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ELECTRICAL BOARD MEETING

TRANSCRIPT OF PROCEEDINGS

January 30, 2025



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DEPARTMENT OF LABOR AND INDUSTRIES
STATE OF WASHINGTON

ELECTRICAL BOARD MEETING
TRANSCRIPT OF PROCEEDINGS

January 30, 2025
Tumwater, Washington

Pages 1 - 290

**CERTIFIED
TRANSCRIPT**

Reported By:

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AGENDA

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BE IT REMEMBERED that an Electrical Board meeting was held on Thursday, January 30, 2025, at 9:00 a.m. before CHAIRPERSON JASON JENKINS, BOARD MEMBERS MIKE NORD, GREGORY JOHNSON, DON BAKER, JAMES TUMELSON, BOBBY GRAY, KERRY COX, DOMINIC BURKE, KEVIN DAVIS, JACK KNOTTINGHAM, BYRON ALLEN, STEPHEN ENTREKIN, ERICK LEE, IVAN ISAACSON, and SECRETARY/CHIEF ELECTRICAL INSPECTOR WAYNE MOLESWORTH. Also present was ASSISTANT ATTORNEY GENERAL BEN BLOHOWIAK, representing the Board.

<<<<<<<<<< >>>>>>>>>>

CHAIR JENKINS: I'd like to call the Washington Electrical Board Meeting to order. It is January 20, 2025 at approximately 9:02. So, let's get started off with thank you very much for being here. It's been a trek for some of us, and I know there's been a lot of things going on to get us here; so, I appreciate that.

So, we'll start with our item number one, which is our safety message, and I think we have our Chief, Secretary, to take care of our safety message today, I



1 hope.

2 SECRETARY MOLESWORTH: Of course.

3 CHAIR JENKINS: Thank you.

4

5 Safety Message

6

7 SECRETARY MOLESWORTH: So, welcome
8 everybody. It looks like everybody made it here safe
9 today. That's always the goal, right. I'm going to
10 veer away from a normal type of a safety and talk a
11 little bit about personal safety and how we treat
12 others to create a safe environment for ourselves and
13 for others. These days, as we all know, things are a
14 little bit volatile out there. People have a lot of
15 feelings going on, got a lot of economic problems, you
16 know, wars that everybody is worried about, a new
17 President that people are worried about, and a lot of
18 different issues happening; so, it can cause a lot of
19 stress, and so all of us in the room run into, at
20 least I think, run into situations almost daily where
21 we're in conflict, and, so, when we get into those
22 situations it's important to give people a little
23 grace because you don't know where they just came
24 from, what their previous half an hour was all about,
25 and you want to make sure that you give them enough



1 room to voice their opinion, and in turn you'll
2 probably receive grace back.

3 As soon as things start to escalate is when you
4 have to start worrying about being in danger
5 physically because people are a little bit on edge
6 these days. Most of you are not from Spokane, but we
7 have seen in Spokane a very high increase in violent
8 crimes and that just means that people have weapons
9 with them and you don't want to get into that type of
10 a situation. Just give people a little room, a little
11 grace, and try to -- try to minimize that conflict,
12 and keep yourself safe.

13 If you have your head on a swivel and you see
14 escalation starting, some of those signs are kicking
15 the ground, raising your voice, you know, pounding on
16 things. You know, when you start to see an escalation
17 in the conversation it's time to excuse yourself
18 because those usually mean that something worse is
19 about to happen because it goes in steps, and so make
20 sure and exit those situations before anything
21 actually happens, okay.

22 That's my safety topic for today. Keep your
23 eyes and ears open, and watch out for others the same
24 way you'd watch out for yourself. Thank you.

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Approve Transcript from
October 24, 2024 Electrical Board Meeting

CHAIR JENKINS: Thank you very much. So, moving onto our item number two, the approval of transcript of the meeting for October 24, 2024. I'd like to add a minor change to that. On pages 30, 31, and 32 they were labeled 40 volts and I think it was supposed to be 480 volts at multiple times there. So, that might cause a change in the appeal process with the Board's minutes. So, other than that, let's hear -- entertain a motion.

