him a Residential Contractor's License even though his test is in General, do we?

Everildo Ybaceta: It's a good question.

Patrick White: Conversely, would we be able to limit ...

Everildo Ybaceta: You could ...

Patrick White: ... his G.C. license to, for example, no multi-family, maximum two story, all single-family residences or duplexes only?

Everildo Ybaceta: The General Contractor's License, obviously, is an unlimited license. It is a way more difficult license, I believe, than a Residential Contractor's License.

Richard Joslin: Wouldn't it be easier just to have him ... table this license and ask for a Residential Contractor's License? And I think the General Contractor's test ...

Everildo Ybaceta: We could ...

Richard Joslin: ... would apply.

Everildo Ybaceta: If the Board wishes, what we could do is ... we could go from here into a Residential Contractor's License – if that's what you want.

Richard Joslin: It sounds as if that's what he wants to do. I mean, with a Residential license, he would be able to do these trades that he's talking about ... plus build his own home.

Everildo Ybaceta: Well, he can build his own home as an Owner/Builder, yes.

Richard Joslin: But this way, he could be able to contact with other people, too, to build someone else's home if ...

Everildo Ybaceta: Right.

Chairman Lantz: His experience is residential ...

Richard Joslin: Yes.

Chairman Lantz: ... single-family residential. I mean, for my opinion, there's no way I could vote to say he's qualified to be a General Contractor or even a Building Contractor. But I could be convinced for a ... I still am not one hundred percent there, but I'm a lot closer than a General or Building.

Richard Joslin: I agree.

Chairman Lantz: And, personally, I would like to see him put this "on hold" and get some real experience overseeing a complete job rather than piece-meal.

Richard Joslin: Being a Masonry Contractor is one thing, and doing pre-cast and all that ... but when you start – when you start getting into tie-beams, and roofing and a/c and plumbing and electrical ... if he doesn't know the operation – no matter who he hires as a sub – if they mess up, he won't know how to fix it at this point, I don't think.

Everildo Ybaceta: It would be a question mark for the Board and for the Applicant.

Rene Mazariegos: Like, if you guys give me the opportunity, I will show you what my skills are when I do my own house – I'll be responsible. Also, when I ... if I ... 'cause I would like to have the opportunity.

Patrick White: What I'm hearing from the other Board members and from Staff is that you may not have been given the clearest direction when you talked to the folks at North Horseshoe about which type of license to apply for and test for. You passed the test and applied for a license that's beyond the scope of your work experience. So, we have a procedural problem. I don't think we have a "real world" problem with your

experience – it’s because of the kind of license that you’ve asked for. So, we have two choices ... or maybe three. We can deny your application today – we can deny it because you don’t have the work experience for the type of license you are asking for. The second choice we have is to try to limit the amount of work you can do, under an “unlimited” license, to the type of work you are limited by your experience to doing – which is residential, single-family, duplex, no more than two stories. Or, we can have you come back and apply for the license that allows you to do those things and only those things. That, to me, seems to be the cleanest approach and it does not put the County in the position of having to – in a sense – monitor and enforce the limiting conditions we would put on the General Contractor’s license. It really becomes even more confusing when you start talking about the State and the “DBPR” (Department of Business and Professional Regulations), and if there were any problems down the road because you went beyond the scope of our limitations. We can’t effectively enforce that stuff – we would have to ask the Construction Industry Licensing Board (“CILB”) to do it with their folks from Tallahassee. From my perspective, I would suggest that – if you are willing – you withdraw your request today, talk to Staff, and come back after applying for a Residential Contractor’s License.

Rene Mazariegos: The thing is ... please I would like to ... the second option. The thing is when I went to the desk ...

Patrick White: I understand what you’re saying.

Rene Mazariegos: ... and I went all day and I applied for this license. So now, I spend more than \$5,000 ... the money is on hold to pay my insurance and my Workers’ Comp ... okay? I would like to have the second option. And I would also like ... I will follow your instruction, like, okay ... no more than two stories ... understand ... for now. When I have more trades, and then later when I build my house, I can start building ...

Patrick White: Let me ask a question to Staff ...

Rene Mazariegos: Okay.

Patrick White: ... to try to figure this out. I think the fundamental question, for me, is: If he withdraws the application for the G.C. License today, he will come back and file an application with essentially the same materials but will only seek a Residential Contractor’s License, can he use the tests he’s already taken as proof to obtain the new license? I don’t know if that’s a question you can answer – maybe it’s one that has to go through the DBPR or somebody else, but it seems to me that it should be possible.

Chairman Lantz: We are allowed waive the testing requirements if we feel it’s superfluous. As a Board, we can say since he’s already passed the more advanced test, we can waive it and can apply that test [to the new license]. I don’t believe Staff can do that.

Patrick White: I wasn’t suggesting that Staff do it ... I was just asking if it was possible to submit another application and use the tests as proof ... if the request comes back to the Board to not only approve the license but approve it and accept the G.C. tests for the Residential Contractor’s License – I don’t see an issue with that.

Chairman Lantz: We’ve done that in the past.

Everildo Ybaceta: Yes, he could re-submit and come before the Board.

Patrick White: So, technically, it’s no more than one month to come back before

the Board with another application?

Everildo Ybaceta: The question, again, that I have – and this is the reason why we're here – for you to review the application that is before the Board ...

Patrick White: Agree.

Everildo Ybaceta: ... is because I didn't feel comfortable at that point in time approving it. And, *for the record*, Staff has been ordered procedurally to schedule appointments for anyone coming in for a Division One Contractor's License to meet with me before applying. This process has been in place for quite a while. In the case of this gentleman, I don't know what happened. It is also very subjective based on the questions that he asks and the answers he is given.

Patrick White: Correct.

Everildo Ybaceta: I would like to respond to that out of respect.

Patrick White: There was no suggestion on my part that he had been ill-advised. That's why I was seeking to characterize it just as a miscommunication from both ends.

Everildo Ybaceta: Yes, we could do it now, or we could table it and come back later.

Michael Boyd: Why can't we make a motion today to accept the exams for the Residential license and you can just approve it? Then he doesn't need to come back to see us.

Everildo Ybaceta: Yes, you could.

Michael Boyd: Okay.

Rene Mazariegos: The thing is ... if I need to pass another test ...

Patrick White: No, you don't have to.

Richard Joslin: No -- no, no.

Rene Mazariegos: Thank you.

Richard Joslin: I'm pretty certain the General Contractor's test is more difficult than the Residential test.

Rene Mazariegos: Yes, it is.

Michael Boyd: He did both ... with an 80 (Business Procedures) and an 88 (General Unlimited Contractor).

Richard Joslin: And he got high scores – I'm certain he has the qualification as far as the testing goes. I'm still on the fence, though, as far as his ...

Patrick White: I think what must happen first ... is for you to tell us whether you would be willing to accept our approval – not of the Unlimited General Contractor's License – but would you be willing to accept the Residential Contractor's License?

Rene Mazariegos: Yes, sir.

Patrick White: Okay. You are effectively asking us to amend your application to that license classification. Correct?

Rene Mazariegos: Yeah ... and the license is Residential?

Patrick White: Correct.

Rene Mazariegos: I'm in your hands ... you realize, for the right thing.

Patrick White: Of course.

Richard Joslin: You would no longer be classified as a General Contractor – you would be a Residential Contractor.

Rene Mazariegos: Yes, sir. I'm happy with that. Later on ...

Chairman Lantz: I still think we need to discuss a little bit about his experience, so procedurally, we can get there. What's everybody's opinion? I mean, I'm on the fence.

Vice Chairman Matthew Nolton: My opinion is: you have not presented enough experience to even be qualified as a Residential Contractor. I haven't heard that you've done one roof. I haven't heard that you've done any framing, any water-proofing of any amount. You haven't directed any other trades ... plumbers, electricians, mechanicals ... which are all a part of building a house. You have the structural part of concrete masonry but you're missing about five other areas – of experience in those area.

Rene Mazariegos: I didn't have time to explain to you. But also, I'm been doing water-proof, I've been doing framing, I've be doing roofs – I've been working for those companies.

Richard Joslin: How have you done that? How did you do that?

Rene Mazariegos: What do you mean?

Richard Joslin: You said you've done ...

Rene Mazariegos: Like how I've done the water-proof?

Richard Joslin: Yes.

Rene Mazariegos: The water-proof? Water-proof protection ... like ...

Richard Joslin: Not just waterproofing but all the trades that you ...

Rene Mazariegos: The trades like working with those guys at _____ with the framing and the studs – the separate – the spaces ... have to be every 16-inches ... and the slab and ...

Vice Chairman Nolton: How do you frame the sheeting on a residential house?

Rene Mazariegos: Say again?

Vice Chairman Nolton: How do you fasten the sheeting on a roof of a residential house?

Rene Mazariegos: On the roof

Vice Chairman Nolton: Yes.

Rene Mazariegos: ... roof deck?

Vice Chairman Nolton: The plywood on the roof – how do you fasten it?

Rene Mazariegos: With the plywood ... with the nails ... two to three-quarters, plus inside there is the straps ...

Vice Chairman Nolton: What's the spacing of the nails?

Rene Mazariegos: The spacing? The spacing is like every 3 ... 2 inches ... the nails.

Vice Chairman Nolton: That's not what it is.

Rene Mazariegos: The nails in the roof?

Vice Chairman Nolton: No.

Rene Mazariegos: How far apart ... like one inch?

Vice Chairman Nolton: Nope, that's not it.

Rene Mazariegos: No?

Patrick White: That would be a lot of nails ... a lot of nails.

Rene Mazariegos: Like ... um ,...

Vice Chairman Nolton: Can you even say where you have fill cells and masonry walls? What is the spacing on fill cells and masonry walls?

Rene Mazariegos: Masonry walls?

Vice Chairman Nolton: The block wall ... the concrete block wall ... the fill cells with the reinforcing sealing and the grout. What's the spacing on those that's required?

Rene Mazariegos: Like three-quarters ... the joints ... you know?

Vice Chairman Nolton: How ... from one fill cell to the next ... how far apart can they be?

Rene Mazariegos: You mean the rebars between the ... every forty-eight inches.

Vice Chairman Nolton: Okay. And where else do you need to have those?

Rene Mazariegos: What else? On the Number 5 ...

Vice Chairman Nolton: No. Where else do you need to place those in a structure?

Rene Mazariegos: Oh, where else? By the corners and by the doors and the windows.

Vice Chairman Nolton: At every opening ... on each side of every opening?

Rene Mazariegos: Yes, sir.

Chairman Lantz: I think he's done some grout work – at least, he's talked about it.

Vice Chairman Nolton: I would hope that he has that experience.

Richard Joslin: He's a Masonry Contractor ... he's done everything I have no problem with (mumbled phrase) ... I think the best thing you could do is, honestly, for you to build your own home on an Owner/Builder permit ...

Rene Mazariegos: Yes.

Richard Joslin: ... and then come back before us again. I don't feel as though you have enough experience to become a General Contractor or a Residential Contractor. I'm sorry. You may have seen it happen – you may have been around it when it was happening – but as far as for *you* to know how to do it, I am not convinced. Sorry.

Vice Chairman Nolton: I understand the desire, but once we give you this license and you walk out of here – you can go contract with anybody and build them a house whether you know how to do it or not. And you're asking us to say that you have the experience to do that for somebody.

Patrick White: Another way of looking at it is that you're asking us, in a way, to authorize you to be able learn on the job how to fulfill the license.

Rene Mazariegos: I learn on my jobs. The thing is as I say ... to do more trades ... more trades and then I'm going to build my own house, and then – after that – I will work for somebody else. Right now, my priorities are to work with the builders to do painting, to do stucco, to do carpentry and floors.

Chairman Lantz: Well, there's a big difference between doing an individual trade and overseeing the whole project.

Rene Mazariegos: Yeah.

