

BEFORE THE NORTH CAROLINA LANDSCAPE CONTRACTORS' LICENSING BOARD

Complaint File No. 23 BLC 03190

In the Matter Of:

PARAGON LANDSCAPE)	
MANAGEMENT, LTD., (License No.)	
CL0203) and JASON BIRCH (License No.)	CONSENT ORDER
0342))	

THIS MATTER is before the North Carolina Landscape Contractors' Licensing Board ("the Board") pursuant to N.C. Gen. Stat. § 89D-15(7)-(8) and 21 N.C.A.C. 28B .0802, and with the consent of Paragon Landscape Management, Ltd. ("Paragon") and Jason Birch ("Mr. Birch" and, collectively with Paragon, ("Respondent Licensees"), for consideration of an entry of a Consent Order in lieu of an administrative hearing.

With Respondent Licensees' consent, the Board makes the following:

FINDINGS OF FACT

1. On August 1, 2015, Paragon was issued a corporate landscape contractor's license by the Board ("NCLCLB"), License No. CL0203. The license was last renewed on August 1, 2022 and is currently active.
2. Respondent Licensee Paragon is a corporation organized and registered under North Carolina law. Kevin Harrison is the President.
3. On August 1, 2015, Mr. Birch was issued a landscape contractor's license by the Board, License No. 0342. The license was last renewed on August 1, 2022 and is currently active.
4. In the summer of 2020, the Residential Homeowners ("Homeowners") of a property located at 3251 Lake Pointe Drive, Belmont, Gaston County, North Carolina

approached Respondent Licensees to discuss hardscape additions to their lakefront home.

5. Homeowners provided Respondent Licensees with a February 2019 survey (“Survey”) of their lakefront property to assist Respondent Licensees in designing the project.
6. The Survey provided to Respondent Licensees was completed by a licensed, North Carolina surveyor.
7. The Survey showed a vacant lot next door to the Homeowners.
8. The Survey omitted a later-added deck/patio addition in the area of the hardscape project Homeowners asked Respondent Licensees to complete.
9. The hardscape work was designed and completed by Respondent Licensees to the Homeowners complete satisfaction in December 2020.
10. Almost two years later, in October 2022, the Homeowners advised the Respondent Licensees that new neighbors – who purchased the vacant lot next door – advised them that a 2022 survey revealed a small fraction of the December 2020 hardscape work appeared to encroach on the neighboring property.
11. Respondent Licensees immediately and actively attempted to resolve the encroachment issue with the Homeowners and next door neighbor owners.
12. During discussions with Respondent Licensees, on October 17, 2022, the Homeowners filed a complaint with the Board against Respondent Licensees.
13. On December 1, 2022, Respondent Licensees timely submitted their response to the Board.
14. In June 2023, Homeowners and Respondent Licensees fully resolved the dispute over the hardscape in which the encroaching hardscape was completely removed at

Respondent Licensees' expense by another vendor selected by Homeowner.

15. On July 10, 2023, the Board filed its Petition for Contested Case with the Office of Administrative Hearings.

CONCLUSIONS OF LAW

The action of Respondent Licensees as described above in paragraph nine, in this specific situation, constitutes a technical violation of N.C.G.S. § 89D-22.

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

1. Corporate License No. CL0203 issued to Respondent Licensee Paragon Landscape Management, LTD is hereby suspended for six (6) months.
2. License No. 0342 issued to Respondent Licensee Birch is hereby suspended for six (6) months.
3. The above-referenced suspensions are stayed. The following period of stayed suspension shall be referred to as the "probationary period."
4. During the six (6) month period described above, Jason Birch, on behalf of Respondent Licensees, shall take four (4) hours of Board approved continuing education courses. Record of completion shall be submitted to the Board in writing, prior to the expiration of the probationary period. These continuing education hours shall be in addition to any other continuing education requirements as set forth in 21 NCAC 28B .0402.
5. During the probationary period, Respondent Licensees shall provide the Board with copies of all contracts for landscape contracting to be completed in North Carolina totaling \$30,000.00 or more. These contracts shall be submitted by email to the Executive Administrator of the Board within ten (10) business days of full execution

by Respondent Licensee and the client(s). The contracts shall be submitted to the Board within ten (10) days of execution.

6. Within thirty (30) days of the Effective Date, Respondent Licensees shall pay jointly \$1,200.00 in cost recovery to the Board. Payment shall be remitted as follows:

Calvin Kirven, Executive Administrator
NC Landscape Contractors Licensing Board
3901 Barrett Dr #202
Raleigh, NC 27609

7. During the six (6) month period described above, Respondent Licensees shall comply with Chapter 89D of the N.C. General Statutes and the Board's rules and regulations found in Title 21, Subchapter 28B of the N.C. Administrative Code.
8. **Noncompliance:** If Respondent Licensees fail 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 Licensees' licenses shall be suspended for the remainder of the six (6) month period described above. If Respondent Licensees dispute that such a violation of the conditions has occurred, then a written objection must be filed 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.
9. **Waiver:** Failure to file a written objection with the Board within the designated time period will be construed to mean the Respondent Licensees are not contesting this matter and all further proceedings to which Respondent Licensees are otherwise


entitled by law are hereby waived.

10. **Modification:** Any request for modification of this Consent Order must be submitted in writing to the Board and approved prior to the modification occurring.

11. **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 Licensees, is received prior to the Board meeting at which the Consent Order is being considered.

Approved by the Board this the 21 day of December, 2023.

NORTH CAROLINA LANDSCAPE
CONTRACTORS' LICENSING BOARD


Kerry Danger
Chairman

STATEMENT OF CONSENT

The undersigned parties, do hereby certify that they have read the foregoing Consent Order in its entirety and that they 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 they will not contest the Findings of Fact should further disciplinary action be warranted in this matter, and they assent to the terms and conditions set forth therein.

The undersigned consents to service of the fully executed Consent Order via first-class mail addressed to their attorney of record as follows:

Bo Thompson
Gordon Rees Scully Mansukhani
150 Fayetteville Street, Suite 1120
Raleigh, NC 27601

This the 5 day of December, 2023.

PARAGON LANDSCAPE MANAGEMENT, LTD.,
(License No. CL0203)

BY: _____

Signature

President

TITLE

STATE OF NORTH CAROLINA

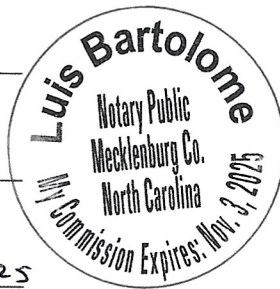
COUNTY OF UNION

Sworn to and subscribed before me this
the 05 day of DECEMBER 2023.


Luis Bartolome
Notary Public

LUIS BARTOLOME
Typed or Printed Notary Name

My Commission Expires: 11/03/2025



JASON BIRCH (License No. 0342)

By: 
Jason Birch

STATE OF North Carolina

COUNTY OF Union

Sworn to and subscribed before me this
the 6th day of December 2023.


Notary Public

Benjamin Mayo
Typed or Printed Notary Name

My Commission Expires: 10/5/2028