BOARD MEMBER NORD: Motion.

CHAIR JENKINS: We have a motion. Do we have a second?

BOARD MEMBER JOHNSON: Board Member John-- Greg Johnson, second.

CHAIR JENKINS: We have a motion and a second. Any discussion? Hearing nothing, all in favor signify by say aye.

BOARD MEMBERS: Aye.

CHAIR JENKINS: Any opposed? Motion passes.

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Appeals

Joseph L. Ray: ESICO01401, ESICO01402, ESICO01403,
ESICO01404, ESICO01405

CHAIR JENKINS: All right, so the next thing on our list here is our appeals. We have a last minute change. What we're going to do is move from Appeals (a), we're going to jump to Appeals (b) here with Joseph L. Ray. Is someone here for Joseph L. Ray?

MR. RAY: Huh?

CHAIR JENKINS: Is someone here for Joseph L. Ray?

MR. RAY: Just me.

CHAIR JENKINS: So, let's move on to that. One second, please.

MR. RAY: Do I come up there?

CHAIR JENKINS: Yes, please. This is an appeal of the initial order issued by the Office of Administrative Hearings on July 31, 2024. It is my understanding the decision, reversal, reversed Citation Nos. ESICO -- more time, ESIO -- a third time, ESICO01401, ESICO01402, ESICO01403, ESICO01404, and ESICO01405. It's further my understanding that



1 the Department has timely appealed a decision to the
2 Electrical Board, specifically conclusions of laws
3 dot 5.12, 5.3, and 5.14.

4 The Electrical Board is the legal body
5 authorized by the legislature, not only to advise
6 electrical -- uh, advise the Department regarding the
7 electrical program, but to hear appeals when the
8 Department issues citations or takes some other
9 adverse action regarding electrical license,
10 certification, and compliance. The Electrical Board
11 is a completely separate entity from the Department
12 and will such independently review the actions taken
13 by the Department.

14 When the Department issues penalties, the
15 hearing is assigned to the Office of Administrative
16 Hearings to conduct the hearing pursuant to the
17 Administrative Procedures Act. The ALJ who conducts
18 the hearing then issues a proposed decision and order.
19 If either party appeals the decision, the subject is
20 reviewed by the Electrical Board.

21 Please keep in mind that while our review is
22 de novo, for example we sit in the same position as
23 the Administrative Law Judge, we review the entire
24 record regardless of whether a certain piece of
25 evidence is referenced by the ALJ. We are bound by



1 the evidence in the record and no new evidence can be
2 submitted at the hearing.

3 Each party will be given 15 minutes today to
4 argue the merits of your case. Any Board Member may
5 ask questions and -- Any Board Member may ask
6 questions, and the time may be extended at the
7 discretion of the Board. At the conclusion of the
8 hearing, the Board will determine if the findings and
9 conclusions reached by the ALJ are supported by the
10 findings -- by the facts and rules pertaining to
11 electrical installations.

12 Are there any questions before we begin?

13 MR. RAY: No.

14 CHAIR JENKINS: Okay. As the appealing
15 party, the Department, you have the burden of proof to
16 establish the proposed decision is incorrect;
17 therefore, we'll hear from you first.

18 MR. BARNES: Thank you, Your Honor. This is
19 somewhat of an unusual case in that the Department is
20 appealing the decision --

21 THE COURT REPORTER: Pardon me for
22 interrupting, can you tell me your name?

23 MR. BARNES: My name is John Barnes, and I'm
24 Assistant Attorney General for L & I.

25 THE COURT REPORTER: Thank you. I'm sorry.



1 MR. BARNES: So, I was saying, this is
2 somewhat of an unusual case in that the Department is
3 appealing the decision, initial decision of the Office
4 of Administrative Hearings based on an evidentiary
5 issue and not really on an electrical issue. Now, the
6 Department feels that -- I'm going to ask you at the
7 end of this hearing to do one of either two things,
8 either to send this back to OAH for further hearings
9 or make a decision based on the record yourself.