Chairman Lantz: And so, we – me, personally ... I mean, I think it's great that you have a vision and you want to succeed and grow your business. I think it's great that you – you don't get an 88 on the General Contractor's test by showing up and not caring. You clearly put the effort in. And you're trying – you have the desire – and you clearly have some brains because that test is not super easy. We see people in here who have taken it four times and just get a 74. So, you know, you're clearly on the right path. We just want you to have some more experience is, basically, what it comes down to. We love the fact that you want to be licensed, that you want to do it the right way, you want to learn, you want to get all your ducks in a row but – once

we give you a license, that's us saying that we have confidence in what you have already learned – not that you're learning as you go. What we would like to see is you get experience before you get your license. That's the whole point from our perspective – that giving you a license is proof that you already have the experience.

Patrick White: And, in our Code, the length of time of that experience is four years or 48-months. That's kind of where I am a little uncomfortable. You may be able to get some or all of us over that discomfort if you were able to demonstrate that you purchased a lot and built your own home as an Owner/Builder, and demonstrated that you passed all of the inspections, and have been able to manage the business of it, if you will. I see your personal credit score is quite high, relatively speaking, so I'm comfortable – between that and the Business Procedures score that you got – that you will be able to manage your business effectively. In my view, you're probably 80 to 85% of the place you need to be, in terms of experience. Even if we were to limit your license only to Residential, I understand why there is not an overwhelming comfort with granting that type of license today.

Rene Mazariegos: And also, like, all these years working in construction, doing all this stuff and then ...

Chairman Lantz: We appreciate that you have twelve, fourteen, eighteen years of experience but it has to be in the trade – in the residential trade. I mean, you can have twenty years as a painter, but does that mean that we're going to give you a license to build a high-rise?

Rene Mazariegos: No.

Chairman Lantz: We want to see that you have experience building houses – putting additions on – remodeling major houses ... but the whole project, though, not just a small portion of it.

Rene Mazariegos: So, I can build my house by the Owner ... right? You tell me I can build a house as the Owner – right? Cause I don't have a ... I'm going to try to get a new loan. I got land in Fort Myers to build a duplex. The thing is – I don't have land here in Naples ... and then if I do as an Owner, you guys can ...

Patrick White: Your experience in Lee County, if you proceeded with that project, would be valuable and usable here. Your experience does not have to be in Collier County.

Rene Mazariegos: Oh, okay.

Patrick White: It could be in Oregon for all we care, as long as it is similar to what the license allows here.

Rene Mazariegos: The thing is to get, like, to get the money for the loan to build a house ... I ask these guys at the bank – they will give a loan to the General Contractor ... they don't give it to who is going to build the house ...

Chairman Lantz: You don't have to get the experience on your own project. The best way to get experience, in my opinion, is to get it on someone else's project where you're not falling on your face by making mistakes and having to fix it. You're learning from someone else who already made the mistakes. You find someone who is a Residential Contractor, or a General Contractor, and you work part-time for him – you can help him out on the weekends. There are plenty of ways to get experience besides doing it on your own. Look around. You've been doing this long enough – you must know enough G.C.s out there who – if you said you wanted to learn and

could work every Friday – would think it could work out great for both of you. And you will learn a lot. You don't have to finance your own experience. You get it while working for someone.

Patrick White: And that's generally what we see in fulfilling the 48-months of construction experience for that type of license.

Chairman Lantz: We have two options here, in my opinion. We can take a vote on it, or you can withdraw your application.

Rene Mazariegos: What about this ... all this money that I have already spent?

Chairman Lantz: I don't think that's wasted. I think if you get the experience, you'll get approved – you just need to get more experience.

Patrick White: That begs the question: How long can the tests he has taken be used for an application going forward?

Vice Chairman Nolton: I believe it's three years.

Patrick White: I thought it was. How long are his test results good for to come back and apply for a Residential license? Is it three years?

Everildo Ybaceta: As long as he is not given a license, it's good for a while.

Richard Joslin: Indefinitely, isn't it?

Everildo Ybaceta: Yes ... pretty much. We've had contractors who were tested seven or eight years ago and because they were not licensed, they came in and applied for a license and it was issued.

Patrick White: So, effectively, the money you have spent so far to pass the test and make the application – I don't see it as "wasted." It may have been premature, given the amount of experience you have. But if you get the experience, all you will need to do is to either amend or re-file the application for us.

Richard Joslin: As far as your insurance goes that you have spent money on, you can always rescind that. But you're going to need that anyway for the business you are in now.

Rene Mazariegos: No, this ... I have another Workers Comp and another insurance. These ones were already paid in full for the General ... and all the documents say I have a Workers Comp exemption.

Patrick White: I am pretty sure that a premium refund for the unused portion of what is typically a year-long contract – they are required to give you a portion of your money back.

Rene Mazariegos: Okay. Well, like, what if I get a stucco or painting or carpentry or flooring for right now. What do I have to do? I mean I'm going to need ...

Patrick White: Are you saying you want to apply for those different types of licenses?

Rene Mazariegos: The trades ... I mean how ... 'cause I have the preparation for these with all the insurance 'cause the first test I took was really same on the floor – how to lay out the floor – the tile – the marble ... and the stucco and the stuff. Plus, when I take the G.C., they're asking all the same again. I would like to have the floor or painting and the stucco ... and I put in the package I have already right now I already put in the money ... and I can keep running with the insurance. And then, later, like you say ... work with a G.C. and I sign it and everyday I work with him ... I get approved – I'm working with them.

Chairman Lantz: So, you're asking – let me make sure I'm hearing what you're

saying ... you're asking if you can apply for a stucco license, a flooring license, and a painting license using your tests?

Richard Joslin: These are specialty licenses, basically.

Rene Mazariegos: I have to read again ... study again ... waste more money ... why I waste money?

Vice Chairman Nolton: Are there trade tests that he has to take for those.

Everildo Ybaceta: Yes, there are. The Business Procedures test score will apply but for the other specialty licenses, he will have to test – it's not a re-test.

Chairman Lantz: All those trades have a test?

Everildo Ybaceta: Correct. And yes, and this information – in my interview with him, we did talk about it. We talked about it several times.

Rene Mazariegos: Second opinion ... we talked one time. At least one trade so I can start with this preparation and not lose all the money.

Chairman Lantz: Can a Masonry Contractor do stucco work?

Everildo Ybaceta: No.

Rene Mazariegos: At least, painting.

Chairman Lantz: He would have to take those individual tests?

Everildo Ybaceta: Yes.

Chairman Lantz: If you can pass one test, you can pass another test. If you can pass the General Contractor's test, you can pass a painting test.

Rene Mazariegos: Yeah – that's a piece of cake ... those ... the thing is ...

Vice Chairman Nolton: They are offered quite frequently – correct?

Everildo Ybaceta: It's \$130.00 for the sponsorship and \$90.00 for the test.

Chairman Lantz: Plus, you need to buy the books. You'll probably be out \$600.00 to \$700.00.

Rene Mazariegos: More like \$1,500 ... \$2,000. That's right there ... the same I spent for the Masonry License.

Chairman Lantz: But you're already done the Business Procedures portion – you don't have to do that again.

Rene Mazariegos: Yeah.

Richard Joslin: I don't see any way that we can do this.

Patrick White: We have a square peg/round hole problem. We're trying to find a way to get that square peg into the round hole. You have two choices: you can withdraw this application, or you can leave it in place – and the expectation that I have is, it won't be approved. Either way, at some point you're going to have to decide what you want to do next.

Chairman Lantz: You can sit down with Staff and they will go over all your options and the ways to get there. At least from my experience, they are pretty helpful.

Patrick White: Here's the difference ... if you come back for any one or more of those other trades – specialty licenses – and you do not withdraw your license application today, you will have to report on each one of those applications that you were denied a license and explain why.

Richard Joslin: You don't want to do that, no ... no.

Patrick White: I offer that to you – and how you weigh your choices here today. I don't have any other questions for Staff or the Applicant, Mr. Chairman.

Chairman Lantz: How would you like to proceed?

Rene Mazariegos: I want to _____ ...

Chairman Lantz: That is for you to decide ... not us.

Rene Mazariegos: Okay, I didn't hear ...

Patrick White: Let me make this suggestion ... if I were wearing your hat, I would withdraw my application and have a conversation with Staff and figure out which one – or more – of the specialty trades you want to apply for and test for ... then come back if you need to and see us.

Rene Mazariegos: Yeah ... I think I'm ... like ... I want to keep on hold my application for the G.C. – I'm going to get more experience.

Patrick White: If you withdraw ...

Rene Mazariegos: Yeah ...

Patrick White: ... it's not denied ...

Rene Mazariegos: Yeah ...

Patrick White: ... so you can come back and re-apply ...

Rene Mazariegos: I want to do that one. I want to work on my G.C. ... and then I come back. How long is it going to take?

Patrick White: It's up to you.

Chairman Lantz: That depends on which what you're doing.

Patrick White: I think that you would be able to show me, personally, having worked on a complete cycle from concept to C of O ...

Rene Mazariegos: Okay.

Patrick White: ... at least a few single-family houses.

Rene Mazariegos: Okay.

Patrick White: Whether it's in Lee or Collier is irrelevant.

Rene Mazariegos: Okay ... I want to hold that one, so then ...

Chairman Lantz: Just to be clear ... you are requesting that we ...

Patrick White: He is requesting to ... he makes the request ... we are not going to do anything. He makes the request ... he lets us know that he either wants to withdraw the application and we're done, or I make a motion.

Chairman Lantz: Are you requesting to withdraw your application at this time?

Rene Mazariegos: What do you mean?

Chairman Lantz: Are you saying that you will take your application back and not apply for the license at this time?

Rene Mazariegos: And then apply ...

Chairman Lantz: You can apply later but not today.

Rene Mazariegos: Let me think ...

Patrick White: The other option is I am going to make a motion to deny your application request.

Richard Joslin: And I am probably going to second it.

Patrick White: You have the lesser of two evils, I guess. If you withdraw it, it is not denied. If you don't withdraw it, the odds are you will roll the dice and it will be denied.

Vice Chairman Nolton: So, you withdraw it and go and get experience. You will talk to the Staff and try again.

Richard Joslin: In the meantime, if you wanted to take the Painting Contractor's license or whatever else you want to do, you could take those tests and come back

after you have passed them. You probably won't even need to come before us ... good chance.

Rene Mazariegos: Okay ... I take that one ... that one.

Chairman Lantz: So, you would like to ... just to be clear ... you would like to withdraw your application at this time?

Rene Mazariegos: Ah-h ... let me take a second ...

Patrick White: There are two words that I suggest you say – they mean the same thing ... one is in Spanish and the other is in English ... “Si” or “Yes.”

Chairman Lantz: But the choice is yours ... it's not our choice to make.

Rene Mazariegos: Ah ... yes.

Chairman Lantz: Yes, you would like to withdraw your application at this time?

Rene Mazariegos: And then ... later on ...

Chairman Lantz: You can re-apply any day you want later ... we would prefer that you get more experience before you re-apply, but the choice is yours.

Rene Mazariegos: Okay.

Vice Chairman Nolton: And have conversations with Staff about the process so you can fully understand it.

Rene Mazariegos: And then, I'm going to take the test for painting.

Patrick White: That's great.

Chairman Lantz: I hope you succeed – I can tell you have a lot of potential.

Everildo Ybaceta: All right. Just to be clear ... you are withdrawing your application – correct?

Rene Mazariegos: That's the smart idea, isn't it?

Richard Joslin: That's a “yes,” right??

Rene Mazariegos: (laughing)

Chairman Lantz: All right – so, we wish you the best of luck.

Rene Mazariegos: Thank you.

Chairman Lantz: Work on getting more experience and if you get more experience, I think you will be approved with no problem.

Everildo Ybaceta: Later today or tomorrow, come and see us – we can discuss your other options – okay?

Rene Mazariegos: Okay.

Everildo Ybaceta: Thank you.

Rene Mazariegos: Have a wonderful day.

