

BEFORE THE NORTH CAROLINA LANDSCAPE CONTRACTORS' LICENSING BOARD

Complaint File No. 17.43.S

In the Matter Of:)	
)	
PAMLICO TURF MANAGEMENT, INC.)	
and EARL ROSS BOYER)	CONSENT ORDER
(License No. 1528))	

THIS MATTER is before the North Carolina Landscape Contractors' Licensing Board (Board), pursuant to G.S. §89D-22 and with the consent of Pamlico Turf Management, Inc. and Earl Ross Boyer (Respondents) for consideration of an entry of a Consent Order in lieu of an administrative hearing.

With Respondents' consent, the Board makes the following:

FINDINGS OF FACT

1. On August 1, 2015 Pamlico Turf Management, Inc. ("Respondent Licensee") was issued a landscape contractor's license, license no. 1528. The license expired on August 1, 2016 and was reinstated on March 14, 2017. The license was last renewed on August 1, 2017 and is currently active.
2. Pamlico Turf Management, Inc. is a corporation organized under North Carolina law. Earl Ross Boyer is the President and Registered Agent.
3. On March 20, 2017, Shay Brickhouse filed a complaint against Respondent Pamlico Turf alleging that the licensee did not hold a valid license as of the date it submitted a bid to the City of Washington. The Board subsequently commenced an investigation.

Licensure/Renewal History

4. As stated above, Respondent Licensee was initially licensed on August 1, 2015. On June 22, 2016, Respondent licensee submitted a renewal application to the Board. However,

Respondent Licensee did not include documentation showing that Licensee had met the Board's continuing education (CE) requirements pursuant to G.S. 89D-20(b), 21 NCAC 28B .0301(b) and section .0400 of Title 21, Chapter 28B of the N.C. Administrative Code. The Board notified Respondent Licensee of this requirement; Respondent Licensee responded.

5. On August 31, 2016, Respondent Licensee still had not provided proof of meeting the above-referenced CE requirements. The license was revoked pursuant to G.S. 89D-20(a).
6. The Board informed Respondent Licensee on August 31, 2016 regarding the 1.5 hour CE deficit; he was informed about the reinstatement procedure.
7. The Board contacted Respondent Licensee in writing on September 16, 2016 and October 27, 2016. He was informed that the license had expired and also regarding the 1.5 hour CE deficit.
8. On March 13, 2017, Respondent Licensee contacted the Board and provided information indicating that he had completed his CE requirements on February 23, 2017. However, the Board could not confirm Respondent Licensee's attendance as he failed to sign the CE course sign-in sheet.
9. On March 14, 2017, the Board received notification from the CE course instructor that Respondent Licensee had attended the February 23, 2017 CE course. Respondent's license was reinstated on March 14, 2017.

City of Washington Bid

10. Between February 20-22, 2017, Respondent Licensee submitted a bid to the City of Washington, North Carolina for a project to improve the downtown streetscape, landscaping and site amenities. The bid amount was equal to or exceeded \$30,000.00.

11. On March 6, 2017, the City of Washington awarded the above-referenced bid to Respondent Licensee.
12. On March 14, 2017, the City of Washington, after first being unable to confirm that Respondent Licensee's license was active, contacted the Board regarding the status of the license. The Board confirmed that the license had been reinstated.

CONCLUSIONS OF LAW

The actions of Respondent Licensee, as described above in paragraph 9 - 11, are violations of G.S. 89-22(a)(2) and (6) as they constitute the following:

- a. An attempt to practice landscape construction or contracting by fraudulent misrepresentation; and
- b. A willful violation of G.S. 89D and rules adopted by the Board.

Based on the foregoing, and with Respondent Licensee's consent, IT IS, THEREFORE, ORDERED as follows:

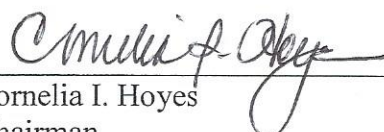
1. License number 1528 issued to Respondent Licensee is hereby REPRIMANDED.
2. Within thirty (30) days after the date that the Board approves the Consent Order and pursuant to G.S. 89D-22(b), Respondent Licensee shall pay costs in the amount of \$300.00.
3. Respondent Licensee shall comply with Chapter 89D of the N.C. General Statutes and the Board's rules and regulations.
4. Noncompliance: If Respondent Licensee fails to comply with any provision of this Consent Order or breaches any term or condition thereof, either in substance or timing, upon written demand, Respondent Licensee's license shall be suspended for a period of six months. If Respondent Licensee disputes that such a violation of the conditions has

occurred, then he must file a written objection with the Board WITHIN TEN (10) BUSINESS DAYS of the date of the notice of the violations to request a show cause hearing. The notice to the Board shall contain with specificity the violations disputed. Upon receipt of this notice of objection, Board staff shall schedule a show cause hearing before the Board at the next scheduled meeting date for which appropriate notice can be provided or scheduled by consent of the parties.

5. Waiver: Failure to file a written objection with the Board within the designated time period will be construed to mean the Respondent Licensee is not contesting the matter and all further proceedings to which Respondent Licensee is otherwise entitled by law are hereby waived.
6. Modification: Any request for modification of this Consent Order must be submitted in writing to the Board and approved prior to the modification occurring.
7. Effective Date: The effective date of this Consent Order shall begin on the date that it is approved by the Board; provided that the Board will not consider the Consent Order unless an original, signed by Respondent Licensee, is received prior to the Board meeting at which the Consent Order is being considered.

Approved by the Board this the 18 day of October 2017.

NORTH CAROLINA LANDSCAPE
CONTRACTORS' LICENSING BOARD

By: 
Cornelia I. Hoyes
Chairman

STATEMENT OF CONSENT

The undersigned does hereby certify that he has read the foregoing Consent Order in its entirety and that on behalf of Respondents, he freely and voluntarily admits that there is a factual basis for the Findings of Fact set forth therein, that the Findings of Fact support the Conclusions of Law, that Respondents will not contest the Findings of Fact should further disciplinary action be warranted in this matter, and that Respondents assent to the terms and conditions set forth therein.

The undersigned waives the service requirements of Rule 4 of the North Carolina Rules of Civil Procedure and N.C. Gen. Stat. 150B-38 and directs his counsel Keith D. Hackney, Attorney at Law to accept service of this Consent Order.

This the 7th day of SEPTEMBER 2017.

PAMLICO TURF MANAGEMENT, INC.

Earl Ross Boyer

By: Earl Ross Boyer, President

Earl Ross Boyer

EARL ROSS BOYER, Qualifier

STATE OF NORTH CAROLINA

COUNTY OF BEAUFORT

Sworn to and subscribed before me this
the 7th day of SEPTEMBER 2017.

Keith D. Hackney
Notary Public

Keith D. Hackney
Typed or Printed Notary Name

My Commission Expires: 4/4/2019