10 Now, the issue here is the admittance of
11 evidence, and the Department initially just got
12 started -- This is a matrix case, in which a matrix
13 case means is that there are multiple violations that
14 are put in a chart for the same offense. So, for
15 example, in this case they were -- the allegation is
16 that Mr. Ray was hanging electrical lights on
17 residential commercial buildings, but that from the
18 facts it indicates that it would require an electrical
19 contractor license or to be performed by an
20 electrician.

21 In any event, there were numerous instances of
22 Mr. Ray installing these lights. The department
23 received a chart from the Employer, Trimlight, are the
24 one who actually hired Mr. Ray to hang these lights,
25 and Trimlight provided the Department with a chart



1 indicating the dates, the location, and who performed
2 that installation on that date in that location. The
3 Department then took that chart and made another chart
4 in the matrix format so that each one of these
5 addresses then they would show like four or five
6 violations. A couple of them were permit violations.
7 One was for not being an electrician. But, in any
8 event, there was 155 different sites where these
9 lights were hung, and, so, therefore, there is 155
10 violations for each type of violation that was
11 assessed. So, the Department then put, for ease of
12 readability, put it into a chart of its own or a
13 matrix, and that was accepted into evidence at the
14 beginning of the hearing.

15 Now, there are, and I will read to you some
16 different portions of the record, but these charts
17 were never contested or objected to. So, at the end
18 of the hearing, when we're waiting for a write-up and
19 we get the proposed decision and that indicates that
20 it pretty much follows that they committed these
21 violations, Mr. Ray did, but the judge then decides
22 that the chart that we received from the Employer and
23 the matrix that we then generated from that chart is
24 inadmissible hearsay and threw it all out. So, that
25 means that none of the evidence that the Department



1 presented essentially was admitted into evidence, and,
2 so, therefore, not a single violation was affirmed.

3 Now, the Department takes exception to this
4 because once the evidence is admitted without
5 objection it can't there later be excluded because if
6 the judge would have done it initially and just said,
7 "I'm not going to accept this chart. This is
8 hearsay", well, the Department then would have been
9 able to question Mr. Ray on each one of those 155
10 addresses, and whether or not he had any independent
11 recollection of ever doing work there, but, in any
12 event, it would have saved a number of these
13 violations, and that's not what happened. But I will
14 refer you to the record because it is quite clear that
15 this was -- evidence was accepted and that there
16 wasn't any objection.

17 On Electrical Board packet, page 35, this is the
18 hearing transcript, the judge initially explains, "I
19 am going to explain the process for the hearing today.
20 You have certain rights. You have a right to
21 representation at your own expense. You have a right
22 to ask questions of any witness who testifies, and
23 testify on your own behalf. Although the
24 deadlines" -- oh, "and testify on your own behalf, as
25 well as to submit documents. Although, the deadlines



1 for those things have passed, so we have to address a
2 new witness, the first thing we'll do is go over those
3 documents. We will determine what documents are
4 admitted into evidence and then I will have Mr. Barnes
5 present his case on behalf of the Department."

6 So, the first thing you do is go over the
7 exhibits and on page 38 then, line 10, it says -- the
8 Judge asks, "Mr. Ray, did you receive those -- that
9 witness list and those 20 pages of -- or those 20
10 exhibits?"

11 Mr. Ray, "Yes. I've got a rather large packet
12 here that I've been trying to decipher over the last
13 few days."

14 The ALJ, "Okay, did you get a chance to read
15 through it?"

16 Mr. Ray, "Yeah."

17 The Judge, "All right. Any objection to me
18 admitting these exhibits into evidence so that we can
19 talk about them today?"