Chairman Lantz: You, too. Thank you very much.

9. OLD BUSINESS:

NONE

10. PUBLIC HEARING:

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

Patrick White: Mr. Chairman, I don't know if the Respondent is available for Item 10-C, but would it be of value to dispose of that case first? Could we please change the order slightly? Hear 10-C first and dispose of it before hearing 10-A and 10-B?

Patrick White: *If I need to make a motion to amend the Agenda, I do so.*

Richard Joslin: *I second the motion.*

Chairman Lantz: Any discussion? (There was none.)

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

Patrick White: Thank you.

C. Case #2019-04: Board of County Commissioners, Petitioner, vs. Christopher Dutruch, Respondent, MAC MAR, LLC, d/b/a My Affordable Roof, Respondent

Attorney Cindy Crider addressed the Board: Good morning. My name is Cindy Crider and I am the attorney for Christopher Dutruch, Respondent.

Chairman Lantz requested to have Christopher Dutruch sworn.

Patrick White: I am assuming, Ms. Crider, that you are not going to be providing testimony but simply "argument?"

Attorney Crider: If necessary, yes.

Patrick White: If you're going to be providing any factual testimony

Attorney Crider: No, I am not testifying as to factual matters.

Chairman Lantz: Do we need to go over the procedures or is this going to be a modified ...?

Assistant County Attorney Kevin Noell: We do have a Stipulated Agreement that was entered into by the Contractors' Licensing Supervisor and the Respondent. I would like to submit that to the Board.

Richard Joslin: Was he sworn?

Patrick White: Can we just get a few things in order, please?

[The Assistant County Attorney was sworn.]

Patrick White: Thank you.

Assistant County Attorney Noell: I'll present this to the Board.

[The document was handed to Chairman Lantz by Mr. Noell.]

Chairman Lantz: This is what we are to ...?

Patrick White moved to accept the County's Stipulated Settlement Agreement in Case Number 2019-04 into evidence and all exhibits attached thereto. Richard Joslin offered a Second in support of the motion. Carried unanimously, 5 – 0.

Patrick White: Mr. Noell, is there anything that you would like to offer as an "Opening Statement" regarding the admitted evidence?

Assistant County Attorney Noell: No, sir, as I believe the Agreement speaks for itself as to the allegations. They did admit it was a willful violation as outlined in the Administrative Complaint which sets forth the deposit that was taken and status of the percentage as opposed to the amount of the work and the permit issue as well. Based on the Agreement, the Respondent has admitted to the willful violation and agrees to accept the Board's decision. Staff has provided a recommendation for the Board: we want this State-certified Contractor to be in the same position of any other State-certified Contractor in good standing. We want him to return to the Board before any permit-pulling privileges are reinstated to prove and show to the Board evidence of a business plan and any permits that are either expired, void, or cancelled as well as any cancelled contracts. Those issues must be rectified before any permit-pulling privileges will be reinstated. That is Staff's recommendation.

Richard Joslin: Is there a time line on that ... on how long?

Assistant County Attorney Noell: No.

Chairman Lantz: Does the Respondent have any current permits that are open?

Attorney Crider: Yes.

Richard Joslin: How many?

Attorney Crider: Yes. I believe he still has 41. I believe that members of the company met with members of Collier County back in February. It wasn't a Board meeting – they just had a meeting to try to figure out where everything stood and, since that time, 156 permits have been closed and an additional 26 permits will be closed by Friday of this week. I think there are 41 outstanding and of those, 14 need Engineering Letters to finalize; 4 permits are completed; 4 permits with Hurricane Mitigation forms; 4 permits need revisions to close out, and 4 permits waiting for extension approval. So, pretty much, they are either underway or more than underway of the ones that are still outstanding.

Chairman Lantz: In essence, he is finishing all the jobs that he has currently, and he is not doing any more business in Collier County – any new jobs – until he comes up with a plan on how to proceed that is approved by Collier County.

Attorney Crider: Yes, sir.

Richard Joslin: But there are still permits that were applied for that are underway?

Assistant County Attorney Noell: Any permits that were applied for prior to today's Hearing, the Respondent has the ability to do the work and close out those permits – they have already started in the system – they were under contract and everything else. But as of this Hearing, the Respondent will not be able to apply for any permits.

Attorney Crider: It is the company's intention to, hopefully, come back to you as soon as possible. I don't know if we will be able to do it by the May meeting but, if possible, we would – to have everything completed and to your satisfaction. That's what the effort has been put to and that's what going to happen – I just can't promise

that it will be done by May – but that’s the intention – to get you pleased and comfortable with it as soon as possible.

Chairman Lantz: I have a question – I think it’s for Staff but ... how does this apply toward his State license? Does the letter get sent to the State that this is a punishment, or how does that work?

Assistant County Attorney Noell: It is a matter of public record but if the Board wants to direct us to forward it ... my understanding is ... the State is also involved with investigating on the State-level, and we have taken the most aggressive steps that we could take by fully suspending the permit-pulling privileges until we are confident and comfortable with the business plan going forward. If the Board directs us, we will certainly forward a recommendation, but my understanding is the State is fully aware of this situation. I will defer to Contractors’ Licensing Office Supervisor to confirm whether that’s the case.

Everildo Ybaceta: That is the case right now ... yes.

Richard Joslin: Would it be necessary for us to make that recommendation? Probably not – right?

Assistant County Attorney Noell: I don’t think it will be necessary but whatever is the Board’s pleasure. But I do not believe it is necessary.

Patrick White: I do have a question about form of the Stipulated Agreement as well as the proposed Order. It’s the same text in two different places. In the Settlement Agreement, it’s on Page 2 – Number 4(b.) – the last phrase. I am not sure how to understand what that means. If you take a minute to read it, it is the same text as on Page 6 of the Order under C-ii – it’s the Homeowners’ refusal phrase.

Assistant County Attorney Noell: You’re correct on the typo, and I appreciate the diligence. It should state – and correct me if I’m wrong, Counselor – it should state “... and the Homeowners refused ...”

Attorney Crider: Yes.

Assistant County Attorney Noell: So, essentially, the understanding between the parties is – for any contracts that have been cancelled and there’s been a disagreement between the parties – the Respondent needs to come before the Board to make a showing that he has reasonably tried to resolve this with the Homeowners and because of either agitation or other reasons, the Homeowners have been much more aggressive in trying to get this resolved and maybe have taken a position that is way too hard to be a reasonable position.

Attorney Crider: If I may speak to that? It is the company’s intention to go to every person in Collier County who had a cancelled permit and – if they will talk to us – the people may be frustrated and I understand that – but if they are willing to communicate with us, we want to make them whole. If they’ve hired another contractor and [the cost] has come out of pocket, we want to cover that. I hope that no one tries to double-dip or something like that, but if somebody says that he/she had to pay \$85,000 out of pocket but the facts clearly show that they did not, then we might not be able to come to an agreement that satisfies them if they wanted something that is not based upon true facts. But it is the company’s intention to go to all of them – and I believe we’ve already reached out in a couple of cases and had some success – that if they have been damaged because they had to hire another contractor, we want to make them whole and cover the cost difference between what

it would have been under our contract and what actually had to come out of their pockets. So that's our intention. I think he is acknowledging the possibility that there may be one or two homeowners – hopefully not – who may not be happy or willing to let us do that, no matter what the circumstances.

Patrick White: Essentially, Ms. Crider, for evidence, you are going to look for either cancelled checks, copies of contracts with other contractors, and things that are going to be record evidence and so, hopefully, the homeowner even if he/she is attempting to over-reach is going to understand that the worst-case scenario ... or what they may think is the best ... is that they will be in litigation.

Attorney Crider: Right.

Patrick White: They will have the same set of proofs and – at that point – your client will probably be in a position to recover your fees and your costs.

Attorney Crider: Yes.

Patrick White: I am hopeful that by saying this *on the record*, you will have the opportunity to share this information with those who may be Homeowners – Refused.

Attorney Crider: Yes. Thank you, Mr. White.

Patrick White: You are welcome.

Richard Joslin: Are there any of these unsatisfied clients or customers who have deposits out there that you have taken that whose work didn't commence or who need to be refunded, or ...?

Attorney Crider: I don't have that information, but I believe there are a couple who have been issued refunds. I believe there is one person who – part of the company's business plan in getting everything agreed to fast – we needed to figure out where we needed to get going – was bringing me on as Counsel to help, and I have been in contact with Mr. Noell who said there were a few customers who the County had problems with and there was one in particular who, it turns out, has dementia which may be part of the difficulty we have had in getting things accomplished. We ended up getting his refund for him through his Power of Attorney. The ones that we know of – and we going to everybody – if there is anyone who is in that situation, we are going to rectify. But I know the one that we discussed – that I know he is aware of – we've already rectified prior to this Hearing.

Vice Chairman Nolton: Is he the one who made the complaint – Hermann and Erika Bartenbach? Have they been made whole?

Attorney Crider: My understanding is the Bartenbachs ... we just finished or are in the process of finishing ... I don't think we have the final numbers, but communication has begun – good communication – oh, I'm sorry ... I don't know ...

Patrick White: If you desire an answer, we are going to ask that he be sworn in ...

Vice Chairman Nolton: I would like an answer so, yes, please.

Jack Gumph, Collier County Licensing Compliance Officer: The Bartenbach property – that was a cancellation. They had paid \$30,000 to *My Affordable Roof* for a \$32,000 job. They got tear-off and underlayment only which leaked, and they cancelled. They have a new contractor who, I believe, is charging them \$20,000 to finish the job.

Chairman Lantz: But that's under way – they are already contracted with the new contractor?

Jack Gumph: That's correct. I believe Counselor is talking about the gentleman who has dementia, Mr. Riley, and he did get a refund through his daughter.

Vice Chairman Nolton: And the Bardenbachs contracted with someone else for ... I think it was \$17,000 something – I think I saw it in there.

Jack Gumph: Yes.

Vice Chairman Nolton: And they are paying that. They haven't been made whole yet because they haven't gotten ...?

Jack Gumph: It's my understanding that they haven't gotten anything yet, but there has been some conversation.

Attorney Crider: We are waiting to get the final numbers – I think what he said isn't true. I don't know whether or not the roof has been completed by the new Contractor, but it is my understanding that it is either almost completed or ... do you know the status of that roof currently?

Jack Gumph: It is almost completed, but I think the misconception is when you said you had finished it.

Attorney Crider: No, no, no – I apologize. There is the substitute contractor who is almost completed, and we are waiting for that to be done and for him to be able to give us what the actual damages were. As soon as this contractor completes and submits an invoice then we can get together and say that it actually ended up costing them an additional \$2,000 -- \$3,000 -- \$20,000 but whatever it actually did cost them and can be documented, we will make them whole. We just don't know what that figure is yet because it's not done.

Richard Joslin: I have a silly question but ... were any of these jobs not completed or not finished or not permitted or whatever the case may be – because of the hurricane or because of problems getting the materials?

Attorney Crider: I can speak to that – there were tremendous, tremendous delays due to material unavailability and the supply of labor. It was just – I think there was just a mass – I think it was part of growing too fast and having too many jobs that were just not ... he can speak to that ... to people ... to get the tiles it was particularly an extraordinarily long wait and I don't know that anyone necessarily anticipated ... you guys might have because you've probably been through this before ... but I don't know that anyone necessarily anticipated how to communicate to the homeowner that it might take six to nine more months for the tile and there were other delays in getting inspections which were being done timely by the County but when you have 1,000 at once ... sometimes it took a few weeks longer. So, there definitely were delays, but we want to take responsibility for the mistakes ... the missteps that were made – because they definitely were – but that's what we're trying to rectify and get right.

Patrick White: If there aren't any more questions, Mr. Chairman, procedurally, I move that we close the Public Hearing that I don't know we officially opened. But we at least have the benefit of what I consider to be Mr. Noell's *Opening Statement*, and follow-up questions and answers from the Respondent. So, procedurally, I believe it's appropriate to close the Public Hearing and I will make a motion to do so at this time.

Patrick White moved to approve closing the Public Hearing. Richard Joslin offered a Second in support of the motion. Carried unanimously, 5 – 0.

Chairman Lantz: The Public Hearing is now closed. It is our time to discuss this.

Patrick White: Given the dialogue we've had up to this point, I'm comfortable making a motion that, based on these statements and the Stipulated Settlement Agreement, that there's a Finding of guilt with respect to the Count alleged in the Administrative Complaint. And I would so move that we make that Finding.

Patrick White moved to approve finding the Respondent, Christopher J. Dutruch, d/b/a "My Affordable Roof," and holder of License CCC 1331305, guilty of the violation alleged in Count I of the Administrative Complaint in Case No. 2019-04. Richard Joslin offered a Second in support of the motion.

Chairman Lantz asked the members if discussion was needed. [No response.]

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

Patrick White: Although I know we typically ... in the next two cases, we will probably go through the formality of all the things we typically hear from our Counsel, Mr. Schneck, regarding what our options are and how to weigh those options in terms of penalties or punishment. Since those things are included in the Stipulated Settlement Agreement and are part of the Order Adopting the Stipulated Settlement Agreement – unless someone feels differently – I am comfortable with what is in each of those two documents with the understanding the discussed text change will be made, specifically, from "... the homeowners refusal ..." to "... the homeowners refused ...". If that's agreeable to the County and the Respondent, I will make a motion that as far as the penalty to be imposed, to do that by way of the adopted Stipulated Settlement Agreement.

Assistant County Attorney Noell: It is agreeable to the County.

Attorney Crider: Yes, it's agreeable to the Respondent.

Patrick White moved to accept the penalties stated in the Stipulated Settlement Agreement and the Order Adopting the Stipulated Settlement Agreement in Case Number 2019-04 and to approve the penalties as the Sanctions to be imposed by the Contractors' Licensing Board upon the Respondent, State-certified Contractor, Christopher J. Dutruch, holder of License No.: CCC-1331305. Richard Joslin offered a Second in support of the motion. Carried unanimously, 5 – 0.

RECESS: 10:23 AM

RECONVENED: 10:40 AM

10. PUBLIC HEARING: (RESUMED)

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

Chairman Lantz called the Public Hearing to order and asked Respondent, Peter Wozniak, to come to the podium.

A. Case #2019-02: Board of County Commissioners, Petitioner, vs. Peter Wozniak, Respondent, d/b/a Florida Roof Services, LLC, Respondent

Chairman Lantz noted Jack Gumph, Collier County Contractors’ Licensing Board Compliance Officer, was still under oath.

Chairman Lantz outlined the procedures to be following during the Public Hearing:

1. This Hearing will be conducted pursuant to the procedures set forth in Collier County Ordinance #90-105, as amended, and *Florida Statutes* Chapter 49.
2. The Hearing is quasi-judicial in nature and the Formal Rules of Evidence will not apply.
3. Fundamental fairness and due process shall be observed and shall govern the proceeding.
4. Irrelevant, immaterial, or inconclusive evidence shall be excluded but all other evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida.
5. Hearsay evidence may be used for the purpose of supplementing or explaining any evidence but shall not be sufficient by itself to support a Finding unless such hearsay would be admissible or objected to in civil actions in court.
6. The Rules of Procedure shall be effective to the same extent that they would now be hereafter recognized in civil actions.
7. The general purpose of the proceeding is for the County to set out its *Opening Statement* which details its charges against the Respondent.
8. A Respondent may or may not make his/her *Opening Statement* setting out in general terms the defenses to the charges.
9. The County then presents its *Case in Chief*, calling witnesses and presenting evidence.
10. The Respondent may cross-examine these witnesses.
11. After the County has closed its *Case in Chief*, the Respondent may present his/her defense, and may call witnesses; introduce evidence; cross-examine witnesses, impeach any witness regardless of which party called the witness to testify, and rebut any evidence presented against the Respondent.

12. After the Respondent has presented his/her case, the County may present a rebuttal to the Respondent's presentation.
13. When the rebuttal has concluded, each party may present a *Closing Statement*.
14. The County will have a further opportunity to rebut the conclusions of the Respondent's Closing Statement.
15. The Board will then close the Public Hearing and begin its deliberations.
16. Prior to beginning deliberations, the Attorney for the Board will give a Charge which is similar to a Charge to a Jury, setting out the parameters upon which the Board can base its decision.
17. During deliberations, the Board can ask for additional information and clarification from the parties.
18. The Board will then decide two different issues:
 - a. Whether the Respondent is guilty of the offense as charged in the Administrative Complaint and a vote will be taken on the matter;
 - b. If the Respondent has been found guilty, then the Board must decide upon the Sanctions to be imposed.
19. The Board's Attorney will advise the Board concerning the Sanctions that may be imposed and the factors to be considered. The Board will discuss the Sanctions and take another vote.
20. After the two matters have been decided, the Chair (or in his/her absence, the Vice Chair) will read a summary of the Order to be issued by the Board. The summary will set for the basic guidelines of the Order but may not be exactly the same language as the Final Order. The Final Order will include the full details as required under State law.

Chairman Lantz asked for a motion to approve opening the Public Hearing.

Patrick White moved to approve opening the Public Hearing in Case No. 2019-03, Peter E. Wozniak, Respondent, d/b/a Florida Roofing Services, LLC. Richard Joslin offered a Second in support of the Motion. Carried unanimously, 5 – 0.

Assistant County Attorney Noell: Good morning, we had a last-minute discussion with the Respondent in both matters and have a verbal Stipulation that we would present to the Board for consideration. It's essentially in line with the Stipulated Agreement with *My Affordable Roof* and I believe that the Respondent admitted to in the first case – in which the last name of the homeowners is Reyes – the Count set forth in that Administrative Complaint.

[**Attorney Noell** directed his comments to the Respondent, Peter E. Wozniak: First, is that your understanding? Are you guys admitting to the violation in Count I?

The response (*unidentified voice*) was "Yes."

Attorney Noell: Okay, in that it was a willful violation?

The response (*unidentified voice*) was "Yes."

Attorney Noell: Okay.]

Attorney Noell continued: The County's recommendation would again be in line with the previous recommendation for the *My Affordable Roof* case which is that the Respondent's permit-pulling privileges from the date of this Hearing are suspended. Concerning any permits that are either expired, cancelled, or void, the Respondent retains his right to do what is necessary to properly closeout those permits, that is to do the work and put the homeowner in the position that he/she would have been in had they not entered into the contract or show reasonable efforts to make the homeowner whole.

Chairman Lantz questioned the Respondent:

Q. Can you tell us how many permits are out there?

A. [Speaker was not identified] How many permits are out there in what status?

Q. Any status – either applied for, issued, denied, uninspected, inspected – anything that is not final.

[**Note:** The speaker identified himself **Jeffery Rayl**, an employee of Florida Roof Services, LLC.]

A. My name is Jeffery Rayl and I'm an employee and the manager of the company. To answer your question, I don't know the number. The reason I answered it that way is this: we recently found out that when you have a permit filed in your County, that's not the end of it. I understand that you have what is called a "close-out procedure" beyond the Final [Inspection]. We didn't even know that until about three weeks ago when one of my customers, who is also a contractor in a different trade, explained that to me. Then we came to your Permitting Office and they said, "oh, yeah, you have to give us \$60.00 and ask for the close-out." Which we did. So, I don't know how many permits we pulled and did the work and we thought were in Final but never did a close-out because we didn't even know such a thing existed. There is no other County in the State of Florida that I know of that has that on a roofing permit, so this is something new to us, so the number is unknown. I will have to go back into the records and find out.

Jack Gumph: Mr. Chairman, I have the number – it's 22.

Chairman Lantz: 22 – total?

Jack Gumph: Correct.

Richard Joslin: Could you just explain what the "close-out" means and if its final.

Jack Gumph: You must get a Certificate of Completion that says all the fees were paid. If all the fees aren't paid, they could get a Final Inspection, but the permit wouldn't be closed-out.

Jeffery Rayl: And I'm a little bit confused on that because I thought when I paid the fee to get the permit that those were the fees. I don't know what fees he is referring to.

Jack Gumph: There could be reinspection fees, et cetera.

Richard Joslin: Right, for inspections that went on during the process.

Jeffery Rayl: Those are the fees he is referring to?

Assistant County Attorney Noell: If I may bring the Board's attention to this Administrative Complaint specifically, the homeowners are here, and the homeowners' daughter has indicated that she would like to speak, as you will note in the evidence packet which I will submit into evidence at this time.

*Patrick White moved to accept the County's information packet into evidence.
Richard Joslin offered a Second in support of the Motion.
Carried unanimously, 5 – 0.*

Assistant County Attorney Noell: In that packet are pictures of the water damage and other issues that the homeowners have had with the roofing which the daughter would like to address at the Board's pleasure.

Richard Joslin: Is this job still underway at this moment? What is the status?

Jack Gumph: The Final Inspection had failed for unsatisfactory work, and it will need to be re-inspected at this point.

Jeffery Rayl: The repairs were done. It was the grout that the Inspector said was cracking so we went out and re-grouted that. We've called for a Final Inspection and I believe it's scheduled for this coming Saturday, the 20th. It's a concrete tile roof and the grout is at the concrete point at the hips and at the edges.

Chairman Lantz: I would say that now, if it's okay with the County, is as good a time as any to for the homeowner ...

Patrick White: Point of Order, Mr. Chairman. I'm assuming we've heard *Opening Statements* from both the County and the Respondent. We had the admission of guilt of the willful violation. We can move, I guess, to the *Case in Chief* and at that point, if you have a witness, Mr. Noell.

Assistant County Attorney Noell: I don't think we have a "witness" as the Respondent has admitted to the violation. The County's position is if the Board would like to hear about a penalty to impose because we have met our burden by the admission. If the Board would like to hear about the appropriate remedy or penalty to impose then I think that would be maybe post-closing of the Hearing and Finding of Facts.

Richard Joslin: If the job is called in for a Final Inspection and prior to that, there were issues where was, supposedly, a leak. Do we know if the leak has been repaired and the re-grouting has been taken care of?

Jack Gumph: It is my understanding that – to be best of their knowledge because it hasn't rained – the leak has stopped? Yes.

Jeffery Rayl: May I address that?

Chairman Lantz: Yes, sir.

Jeffery Rayl: The leaks occurred when the original roof was torn off and "dried-in." It's a concrete tile roof, it's dried in with a product called "Poly-Glass" tile underlayment. At that phase of the job, they had some leaks. We went out and did some temporary repairs to try to stop the leaks – it became evident over the time frame because we were not able to get concrete tile in a timely fashion. This job dragged on and on and on. At a certain point, the underlayment is no longer valid,

and we had to re-dry-in the job. I contacted Poly-Glass Industries. They sent a representative out who told us what to do. We invested \$6,000 and nobody is reimbursing us for that, and we actually incurred another \$6,000 in expenses for material and labor to re-dry that house in. And that was done. And at that point, it's my understanding that all the leaks stopped. Again, we only did that when we got an assurance from the tile manufacturer that the tile would come on a certain date because we had gotten promise after promise but no tile. Once we felt comfortable the tile was really coming, that's when we went out and re-dried-in the house. Evidently, that's when I created the violation because the permit had expired. I sent my guys out to re-dry it in but didn't first go to Collier County and extend the permit. That's my understanding from a conversation that we just had in the hallway. I didn't realize until today that I'd done that. The tile came and got installed ... no subsequent leaks. However, the Final Inspection failed ... we went out and made the repairs ... and we called in for the Final. That's pretty much my synopsis.

Patrick White: So, since we're on the edge of this, this is more for my own edification and understanding of how a "Stop Work" Order, I believe, was issued ... am I in error about that?

Jack Gumph: No, sir.