20 Mr. Ray, "No."

21 The ALJ, "All right. Exhibits 1 through 20 are
22 admitted."

23 So, now we have the exhibits admitted at --
24 well, the very first thing done at trial.

25 And, then, later on, Mr. Simshauser backed up



1 what was in the chart notes and he said at -- this is
2 page 47, line 15, "I then took that, and then I asked
3 that he provide me the names of the property owners,
4 their assets, the date of installation, and who
5 performed the installations, which Trimlight
6 Northwest, Travis McBride, and their attorney Hannah
7 Weaver did provide me a spreadsheet for all
8 installations performed within the date range
9 requested." So, he's testifying that he contacted the
10 Employer and through their attorney he received a list
11 of all of the installations that Mr. Ray performed.

12 We go on a little further, he's the inspector
13 again, his testimony on page 50 he says, "I did
14 contact Joseph Ray. I believe my first contact with
15 Joseph Ray was in February of 2023. I spoke with him
16 on that day and I asked about the installation.
17 Joseph stated that he had performed these
18 installations." So, now we have admittance that he
19 performed installations.

20 And then Mr. Simshauser goes on and says, "As
21 with all of the installers, there's more than one
22 besides Mr. Ray, I sent them the spreadsheet via
23 e-mail, the e-mail they listed on their registration
24 with the State, which would be the e-mail listed when
25 they applied for an electrical card and asked them to



1 verify all of the installations and any discrepancies
2 in the installations attributed to them." So, again,
3 he's trying to find out are there any, you know,
4 issues with this spreadsheet and says he didn't
5 receive anything back from Mr. Ray.

6 So, finally we go on and as it gets into it the
7 inspector says, "Because what happens", this is on
8 page 59, "...what happens is when I'm using a matrix
9 what I'm doing is essentially I'm issuing one citation
10 for multiple violations, and so in this case the
11 reason you have so many pages", meaning the matrix,
12 "is because each address would contain multiple
13 violations." So, he's explaining how he came up with
14 that chart.

15 And then the judge, the ALJ, asked Mr.
16 Simshauser a question. He says, "Now, can you tell us
17 or can you tie the number of violations that you
18 assessed with Mr. Ray to, let's say, the matrix or
19 anything?" And the inspector says, "Yeah." So, you
20 look at the installation that was provided, you cross
21 reference that to the matrix this was issued. Those
22 numbers would reflect what you see in the spreadsheet
23 on Exhibit 19. They would be reflective of that."

24 So, then, the judge further questions Mr.
25 Simshauser on page 69 and he asked him, "What did you



1 ask or what did you ask him?"

2 And Mr. Simshauser said, "I just asked him if
3 the installations that he had performed for Trimlight,
4 I asked about the installations for Trimlight
5 Northwest, if he had performed the installations. He
6 stated he had. I asked if he had an electrical
7 contractor's license. He said he did not have the
8 electrical contractor's license and did not have the
9 electrical certification."

10 And then Mr. Nagle, he was the ALJ, said, "All
11 right. And that spreadsheet contains the dates of
12 these alleged installations?" And Mr. Simshauser
13 said, "Yes, Your Honor."

14 And, then, finally, the very last thing that I
15 wanted to point out is that when Mr. Ray was
16 testifying he affirmed these installations. He says
17 on page 55, the question was asked, "Mr. Ray, do you
18 dispute the list of installs that are contained in
19 Exhibit No. 15 that you did perform these installs?"

20 Mr. Ray, "Honestly, I didn't keep track of
21 installations that I did, name and address. So, I
22 don't have the ability to dispute any of them. So, I
23 guess the best answer to your question is no." So, he
24 does not dispute any of those.

25 So, from all of that, and then to have the court



1 then throw out the evidence as they're writing the
2 decision I think is unfair and is not -- is basically
3 pulling the rug out from under the Department, and the
4 Department should be allowed to go back and question
5 Mr. Ray on these individual installation sites, if,
6 indeed, the whole matrix and spreadsheet are thrown
7 out.