Patrick White: And then somehow the permit was extended with the "Stop Work" after you'd done the work you just mentioned – that I understand was done after the "Stop Work" was issued. Do I have the chronology of that ...

Jack Gumph: It's correct.

Patrick White: ... in order? Then, I'm kind of at a loss to understand why – with a "Stop Work" – was there a conversation internal to the County about extending the permit?

Jack Gumph: The "Stop Work" was on an expired permit, sir. If they re-activated the permit, they could go forward.

Patrick White: Okay. Thank you. I feel like I know something I didn't before.

Jeffery Rayl: I just learned something I didn't know before. I didn't know ever about the "Stop Work" Order, so that's news to me. But, evidently, it cures itself by extending the permit.

Patrick White: It makes sense since it would. Thank you.

Assistant County Attorney Noell: That's our evidence – the County's evidence – the admission of the willful violation. That's all that we have for our case. In the penalty phase, if the Board would entertain Ms. Reyes will address the Board after its post-closing, or if it's the Board's pleasure to hear from her now?

Patrick White: Because there may be something that she has to offer that might bolster the case – I'd be fine hearing her now and I'm sure we'd be able to apply in our evaluation whatever shares with us for an appropriate penalty.

The County's Witness was called to the podium.

Desiree Suarez: Thank you for taking the time to meet with me. I'm their daughter, Desiree Suarez.

[The Witness was sworn in by the Board's Attorney.]

Desiree Suarez: I have a time line that I can go by and do this as briefly as possible and not take up so much of your time.

- We'll start it on May 9th – the tiles were removed by breaking them so hard that the structure of the house became compromised in the pool cage area and in the front area of my mother's house;
- May 18th – the first installation of the underlayment;
- June 2nd – new water stains appeared as we'd never had before – in the formal dining room, we had stains that we never had before;
- June 13th – the stains were getting darker and there was no response from the roofer, Jeffery Rayl, to my messages;
- June 1st – the inspection failed for the first underlayment and they waited until January to install the second underlayment; before that, he sent the crew out again – a different crew – to fix the underlayment but there were still water stains after they fixed the first underlayment. I believe he hired unskilled workers who didn't know how to put down the underlayment because I called the manufacturer. It had to overlap – either 6-inches or 12-inches – and it only overlapped two inches. That was part of the problem. The installation was done unprofessionally.

Patrick White: You do understand that they have admitted to all charges?

Desiree Suarez: Right. Okay, so ...

Patrick White: What I'm interested in knowing is, do you feel that what they're offering to do now is going to make you whole in terms of addressing the damages that were done, as well as putting on the roof you effectively anticipated having them pay for?

Desiree Suarez: I do believe so, but I also wanted to bring to your attention that it wasn't installed professionally. I had asked them how many years of experience they had in installing the roof – it was a father, son, and nephew team – and they just put it down quickly. They were only there three hours a day for a couple of days. And then he sent over a representative from Florida Roofing to come out and inspect because of all my complaints and the pictures that I took of the male/female tiles that weren't lining up ... there were holes – gaps – in many areas. The last row has lifted, and you could see the space.

Patrick White: Has that been taken care of?

Desiree Suarez: No, no. This is what I'm saying ... the roof was put on unprofessionally, so I sent 25 pictures to Jeff's cell phone and then he sent the representative from Florida Roofing the same day. She came to the house – she was a sales person – she was not a roofer. I read the pamphlet – it was 55 pages on how to install the roofing tiles for Florida. I may have missed 30 pages of it but, in a nutshell, I read the pamphlet. I don't think it was installed correctly and she said, "Oh, I've seen worse." That's the only thing she said to me. Now when I look at the roof, it looks like 10-year-olds installed the roof.

Patrick White: I don't know if my 10-year-old could do it or not ...

Desiree Suarez: It was not done professionally. For them to come out and say that they already fixed what they said they fixed – the inspection failed – this is what they did to fix it (showing photographs) ... they put dark brown putty over cement. If this

is an indication of them being a professional roofing company, I highly doubt that this is acceptable. In addition to them making this whole for us, they need to have a professional roofing company look at the whole cement that's up there. They did a rush job and when you do a rush job – as I told the roofers, they were trying to hurry up to go to another job and I told them, no – they were to stay at my Mother's house until they did the job the right way. When you rush in three hours, you make mistakes and do a poor job. And that's exactly what happened. I have pictures of the brown putty that they put on – on the outside of the cement that was coming off – I have pictures of the metal railings ... this is unacceptable. The metal rails must be put in professionally.

Patrick White: Are you talking about the flashing? I don't know what you mean by "railing."

Desiree Suarez: This is a picture of the roof tiles ... of the spaces ... it doesn't look as if there is glue in them.

Richard Joslin: I haven't seen those pictures ...

Desiree Suarez: There's too many pictures ... I have 100 pictures ...

Chairman Lantz: Are you wanting to submit those as evidence? The reason why I'm asking is if you submit them, you won't get them back.

Desiree Suarez: I have them on my phone. You can have the ones that were separated for your review and you can keep them. I'm just trying to bring to your attention that, based on what they said satisfied to be ready for re-inspection, this is not ready for re-inspection.

Patrick White: You understand that there's a difference between what is typically within the set of items that the Inspectors look for under the applicable Code, and the standard that a homeowner or other may think is acceptable from an esthetic or other perspective.

Desiree Suarez: Yeah, I do know. I'm just going by ... this is what they said they satisfied and they're ready for inspection, so I don't ... I don't think ...

Patrick White: We can have that conversation, but I think the point at this ... if you want us to have those [photos] I will make a motion to accept them into evidence. If you want us to have them, just tell me so and I will.

Desiree Suarez: That would be okay. I just ...

Patrick White: Okay. How many photos do you have that you want us to look at?

Desiree Suarez: Maybe fifteen and you can keep them. I'm just concerned with the final roof because it's not so professional. They are used to shingle roofs ... my Mother's house has cement/slate tiles.

Chairman Lantz: We're not Building Inspectors.

Desiree Suarez: Right.

Chairman Lantz: We do – I'm a licensed Roofer but I'm not a Roofing Inspector. The way I do things may not be the way the County finds acceptable – there are two different standards. You may have an issue with the inspection portion of it or the aesthetic portion of it. The Building Code doesn't require it to be aesthetically pleasing. The Building Code requires it to keep your house dry. They are two different things. Don't get me wrong – I'm not trying to justify anyone's actions. But the Building Department's job isn't to make sure the roof is aesthetically pleasing. Their job is to make sure that it's ...

Desiree Suarez: Structurally sound.

Chairman Lantz: ... structurally sound and the roof keeps the house dry.

Desiree Suarez: Okay. Can we then ask that to be made whole again includes looking at the railings, as part of the roof, to make sure that the tiles are cut straight, and the corners are cut straight because we live in Long Shore Lakes – we don't live on a farm where a house could look any way. All the houses have to be aesthetically the same. I mean, they all look a certain way. None of the houses look like my Mom's house. When you look at the house from the front, I do believe the Inspector passed it and that's fine – I'm okay with them passing it. But, if they want to make us whole, they may want to do something besides just putting putty on the side of the cement where it was flaking off – I think they need to do what is included in the roof ... the railings on the front of the house and in the corners ... everything was cut but it just doesn't look professional. If that could be included ...

Richard Joslin: Do you have a picture of the completed house?

Desiree Suarez: That's it. That's the completed house in the front.

Richard Joslin: May I haven't got to it yet.

Desiree Suarez: I have a package of 100 pictures on my seat – I didn't want to overwhelm you with 100 pictures ...

Richard Joslin: I'm looking for close-ups of certain portions, is what I'm saying.

Desiree Suarez: Okay. I do have ...

[There was an off-microphone conversation between Attorney Noell and Ms. Suarez while the Members of the Board examined the photos.]

Desiree Suarez: I would like to add that this has been a tremendous stress for my family ... my parents ... they [the roofing company] never supervised the workers; they hired unskilled workers; there were four or five different crew people; the house looks horrible – it's not professional; my Mom and I both suffer from depression, anxiety, stress, and crying (her voice breaking); my Mom cries all the time; she is very sick with depression. No work was done from July to December; they abandoned my Mother's house; he changed his phone number ... his cell phone number was changed. I want to add that because it has made it very stressful – I had to contact his family on FaceBook through a private message to tell them what their father did and to please have their father come to contact us because he ran away for six months. He took the money from the insurance company – his salesmen changed their phone numbers so how were we to communicate with our roofing company, Florida Roofing Services, if they changed their phone number? The salesman said he has nothing to do with him – when his phone number changed and we were not in communication, that's the reason why my Mother and I came to the County and we filed the Complaint. I wanted to give you just a bit of the history of why we filed the Complaint.

Patrick White: Have you had an opportunity, or have you considered talking to another roofing contractor about what you believe needs to be done to correct these deficiencies?

Desiree Suarez: Not formally but we've had about two roofing companies ... they have done other work in Longshore Lakes and they have come by – everybody comes

by ... our house is a big spectacle, it's like an eyesore. People come by – they look, and they stare. A roofing company did tell us if things are not done they way they are supposed to be, we can hire them. We don't have the money now. We gave all the money from the insurance company to him already. So, as far as we are concerned, we have zero money to do any repairs. But they did tell us that was done incorrectly ... the underlayment was exposed for seven months ... it wasn't because the tiles were on back-order, it was because he wasn't responding to my text messages that we had water stains on top of water stains ...

Patrick White: But, both of them could be true, couldn't they?

Desiree Suarez: He needed to come out and put on another underlayment and he never responded to my text messages.

Patrick White: Understood. But ... both could be true?

Desiree Suarez: Could be true.

Chairman Lantz: Did you get a quote from one of these other ...?

Desiree Suarez: No ... no ... it was just somebody who was there – he came out of his truck and pointed out the metal railings ... there was about seven feet missing ... on the top ... it was missing about seven feet on two sides.

Patrick White: Is this white stuff here what you are referring to as “railing”?

Desiree Suarez: Yes.

Patrick White: It's what I believe is called “flashing” ...

Desiree Suarez: Flashing.

Patrick White: ... just so we're all on the same page.

Desiree Suarez: Okay.

Patrick White: Sir, I'm sorry – you will have plenty of opportunity to respond but, of course, you must do it from the microphone. Thank you.

Patrick White continued: So, you don't have the information that we need today in finding beyond the violation which, I think, that's easy. But in terms of trying to make you whole, we understand that there are problems and that you are dissatisfied – correct? You don't have anything that tells us what it will take to fix it. So, can we hold off on what you have offered so far and let them respond to that?

Desiree Suarez: Yes ... maybe they could fix it ...

Patrick White: I'm not trying to put words in anyone's mouth. I don't want to stop having you tell us more, if there's more you want to share ... but I'd really like to hear if they have something to respond to ... are we at that point ...?

Desiree Suarez: Well, I did meet with him in the house. I showed him around the house – he was very nice that day and said to show him what my concerns were. I showed in the pool cage area, and I showed him the front of the house, and then he agreed to install a new front gutter in front of the house. And that's what he did. But on the sides of the front gutter is the flashing – it's not lined-up and it's not cut correctly – there's a piece cut on top of another piece and you see the lines ... if they're willing to come out and look at it, and re-do it, you know, that would make it ... But the part of the picture that you have with the dark circles – he's saying that they came out and they fixed that, and they're ready for the final inspection – in my opinion, I don't think it's ready for final inspection with it looking like that because

it's just wearing off – they just put patches of something – I don't even know what they put there. It could be putty ... it could be 'play-dough' ... I don't know what it is. Every time it rains, we now have about two feet by two feet of a circle with white powder. It's as if the rain came down, washing off something, grout or something, and it's creating this white powder in the front of our house under the front gutter. I haven't had a chance to tell him about it, but I did notice that ... the debris that formed a powder. In addition to that – one last thing – the crane they hired to bring the tiles to the roof had black oil, and it's all over my Mother's driveway – I have pictures of that. It's totally, totally damaged. There are scratches on the pavement. I know in the contract it said they are not liable for any damages incurred while installing the roof, but it happened from the crane's truck that they had there, and I have pictures.

Patrick White: What's your driveway made of?

Desiree Suarez: Pavers.

Chairman Lantz: Have you written down a punch-list to give to them of all the issues that you have?

Desiree Suarez: No, I just wrote a time frame for myself, but I can write down ... maybe ... five things to bring to their attention. If I text him, he doesn't respond to.

Chairman Lantz: I would suggest giving them a formal, written punch-list of issues that you have and feel need to be addressed. As someone who has been in their position sometimes – hopefully, not quite to the extent that they are in now – but when a job is done, when someone tells me piece-meal – a little bit of this and a little bit of that – by the time I've gotten to #6, I've forgotten #1. What I expect from my clients is – I'll give you the courtesy of fixing everything, but you need to give me the courtesy of giving me one complete punch-list. It's not fair to give him one punch-list today and one tomorrow – sooner or later they will decide not to come back. And I couldn't blame them for that. But it's your duty to give them a formal punch-list. I think it's also in *Florida Statutes* that you have 30 days in which to do it. I would recommend that you go that route – make your notes of everything that you feel need to be done to make you whole – not a text message and not anything else – a formal written document – and give it to them. That might make them more comfortable – then they'll have a piece of paper in front of them of what you want fixed and they can check off Item #1 ... Item #2 ...

Desiree Suarez: I spoke with him – I think it was last month ... he came into the house and I wanted to address the gutter with him. I mentioned before that he was nice but, then, fifteen minutes later it became ... that I was very ... he doesn't like me very much and he said that he doesn't want to talk to me ... he only wants to speak to my Mother. At that point, in my Mother's house, he had his hands in my face – he said he didn't want to speak to me anymore ... that I was nasty or something not very positive. I told him to get his hands away from my face and he didn't. He continued to say he was not speaking to me – that he would only speak to my Mother. I am not the Project Manager – I represent my Mother ... I help her with everything ... she is my life – she's my world. I would do anything for my Father and my Mother.

Patrick White: Just as a point of verification ...

Desiree Suarez: So, I don't know if ... but hopefully after today, he will understand that I do need to communicate with him, and he has no choice but to communicate with me.

Patrick White: Well, can I ask you a question about ... you said you represent your Mother.

Desiree Suarez: I am not an attorney but I'm her ...

Patrick White: Can I ask the question, please?

Desiree Suarez: Yes.

Patrick White: Thank you, ma'am. Do you have a Power of Attorney for your Mother in any capacity?

Desiree Suarez: No.

Patrick White: You may want to consider that because then you cannot only say it as a word that you understand what you mean – you're here speaking on her behalf, but you would be her legal representative. Therefore, you would be able to negotiate contracts with roofers, for example. You may want to consider doing that. I offer it as a suggestion. The other thing is – as the Chairman offered – you really need to provide them with a detailed punch-list and feel free to use the photos to back those up.

Desiree Suarez: I will.

Patrick White: The thing I want you to, hopefully, come away with today is that we have a case before us that we need to dispose of – one way or another. As much as I would like to be able to say ... had you walked in here and said it would take \$37,000 to fix all the things that re bad and we need to get somebody else to do it ... that give us information we know how to use to go forward in disposing of this case. Today what we have is a set of violations that are admitted to and a proposed Order that basically says that the only penalty they have is to make some reasonable efforts to satisfy your concerns and that they are not able to pull any more permits. They can continue to work the ones they have that are open, which I assume includes yours. But I'm uncomfortable with that, simply because we don't know what it's going to take to make you whole. And that's one of the main things that, as a Consumer Representative and advocate on this Board, I am most concerned about. But as Chairman Lantz has indicated, we need to have information. We have your testimony ... but that's maybe the first time some of these things are ones they have heard completely in one package. So, if we're done with what it is you would like to share with us, would it be okay if he either asks you questions, or they can just tell us what they want in response to what you've shared?

Desiree Suarez: Sure, but the one thing is ... I did send him all those pictures and he's ...

Patrick White: I believe that you have.

Desiree Suarez: ... he's aware of them ... yes.

Patrick White: Which one, or both of you, would care to come to the microphone?

Desiree Suarez: Can I ask you one more thing? How can I trust that they're going to fix the issues ... that they won't just put on putty in patches? Because when you mix the cement quickly and you go like this quickly (gesturing) ... because I watched them ... how do I know that it's going to be the future of my Mother's roof? It's going to be compromised.

Patrick White: Let's see if there's a way to get an answer to that, okay? Thank you for bringing it to our attention.

Desiree Suarez: Yes ... he never supervised the workers and he never ...

Patrick White: I think I understand your list of concerns. Can we proceed?

Desiree Suarez: Yes.

Richard Joslin: Considering that this is under contract, or was under contract ...

Patrick White: Still is.

Richard Joslin: ... with Josephine and George Reyes ... is this something that we can ... cross-examine with someone who is not Power of Attorney?

Patrick White: What?

Desiree Suarez: I'm not Power of Attorney – I was just saying that I want to be an advocate for Mother.

Vice Chairman Nolton: She's a witness. Anyone can ask questions ...

Patrick White: That was my whole ... If I could, Mr. Chairman? Do you guys have any questions of her?

Jeffery Rayl: I don't, thank you.

Patrick White: All right. Is there anything that you would like to say in response to what she shared with us?

Jeffery Rayl: Regarding the photographs. The first couple that I was able to look at are photographs that were taken during the process of installing the tile. And if she has a couple of other issues, I would be happy to look at those photographs at another time and answer all those. Some of them may appear to be damaged when they don't have anything to do with these products. What I have done in trying to make sure that we have a good, finished product, I have supervised the work during the prior install and during the final install. I felt like the install was a reasonable install but because of the incessant complaints from the person giving testimony here today, I called World Tile and asked them to send out their factory representative to inspect the job and tell me what they thought. That was the conversation that she referred to. The World Tile representative called me back and said that we did a great job. She said the complaint was the tiles were up and down ... she said it's a flat tile – it's a fifteen-year-old house ... it has some undulations in the decking. It's a concrete product ... they don't all match perfectly, but I've looked at thousands of jobs and your job is right up there in the top ten percent – there was nothing wrong with that job. I said that was wonderful to hear but I didn't tell her that I might need her testimony someday. I just thanked her for inspecting the job and giving me her opinion.

Richard Joslin: And who was this?

Jeffery Rayl: This was the factory representative from World Tile, the tile manufacturer. The putty that the testimony was about was in response to failed final inspection that said the grout – or a portion of the grout – had fallen off in one bullnose and there was cracking. At that point in time, we had used all the color-matched oxide that comes with the tile that we would mix in the concrete so it would match the tile. I had to order another batch of oxide – I had it delivered to their address on Dunlin Court. When they called to let me know that it was there, I scheduled my guys to get another bag of Florida concrete tile mix which is what we used for the job. They went to the jobsite and got the oxide, mixed the mud and went up and applied it. If those photographs were taken that day, there would certainly be a mis-color match with new concrete versus two-week or three-week-old concrete – it didn't cure, and the color match would be off. I have not seen the job in the last two

weeks so if that color match is still poor – we can re-address that and can make the color match better. We'll simply get another batch of oxide and mix it again and go all the way from the bullnose at the end to the peak at the ridge – all in one stretch – it's kind of like trying to match paint on a wall. If you paint that wall and you come right to the break ... then this if this color is slightly off, it's not noticeable. The same way with a roof --- you don't have to re-oxide the entire – you do one whole stretch and the appearance is much more aesthetic. If that's needed, we'll do that. With regard to other roofers coming along and saying that the job was bad, I've seen that all my life. I know that some contractors like to tear apart another contractor's work – I heard that all my life. That doesn't surprise me. If there are some slips of some riser metal that is an inch off of the valley or something like that – I don't know what I'm up against yet, but I will go and examine the job after I get a punch-list and address her concerns. I've already addressed many, many of her concerns. Some of them are ... we re-did the soffit material on the house where the old tile and the new tile didn't match up to the soffit exactly. We put in a new soffit for them to try to make it as aesthetically more pleasing, and if it's still not as pleasing as they would like – we'll do something else. If there is some riser metal that needs trimming somewhere, we'll do that. The gutter on the front of the house was a non-issue but the complaints just kept coming and coming. I said I'll put you on a new day and I did. But we are ready, willing and able to do everything reasonable to conclude the job to the satisfaction of everyone. And if we're not to that point, then we'll get to that point in a *reasonable* [emphasized] fashion.

Patrick White: Were you here for the last case where the Stipulated Settlement Agreement was discussed with the Affordable roofing people?

Jeffery Rayl: I wasn't paying real close attention to what was going on, but yes – I was in the room.

Patrick White: One of the things that was in that Order – which I think is being suggested by the County – is what would be the Order in this case, the language is ... *“the Respondent has returned the homeowner to the position the homeowner was in prior to entering into the contract with Respondent, or a showing of reasonable effort to do so ...”* And the rest of it is, *“... and the homeowner refused.”* So, what that puts you in is this position where we do as much as we can based on what we have in front of us today. We don't have a punch-list, we don't have a dollar value from another contractor assuming – just for the sake of discussion – that the job was a poor job. So, another contractor's 'reasonable effort' ... regardless of what the tile manufacturer said ... feels like it wasn't up to the standard of a reasonable practicing professional in the field. We don't have that. All we can do today is to try to make as much happen as possible *or* we table the case for a month – at least this case – and you two try to work it out. When you come back, we will re-approach the case and dispose of it in the future. That's what is kind of percolating in my mind at this point, and I don't know where we're going to go with it, but I'm trying to weigh out for the Board, the County, and the homeowner what the options are here in a practical and pragmatic way.

Jeffery Rayl: What you laid out doesn't sound illogical at all. If the Reyes can create a punch-list as the Chairman has suggested, that would be a wonderful thing. If I can have a punch-list in writing – a once and for-all kind of a thing – then we will

do everything we possibly can in our power to make them whole and make them happy.

Patrick White: Mr. Chairman, can I inquire of the County: Would you be agreeable to at least withdrawing this case for – say – a month to our next meeting to afford the homeowner and the Respondent to more formally enter into a Settlement Agreement - - provide the punch-list and see what can be done?

Jack Gumph: Yes, sir, we would be.

Patrick White: Okay.

Richard Joslin: I think that would be an excellent idea.

Patrick White: Would that be acceptable to you?

Jeffery Rayl: Yes.

Patrick White: Then I think I need to hear something formally from the County in that regard as to how we will, hopefully, conclude this case.

Patrick White moved to approve closing the Public Hearing. Richard Joslin offered a Second in support of the motion. Carried unanimously, 5 – 0.

Patrick White: I'd like to proceed at this point, Mr. Chairman, if we could – at least as far as making a Finding of guilt with respect to the case and leave open until next month any discussion about a penalty phase. If our Counsel is agreeable to that and the County is agreeable to that and you are agreeable to that, I would like to make that motion.

Jeffery Rayl: I agree.

Assistant County Attorney Noell: The County is agreeable.

Patrick White: Are you in agreement, Mr. Schneck?

Attorney Schneck: Yes.

Patrick White moved to approve, based on the testimony proffered on the part of the Respondent and the acquiescence on the part of the County, to accept that the Respondent has admitted to and that we make a Finding of Guilt with respect to the violation charged in Count I of the Administrative Complaint in Case No. 2019-02. Richard Joslin offered a Second in support of the motion. Chairman Lantz called for a vote on the motion. Carried unanimously, 5 – 0.

Chairman Lantz: We have found him guilty. Is the County going to ask to table the sentencing portion for a month?

Assistant County Attorney Noell: We would The County would ask to suspend until the next Board meeting the penalty phase and consideration of any mitigation that is done in the interim.