8 I think that once they are admitted without
9 objection I think the court erred in then withdrawing
10 them or excluding them from the decision. And if you
11 can see from the actual opinion written, it follows in
12 affirming the Department's violations all until the
13 very end. The Findings of Facts are fine. The
14 Department doesn't have any issue that the judge
15 correctly found the correct findings. It's the
16 conclusion of law that the Department objects to and
17 that that conclusion of law was essentially we hadn't
18 proven any of our cases because our main evidence was
19 thrown out. So, I ask that either you look through
20 the initial decision and write different conclusions
21 or that you send it back. If this is indeed
22 inadmissible hearsay, the Department should be given
23 an opportunity to re-question Mr. Ray on these
24 individual sites

25 CHAIR JENKINS: Thank you very much. Mr.



1 Ray.

2 MR. RAY: So, to bring up the matrix thing,
3 I was working. I was an employee of Trimlight
4 Northwest I was given equipment, told where to go,
5 what time to be there, do this. I was never told
6 anything outside of, you know, Christmas lights, this,
7 that, and the other. I had no idea that any permits
8 or anything needed to be pulled. I was an employee.
9 When I was an employee of DirecTV I didn't do any of
10 that. It was all done by DirecTV. I had no knowledge
11 of that. I worked for ADT for a little while, never
12 knew anything, got an hourly paycheck, never
13 instructed on anything like that. So, I figured I was
14 in the same position that I was in before.

15 The first time I found out that anything was
16 being done that wasn't up to snuff was a \$330,000.00
17 fine. Immediately after that I quit doing everything,
18 found out all of the stuff that was happening with
19 Trimlight, my employer; so, called L & I and I said,
20 "Hey, this, this, and this. What do I need? How do I
21 do this?" So, I got all of that in order and then
22 joined with J & J Electric and then only to find out
23 that even after that things were still not in order.
24 So, I'm not sure why I'm even here today being the
25 employee of -- I don't understand why I'm here and



1 Trimlight is not. So, that's my thing.

2 And as far as the hearsay, somebody gave
3 somebody a list of names and addresses that they
4 supposedly sent me to or didn't send me to. I didn't
5 keep track of any of that. I was there to earn money.
6 I got a paycheck. I did the job that I was instructed
7 to do.

8 CHAIR JENKINS: Any questions?

9 BOARD MEMBER JOHNSON: I have a question for
10 you, Mr. Barnes. In Exhibit 19, page 199 of the Board
11 packet, there is an internal e-mail discussion
12 regarding the possibility that Mr. Ray was a
13 misclassified employee and the Inspector Simshauser
14 noted that he stopped exploring the idea and he did
15 not make any referrals. I'm wondering there's also
16 during the hearing on page 55 there's a little bit of
17 discussion and it was noted that Mr. Simshauser was
18 not providing any documentation of an employee and
19 employee relationship and so he didn't pursue that.
20 I'm wondering since the e-mail exchange or the hearing
21 were there any further investigations on the employee
22 and employee relationship and were there any referrals
23 that were made.

24 MR. BARNES: Yes.

25 CHAIR JENKINS: Can I stop you there.



1 That's after this thing. It's not part of our packet.
2 You can't add what's happened after that or any
3 external stuff. You have to stay inside the packet.
4 So, yeah, that's --

5 BOARD MEMBER JOHNSON: Can I ask about the
6 e-mail exchange or --

7 CHAIR JENKINS: Was it in the packet?

8 BOARD MEMBER JOHNSON: The e-mail is in the
9 packet.

10 MR. BARNES: Yes. Mr. Ray was not an
11 employee of Trimlight. He did not receive a paycheck.
12 He received -- He was an independent contractor and he
13 received a 1099 at the end of the year, not a W-2, and
14 once the Department was aware of that, that was part
15 of the issue because as an independent contractor he
16 would then have to be an electrical contractor. He
17 would have to have -- you know, be an electrician to
18 perform it, and that's why there were so many
19 violations is because he was classified we think
20 properly as an independent contractor rather than an
21 employee.

22 BOARD MEMBER JOHNSON: So, I'm further
23 wondering so typically it's historical practice to
24 cite both the employer and employee when a violation
25 happens. If Mr. Ray was classified as an employee,



1 maybe a question for Wayne, is it typical practice
2 to -- would we have levied as many violations to an
3 individual if he was classified as an employee versus
4 if he was classified as a contractor.

5 SECRETARY MOLESWORTH: So, first we've got
6 to establish if was actually an employee or if was
7 1099, and I don't know if that's in the packet at this
8 point. So, as an employee, he would be cited for not
9 having the proper certification, and he'd be cited at
10 each location in which he did work because citations
11 are based on address and location, right? And, so, we
12 would write that many citations, maybe be different
13 citations, if he was an employee, whether he was or
14 was not an employee. One for licensing and not
15 certified if he wasn't, maybe one for just not
16 certified if he was an employee, but at every site.

17 CHAIR JENKINS: Board Member Don Baker.

18 BOARD MEMBER BAKER: Could you point me to
19 the location, the address in these documents where it
20 shows what type of employee or contractor he is?

21 MR. BARNES: I don't believe it will say
22 whether he is an employee or a contractor. It just
23 will show you the address that he did the
24 installation.

25 BOARD MEMBER BAKER: You stated earlier he



1 was a 1099. Recognizing the 1099, not an employee,
2 but employer, where is that in the work packet?

3 MR. BARNES: Oh. Well, I believe on page
4 55.

5 BOARD MEMBER BAKER: Board packet page 55?

6 MR. BARNES: Oh, yes, Electrical Board
7 packet 55 that was referred -- I think was from the
8 inspector. So, a 1099 indicates you're a
9 subcontractor. It does not indicate an employment
10 relationship. You know, oftentimes you hear the
11 statement a 1099 employee. For all intent and
12 purposes of the law, there's no such thing. A 1099
13 employee does not exist. You're an independent
14 contractor when you're under 1099.

15 BOARD MEMBER BAKER: Okay, that's a good --
16 I'm trying to get to the page. That's a good
17 definition, but does it state that's what he was?
18 Where is the evidence that says that's what he was?

19 MR. BARNES: Oh, um -- Oh, well, it says on
20 that same page, 55, if you go up to line number two,
21 it says, question, this was from myself to Inspector
22 Simshauser, "I want to refer you to Exhibit Number 14,
23 which is a 1099 NEC."

24 "Yes, sir."

25 "Can you explain where you obtained that?"



1 "I received that from Trimlight Northwest".

2 "Okay, and at least why did you think this was
3 an important exhibit?" And then he goes on into it.

4 So, a 1099 NEC stands for Non-Employee
5 Compensation, and so Exhibit No. 14 is the 1099 NEC
6 from Trimlight to Mr. Ray.

7 BOARD MEMBER BAKER: Perfect, correct. So,
8 we've established the 1099. I was almost going to say
9 employee, but I know that's not correct, 1099 whatever
10 the heck. Yeah, so now -- Now it's just a matter of
11 did he perform an installation without a permit and
12 without a proper license. Okay, thank you. I think
13 that's what you're getting at.

14 CHAIR JENKINS: Yes, Board Member Jack
15 Knottingham.

16 BOARD MEMBER KNOTTINGHAM: So, the
17 spreadsheet, which I think Exhibit 5 was thrown out by
18 the ALJ; is that correct?

19 MR. BARNES: Yes. I believe not only the
20 spreadsheet, but also the matrix because there was a
21 spreadsheet that was provided from Trimlight or from
22 their attorney to the Department, and, then, from
23 that, the Department made its matrix.

24 BOARD MEMBER KNOTTINGHAM: Okay. What
25 about Exhibit 18? Exhibit 18 was the list of Class B



1 permits. Was that thrown out?