Patrick White moved to grant the County's request to suspend the penalty phase of Case No. 2019-02 until the next Board meeting. Richard Joslin offered a Second in support of the motion.

Chairman Lantz: Any discussion?

Richard Joslin: Okay, now, in the process of the thirty days until our next meeting,

does the contractor have the ability to go and repair, or work on the property to satisfy some of the ...?

Patrick White: Since we didn't order the suspension today, we merely made a Finding of the violation – my understanding is they would be able to proceed as they have without any of the complaints that's existing.

Assistant County Attorney Noell: Are you referring to – from a timeliness standpoint – can he get to the work?

Richard Joslin: Yes.

Assistant County Attorney Noell: Within the next month before the next Hearing?

Jeffery Rayl: If I get a punch-list to work from within the next ten days, that would give me twenty days to respond and take care of it. That's reasonable, I think.

Richard Joslin asked if the Respondent would have enough time to make repairs prior to the next Board meeting since he needed first to receive the punch-list from the Reyes. He asked the Reyes if they could provide a punch-list to the Respondent within the next ten days.

[Desiree Suarez, the homeowners' daughter, was directed to the podium to respond to the question.]

Desiree Suarez: I just wanted to know what would be easier for him [indicating Mr. Rayl] – since they live in another city – if they wanted to meet at the house today so we could show them?

Patrick White: Regardless of ...

Desiree Suarez: Or do I need to write a list formally ...

Patrick White: Right ...

Desiree Suarez: ... it has to be written down?

Richard Joslin: A written punch-list – correct.

Patrick White: If, as a result of the meeting today, they are agreeable to go to your Mother's residence, and you can agree on what that punch-list is ... obviously, it will give them the most amount of time to make all of the repairs that you feel are necessary.

Desiree Suarez: Yes, because I think, visually, it does a better job if I show him because I may not have ...

Patrick White: I don't disagree.

Desiree Suarez: ... all the terminology.

Patrick White: Can you make me a promise, personally ...

Desiree Suarez: Yes?

Patrick White: ... that regardless of how it feels, we will act professionally.

Desiree Suarez: Yes.

Patrick White: Okay.

Desiree Suarez: Always. I always strive for that.

Patrick White: Thank you.

Desiree Suarez: Thank you.

Richard Joslin: Okay – that answers my question.

Jeffery Rayl: If I was just asked to visit the site with her and go over the punch-list visually and verbally, I would rather say no. I would like to see the punch-list in writing.

Patrick White: What we discussed and what I think I heard is that she is willing to have you come to the residence ... talk about what their concerns are ... and make every effort to create the written list today so that you'd have the maximum amount of time to be able to work on that.

Jeffery Rayl: That's all?

Patrick White: If you obviously cannot come to an understanding and agreement about what that punch-list is and what's reasonable under the circumstances, we're going to be back here next month and we all understand what those challenges are. My expectation is that the Complainant and her representative would have entertained other contractors potentially so that they would be able to estimate what the dollar value of their damages are. I'm just trying to put everybody on an equal footing because I'd really like to see this resolved ...

Richard Joslin: It doesn't have to be today.

Patrick White: ... as soon as possible.

Richard Joslin: However the meeting of the minds can come to ... where you can get together and create this list. So, there's one punch list to do and finish.

Assistant County Attorney Noell: And just for clarity, if I understood what the the Board's ultimate direction is ... that would be the goal ... that the ultimate direction is if that's not possible from your comfort level, she [indicating Desiree Suarez] will within ten days provide a punch-list to you ...

Patrick White: In writing.

Assistant County Attorney Noell: ... to be completed or to come back before the Board and express why it has not ... or what elements were not reasonable ... at the next Hearing.

Jeffery Rayl: And I will ... I will do either ... we would prefer that the Complainant creates the punch-list without me and provide it to me ... if that's agreeable to them. That's the preferred method. If they will not agree to that, then I would agree to meet them there later today.

Patrick White: I clearly heard what her preference is ... and having been involved for the past five months of my life in our own construction project with my spouse, I'm at a point now where no matter what my wife says to me to describe something, when she shows me and I see it, I get a clearer understanding. So, what I understood her to say today was, despite whatever the interpersonal challenges may be between you, just suck it up ...

Jeffery Rayl: Yes, sir ...

Patrick White: ... and go out and take a look at ...

Jeffery Rayl: ... we'll do that. Let's set a time to meet out there between now and one o'clock today if that works for you.

Patrick White: Thank you. Thank you.

Patrick White moved to approve tabling consideration of the disciplinary phase and any penalties that can be imposed in Case No. 2019-02 until the next Board meeting. Richard Joslin offered a Second in support of the motion.

Chairman Lantz: Any discussion?

Discussion:

Chairman Lantz: I have a question. This has nothing to do with ... we have two cases ... and this has nothing to do with 10. B – correct? This is specific to this case? One of the reasons why I am asking now is because they are making a date for 1:00 PM and if we keep him here for another hour and one-half, he's not going to be able to make that.

Assistant County Attorney Noell: I think the County has a recommendation on that for the Board to entertain. Having had discussions with Mr. Simon regarding his residence, my understanding is that there still is a little bit of work that needs to be performed and he wants that work performed. My understanding from conversations with the Respondent out in the hallway is the Respondent would agree to admit to the willful violation in that Administrative Complaint as well. So, the County would be agreeable to the same mechanism that the Board just so wisely utilized in the first Administrative Complaint where the Finding of Guilt and they have the 30 days to come back and have the permit closed-out and talk about mitigation to the Board. But that would be ... if you want to open up the ...

Patrick White: I would prefer to dispose of this one first ... but I appreciate you kind of, you know, foreshadowing what that would be ... because I think it gives us a comfort level that we can get through that in a relatively much briefer period of time.

Chairman Lantz: So, that's between you two ... the time ... we don't want to know about the time.

Patrick White: Ma'am ... ma'am ...

[It was noted that the Board had not formally voted on the motion.]

Patrick White: Yes, there is a motion.

Chairman Lantz: We have a motion and a Second. Any more discussion?

Chairman Lantz called for a vote on the motion. No opposition was voiced.

Patrick White: Just from a procedural perspective, I believe that because we held off on the Penalty Phase, that no Order will be issued but an Order could be drafted at least as far as the Finding of a violation and the admission of guilt.

Chairman Lantz: I think we're done.

Everildo Ybaceta: I have a question.

Chairman Lantz: Yes, sir.

Everildo Ybaceta: So, we're holding off on the Penalty Phase for 10-A, but we are doing 10-B?

Chairman Lantz: We haven't even started 10-B yet ... so hopefully we'll get to the same conclusion but a lot quicker in 10-B.

Everildo Ybaceta: Thank you.

Chairman Lantz: But they are two separate cases and we're treating them separately.

Patrick White: Thank you for coming in today.

Chairman Lantz: Let's move on to Case 10-B.

B. Case #2019-03: Board of County Commissioners, Petitioner, vs. Peter Wozniak, Respondent, d/b/a *Florida Roof Services, LLC*, Respondent

Chairman Lantz: Does everybody understand the procedures, or would you like me to read them again?

Jeffery Rayl: Are they the same ...?

Chairman Lantz: They are the exact same procedures as I read an hour ago.

Jeffery Rayl: Okay.

Chairman Lantz: So, would the County like to start with the ...? Is there anybody new here who needs to be sworn?

Assistant County Attorney Noell: Yes, sir – Mr. Simon.

[Rolex Simon was sworn in by the Board's Attorney.]

Assistant County Attorney Noell: As far as a quick opening, the Respondent is going to admit to the willful violation. The roof has not yet been completed. And that's the status of the case.

Chairman Lantz: Mr. Rayl, do you have anything to say?

Jeffery Rayl: I guess I need clarification on ... are we talking about the Mitchell Street property?

Assistant County Attorney Noell: Yes, sir.

Jeffery Rayl: Okay ... then, yes.

Patrick White: Would you do me the courtesy of putting *on the record* that you are agreeable to the finding of violation – of the willful violation – as put forth in the Administrative Complaint?

Jeffery Rayl: I have not actually read the Complaint, but I believe the complaint is that we began work without acquiring the permit and that work has not yet been completed. And that I am in agreement with, and we did violate.

Patrick White: And the County confirms the accuracy of the Respondent's statement?

Assistant County Attorney Noell: Yes, sir.

Patrick White: Thank you.

Assistant County Attorney Noell: Then permit us to move into that point procedurally and I would submit the information packet into evidence on behalf of the County.

Assistant County Attorney Noell: [Directing his comment to the Respondent] And, sir, you admitted to the willful violation of commencing work without a building permit?

Jeffery Rayl: Yes.

Assistant County Attorney Noell: That's all the County has.

Patrick White moved to approve: (1) accepting the County's information packet into evidence in Case No. 2019-03; (2) opening the Public Hearing in this Case; and (3) accepting the testimony that has been proffered as part of the Hearing. Vice Chairman Nolton offered a Second in support of the motion.

Chairman Lantz: Is there any discussion?

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

Chairman Lantz: The information packet has been submitted into evidence. Does the County have any witnesses to call?

Assistant County Attorney Noell: The County did just take the testimony of the Respondent who admitted to the willful violation. We also have the homeowner ... if the Board wants to hear from the homeowner at this time regarding the damages but as far as the proving of the violation, we would rest on that. Obviously, the Board can call whatever witnesses they would like as well. So, if the Board wants to hear from the homeowner at this time, then whatever the Board's pleasure is.

Chairman Lantz: If you would like to come up and speak, that would be great.

Richard Joslin: I would like to hear a run-down of, basically, just what the issue is.

Assistant County Attorney Noell: Please state your name for the record.

Rolex Simon: My name is Rolex Simon.

Assistant County Attorney Noell: And can you tell the Board, basically, what is the current status of your roof?

Rolex Simon: I have two contracts with Florida Roof Services – one is at Golden Gate Estates and the other one is for 5329 Mitchell Street. Now for the one at Golden Gate Estates, he has ... I mean, I'm not sure if the roof is done or not. Because I'm looking at it and I can see ... my case is similar ... basically the same case as the previous one ... the other lady who was here earlier. Basically, I have the contract with Florida Roof Services and as she said, I called him probably 20 to 40 times and he didn't pick up the phone. He never answered my texts. I had leaks. I have a lot of issues and the project went ... it was a nightmare. It went for almost ... for over a year. So finally, I had to file a complaint with the Department of Business and Professional Regulations and that's why I get to here now. Now, he sent a couple of people to do the job on my roof – one of them – the one is 4841 12th Street NE – that's where I live. But – as she said – they are not professional people. It seems like they don't even know what they are doing. So, anyway, now they put the tiles ... you can see the tiles – as I sent him a text saying that the tiles are not where they should be. I mean, I am not a professional – I don't know anything about tiles but there is some stuff ... obviously, you can see ... you know ... with the naked eye ...

Chairman Lantz: Can I just interrupt you?

Rolex Simon: Yes.

Chairman Lantz: I was under the impression that it was a metal roof.

Rolex Simon: No, that's the tile roof. I have two contracts with him for two houses – I am talking about two different houses.

Chairman Lantz: Oh, okay. One house has a metal roof and ...

Rolex Simon: The other one is tile. The tile on this house has not been inspected yet but I do have a lot of issues. I can see the tiles are not where they should be and stuff like that. Since he's been sending people to my house for a year, my gutter is damaged. I need him to fix that since he was asking for a set list – I want him to fix that – my gutter. And, also, the asphalt on my driveway ... those big trucks damaged my asphalt. And as the lady said, the tractor that he sent to pick up the tiles – I have pictures on my phone – left a lot of oil and greasy stuff on my driveway.

Richard Joslin: What kind of driveway?

Rolex Simon: It's a concrete driveway. And, also, I don't know the terminology how to say it, but there is a midpoint on the [indicating the peak of a roof] that lets air flow underneath the tiles. I've seen that on other tile roofs but mine doesn't have it. So, it's not up to Code and the house can't pass a final inspection yet. I don't know.