2 MR. RAY: The what?

3 BOARD MEMBER KNOTTINGHAM: It was the list
4 of Class B permits purchased by J & J.

5 MR. BARNES: No, that was not thrown out
6 either. It's hard to -- From reading the decision,
7 it's hard to determine what exactly was thrown out.
8 There's a -- Starting with Finding of Fact 5.11, or is
9 that conclusion of law, that's where it starts out.
10 Let's see. Oh, it says on 5.12, it says the
11 Department relies upon the spreadsheet submitted by
12 Trimlight listing 155 instances where Mr. Ray
13 performed work. So, it looks like that that
14 spreadsheet from Trimlight was -- well, was eventually
15 thrown out. The spreadsheets are hearsay. So, it
16 would have been the original spreadsheet from
17 Trimlight that was thrown out. Now, of course,
18 without that, then the matrix is worthless because
19 it's based on that information.

20 BOARD MEMBER KNOTTINGHAM: And this is
21 directed to Mr. Ray. J & J, you said that when you
22 found out that things were kind of amiss, my words,
23 not yours, that you hooked up with J & J.

24 MR. RAY: Well, Trimlight hooked up with
25 J & J.



1 BOARD MEMBER KNOTTINGHAM: Okay.

2 MR. RAY: And, then, to all intents and
3 purposes, I was part of Trimlight. That was my
4 understanding of how everything was working out. And
5 J & J was like, you'll be a 1099 employee, verbatim,
6 those words exactly, you'll be a 1099 employee and
7 you're going to be able to collect hours for becoming
8 a journeyman, and this and that, and then a few months
9 after that they were like, "Oh, apparently we can't do
10 this, so..." And I'd had enough. I was like I'm
11 done. I'm not, you know, attempting to do any
12 installations, or this, or that, and I just cut bait
13 and threw it out. I figured that I was being taken
14 advantage of by someone or something at that point and
15 had the wool pulled over my eyes, and I was like, no,
16 I'm washing my hands of that. I'm out.

17 BOARD MEMBER KNOTTINGHAM: I'm sorry, who
18 told you that your hours would count, was that J & J?

19 MR. RAY: J & J Electric.

20 BOARD MEMBER KNOTTINGHAM: Okay. They
21 provided or there's a list provided by J -- I guess it
22 was by J & J that listed the installers' permit
23 numbers, the addresses. Your name is listed on those
24 as an installer. Did you do those installations that
25 your name is attributed to?



1 MR. RAY: Well, whether or not I did those
2 installations, I did installations with J & J,
3 journeyman, and this is all, you know, knowledge that
4 I found out between 2003 to now. I had an electrical
5 apprentice license or whatever it's called. There was
6 a journeyman on site. Permits were being pulled as an
7 apprentice and not an administrator. I wouldn't have
8 pulled the permit. I don't have that ability. So,
9 permits pulled, everything. "Oh, this isn't working
10 either." Okay. So, how is that any of my fault as
11 being the employee? Every time I go to the
12 administrator or the owner of Trimlight everything is
13 good, everything is good, we're all good, we're all
14 good, yeah, no worries, no worries. And then after
15 all of this I talked to my electrical buddies and I
16 told them what was going on, you know, people that
17 have -- that I've, you know, met through Trimlight or
18 whatever that have become electricians, "The
19 astronomical size of -- Oh, my god, that's -- I've
20 never heard of a fine that size. Did you get any
21 warning"? "No." The first warning that I found out
22 that anybody was doing anything wrong was \$330,000.00
23 fines. That's -- that's life changing. That's, okay,
24 so me and my family are out in the streets, the house
25 is gone, cars are gone, like where is the, "Hey,



1 you're doing something wrong. You should probably
2 change that", that never happened.

3 BOARD MEMBER KNOTTINGHAM: I understand
4 your sentiment. Back to the list of Class B permits.
5 They list a Joe on there 34 times. They list Joe Ray
6 19 times. So, I think it's from -- Based on Exhibit
7 18, it does appear that you did work at those
8 addresses.