Patrick White: Are we talking about the Mitchell Street –

Rolex Simon: I'm talking about the 4841 –

Patrick White: Not Mitchell Street?

Rolex Simon: Not Mitchell Street.

Patrick White: Here's my problem. The Administrative Complaint seems to be specific to only Mitchell. Okay? So, the conversation about the other home is not part of what we have before us today.

Rolex Simon: Oh, okay.

Patrick White: Okay? Now, you are free to have a conversation with the gentleman about what your concerns are about that contract and if you don't get them resolved, you're free to file another complaint and we'll be happy to have you come back here and talk to us again. But, can we only please talk about Mitchell Street – what your concerns are and how these gentlemen can help address those in the next thirty days or so.

Rolex Simon: All right, yes. But can I make a mention ...

Patrick White: Absolutely, sir ... please.

Rolex Simon: I actually filed the complaint first with the County for the house on 4148 12th St. NE, which is the tile.

Assistant County Attorney Noell: As far as the property on Mitchell Street with the metal roof ... has the roof been completed?

Rolex Simon: No. What happened – what he did – he got the check on October 4, 2018 and he told me that in ten days, he would start the work – he told me he had some issues finding the tiles, but he didn't have any issues for the metal roof. So that work, it could have been done in 30 days from my understanding because it's easy to find more metal and stuff like that. What he did – he got the check ... the big check ... and two or three days later, he sent a couple of teenagers to the house to take off the old metal and put on the underlayment ... and that's it ... they never came back.

Assistant County Attorney Noell: And the roof on that residence, that's the state that it is currently in?

Rolex Simon: Yes.

Richard Joslin: The roof is still at “dry-in?”

Rolex Simon: Yes, he put on just the underlayment and that's it.

Patrick White: How long has the “dry-in” underlayment and been there?

Rolex Simon: Since October 2018.

Patrick White: Okay. That's awful. Is there anything else on Mitchell?

Rolex Simon: On Mitchell – that's what I have.

Patrick White: What other damages – did the water leak on the inside?

Rolex Simon: There wasn't a water leak. The riser pole that bring electricity into the house was broken and the electricity inside the house wasn't working. I talked to the Insurance Company to see if they would reimburse me for it. The Insurance Company said it would cost only \$1,000 to replace. But when I called the electric company, they said it would cost \$9,000 because it is an old house and they must bring it up to date. I got into a fight with the insurance company and finally they said they would not pay for it. Therefore, I'm going to have to pay for it myself which I am willing to do. I already hired a contractor and I already applied for the permit ...

Patrick White: The roofers broke the riser?

Rolex Simon: No, no, no – it was broken during the hurricane. But he told me that I needed to replace that – the riser.

Richard Joslin: But that has nothing to do with the problem with the roof, though?

Rolex Simon: No, it has nothing to do with the roof.

Patrick White: Is there anything else relative to the roof that you have a concern about – other than getting the job done properly?

Rolex Simon: Yes, I would say that is the only thing.

Patrick White: Okay. Do you have any questions you want to ask them? [Indicating the Respondent and Jeffery Rayl]

Rolex Simon: Um-mm – no.

Patrick White: You don't have to.

Rolex Simon: No.

Patrick White: Okay. Then, Mr. Chairman, can we hear the Respondent's responses?

Chairman Lantz: Well, they should have a chance to cross-examine him.

Patrick White: Yes ... unless you have questions for him, I guess?

Jeffery Rayl: I have a response, but I don't need to cross-examine him.

Richard Joslin: What's the status of the permit now?

Jeffery Rayl: The permit has not been issued – I got a request for additional Florida product approval information. I dropped those off yesterday and I have not been contacted yet by email. Typically, Collier County gives two days' notice when the permit is ready to be picked-up.

Richard Joslin asked if, once the permit is issued, is the company prepared to repair the roof, and if the metal and other materials had been ordered or if they were in stock?

Jeffery Rayl: All the materials for the roof will be available in about five days. If I could go back to the beginning of when we started this Complaint, this roof is a 5V crimp metal roof [gesturing to indicate a pitched roof] with an adjoining flat roof. We had contracted to add Taper board insulation to the slope on the flat deck, and to re-do the 5V metal. I went down and applied for the permit – my recollection is the very next day – and I went out to remove the 5V metal at the site where the riser pole comes in, which we did in a "dried-in" which, subsequently, has to be done again because of the time frame.

Patrick White: Thank you for answering the question before I asked it.

Jeffery Rayl: If you go to their website, 90 days is the maximum – Poly Glass has put out a notice now that 180 days is the maximum but this was way beyond 180 days ... but that was the only side of the house – it’s about 300 square feet – that was torn off and “dried-in.” The other side of the house with the 5V metal has not been touched and the flat roof has not been touched. So, it’s still in its original state.

Richard Joslin: What would be the reason for tearing off the flat portion of the roof ...

Jeffery Rayl: Because the riser pole ...

Richard Joslin: ... before you had the permit?

Jeffery Rayl: ... we had to get rid of the metal on that side of the house -- that’s where the riser pole came through.

Richard Joslin: No, that’s not what I asked.

Jeffery Rayl: I’m sorry?

Richard Joslin: What was your reasoning for going and tearing off the flat portion of a roof, knowing where you were with the job, that it wasn’t permitted yet?

Chairman Lantz: He didn’t tear off the flat roof.

Jeffery Rayl: I didn’t tear it off.

Vice Chairman Nolton: He only tore off one side of the sloped roof where the electric riser was ...

Patrick White: ... so they could replace the riser.

Richard Joslin: Okay.

Jeffery Rayl: And then there was a one-week process of phone calls back and forth between me and the County because ... if I recall correctly ... Rolex was told, or he understood, that I could replace the riser. I finally ... getting ahold of somebody in Collier County in the Growth Management Department is a very difficult thing to do on the phone. But you have one gentleman down there who has always been very accommodating – Robert Morris is his name, and I have come to know him all too well ... and a nice guy who is always available ... always very helpful. I finally got ahold of him and said, “My customer that thinks I can replace a riser. I need to know if you have any reason to believe he was told that,” and he said, “Absolutely not. You need an electrician.” I went back to the homeowner and explained that to him. He went forward and got an electrician. A few weeks later, the riser pole was in place. It is my understanding the riser pole is new and ready to go now. During that period, it became evident that getting the tile job done – his other job – which is not part of this Complaint – was going to be as difficult as the other six that I have done – doing roofs for way too long. The conversation with the Complainant was that he was not willing to pay in full for the job until both jobs were done. Then I had to think about what the investment was going to be for both jobs and the time frame and all that. I didn’t go forward with the metal job until I knew we were going to get near the end of the tile job. We’re at the end of the tile job now – we just completed it on Friday and the Final Inspection is scheduled for the 20th ... this coming Saturday. That’s why I went down yesterday and gave him the Florida product information to get the permit process going forward again. If that permit comes through in the next day or two and the Final Inspection happens satisfactorily on Saturday, then chances are next week we will be replacing the metal on the 5V roof and knock it out. I don’t

know if I've responded to everything, but I've told my story. Do you have any questions for me?

Richard Joslin: Are there two separate contracts for these houses?

Jeffery Rayl: I'm sorry. Separate contracts – two separate contracts.

Richard Joslin: And payment was denied until completion of both?

Jeffery Rayl: Yes. I received money on the tile job, and I received money on the 5V metal job. I've not received money in full on either job.

Chairman Lantz: Did you sign both contracts at the same time?

Jeffery Rayl: No. And if I can ask in the open forum here – the last conversation that the Complainant and I had was if he wanted me to continue and finish the Mitchell Street house. I want to ask ... Are we still in that position? Do you want me to go ahead and finish the Mitchell Street house?

Rolex Simon: (answer was difficult to understand) Actually, since you already got \$11,000, if you want ... actually, if you can give the money, that would be great, so you don't have to finish and I can find another contractor.

Jeffery Rayl: I'm sorry, I didn't understand you, Rolex.

Rolex Simon: I can ... because you got \$11,000 – let me see how much it is in the contract that you got ...

Patrick White: I think you're asking him to reimburse the monies you've paid so far and ...

Rolex Simon: So far, yes, because I already gave him ...

Patrick White: ... end the contract?

Rolex Simon: Say again?

Patrick White: And end the contract?

Rolex Simon: Yes.

Patrick White: Now, you do understand that they have performed work and ordered materials?

Rolex Simon: Well, it's not ...

Patrick White: I'm just asking if you understand that?

Rolex Simon: Yeah, but I don't want to pay for that you know, because I already gave him \$11,365.82 out of \$16,540.00. So, basically, I only owe him on that house \$5,365.00. So, it's almost a year now. He got the money and he asked me the question – the question he asked me is if I want him to continue the job. Now, if he's going to continue it in a reasonable time, that's fine with me. Because I don't want to be here – all I want is to pay you and get the job done ... that's all I want. Now since he asked that question ... so if he doesn't think that he will finish it in a timely manner, I'd be willing to take my money back.

Patrick White: Understood. You do understand that where we are with this case is that we're going to be back here next month ...

Rolex Simon: Yes.

Patrick White: ... more likely than not – okay – to consider what the penalty is that should be imposed in this case.

Rolex Simon: Yes.

Patrick White: So, I think you can reason your way to what's likely to happen and I think you've indicated that you're agreeable to having him proceed. And if he does not do what you expect him to do – certainly make his best efforts over the next thirty

days to do what's reasonably able to be done – we're going to be back here next month. And we're going to have a conversation then.

Rolex Simon: Yes. But as he said, he was asking the question. Yes, I want him to ...

Patrick White: Finish his job.

Rolex Simon: ... finish it so he can go home, and we won't have to talk about it anymore.

Patrick White: Great. That would be great. Do you have another question?

Vice Chairman Nolton: Can that roof be finished within the next thirty days?

Jeffery Rayl: Yes. Of course, every time a roofer answers a question like that – it is barring weather conditions and unforeseen obstacles ...

Chairman Lantz: If you can get the materials ...

Jeffery Rayl: ... it's a three-day job.

Vice Chairman Nolton: It's a small roof.

Chairman Lantz: All right.

Patrick White: Do you feel that you need to see his job – similar to the prior one in order to know what needs to be done?

Jeffery Rayl: Well, regarding the repairs and ...

Patrick White: I'm talking only about Mitchell ...

Jeffery Rayl: Oh, I'm sorry ... about Mitchell ... ask me again, please.

Patrick White: Do you need to see anything at the Mitchell job to know what needs to be done?

Jeffery Rayl: No.

Patrick White: Okay.

Chairman Lantz: So, are you requesting that we postpone the penalty phase as well?

Assistant County Attorney Noell: Yes, sir – making a finding of ... we would request a Finding of Guilt if the Board hasn't already ruled on that. We would be agreeable to extending the penalty phase until the next meeting.

Chairman Lantz: I believe we did that when Mr. White made his motion.

Assistant County Attorney Noell: There's been a lot said between then and here.

Attorney Schneck: I don't believe there was a formal vote on a motion.

Vice Chairman Nolton: I don't think there was a Finding of Guilt.

Patrick White: Can we do it all in one motion?

Attorney Schneck: Sure

Patrick White moved to approve that the Board makes a Finding of Guilt with respect to the Complaint in Case No. 2019-03, and that we table the penalty pursuant to the County's request until the next Board meeting. Richard Joslin offered a Second in support of the motion. Carried unanimously, 5 – 0.

NEXT MEETING DATE:

WEDNESDAY, MAY 15, 2019

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

There being no further business for the good of the County, the meeting was adjourned by order of the Chairman at 11:58 AM.

**COLLIER COUNTY CONTRACTORS'
LICENSING BOARD**

Kyle E. Lantz

KYLE E. LANTZ, Chairman

The Minutes were approved by the Chairman or Vice Chairman of the Contractors' Licensing Board on July 17, 2019, "as submitted" [] - OR - "as amended" []