9 MR. RAY: Whether or not I did them at those
10 addresses, I can't attest to. I didn't keep track of
11 any of that.

12 BOARD MEMBER KNOTTINGHAM: Thank you.

13 CHAIR JENKINS: All right Any questions,
14 other questions from Board Members?

15 BOARD MEMBER JOHNSON: So, on page -- On the
16 hearing transcript, page 57, there was questioning
17 between Inspector Simshauser and it had -- he had
18 noted installers were generally paid by customers not
19 through Trimlight, Trimlight relatively -- just the
20 inter -- between the two, unless you see it was
21 highlighted in blue, which it means the finance
22 company would have paid Trimlight and then Trimlight
23 would have paid installers, and then further down it
24 notes that on page 58 Trimlight stopped funneling
25 money through Trimlight, like the money stopped



1 flowing through Trimlight and they started doing it
2 directly from the customer to the installer, and just
3 before that it referenced it was because they realized
4 there was violations, and it said essentially
5 streamlining to -- trying to separate themselves from
6 installers who I understand between their attorney
7 they handled the questions for that.

8 Then on page 74 jumping into questioning between
9 Mr. Ray, the testimony he gave, he said, "At no point
10 in time I ever had any contact with the customer prior
11 to installation, never purchased any parts. I was
12 given a box and told exactly what to do and how to do
13 it. I was an employee of Trimlight Northwest."

14 And then I mean it continues on. I won't read
15 through all that. I'm wondering if you ignore the tax
16 filing document, does that, to you, Mr. Ray, does that
17 sound like an employee or does that sound like an
18 individual contractor?

19 MR. RAY: Sorry, you said Mr. Ray. Were you
20 directing that to me or --

21 MR. JOHNSON: Oh, excuse me, Mr. Barnes.

22 MR. BARNES: Oh. Well, I guess the best way
23 to answer that is just kind of -- Trimlight is just a
24 general contractor. They do not -- They're not an
25 electrical contractor. They're a general. They hire



1 independent contractors to do the installations for
2 them, such as Mr. Ray. Trimlight does have a small
3 sales force, that's in the record, but they do not
4 have anybody that installs the lights for them. So,
5 Mr. Ray would not be an employee of Trimlight.

6 What happened with J & J then is that Trimlight
7 soon realized that they needed -- these installations
8 would need a permit and an inspection, which, of
9 course, they could not do. So, they came up with the
10 bright idea that they would have J & J Electric pull
11 the permits for them for the independent contractors
12 and then would supervise them. Of course, the problem
13 with that is J & J Electric can only supervise their
14 own employees, not an independent contractor; so, they
15 couldn't even properly supervise them. So, of course,
16 that soon came to a realization and they stopped that,
17 and, but, there's never been any indication in the
18 record that Mr. Ray or any of the installers were
19 actually employees of Trimlight. They got their own
20 business license, and, in fact, Mr. Ray even obtained
21 an electrical trainee certificate at one time, but,
22 then, again, that was not -- he was not able to be
23 supervised by J & J for that either.

24 MR. RAY: Can I say something?

25 CHAIR JENKINS: On the same question, the



1 one questioning, yes.

2 MR. RAY: Yes. The time frames are not
3 being purveyed by the attorney here. We -- All of us
4 technicians were instructed by Trimlight to go get a
5 business license. So, I don't think your question
6 fully got answered. Ignoring the tax, you know, how
7 the payment was made or whether the tax filings were,
8 did it sound like an independent contractor? If
9 you're told exactly what to do, where to do it, what
10 time to be there, I looked up the definitions of
11 independent contractor. None of that is viable with
12 an independent contractor. As an independent
13 contractor you're told, "There you go, handle that" at
14 which point you would call, schedule the appointment,
15 have an on-site meeting, discuss budgeting or
16 finances, whatnot. None of that ever took place. It
17 was, "Here's your box, here's your address, go there,
18 do this. If there was money to be collected, collect
19 it, bring it back here."

20 We were not paid by the individual customer. We
21 were paid by Trimlight, we were paid by J & J
22 Electric, at all times. How that money was reported
23 at the end of the year I believe at this point is
24 irrelevant because we were all employees. They just
25 chose to pay us on 1099s for whatever reason they had,



1 I don't know, but, and the business license and the
2 apprenticeship was -- or the electrical trainee card
3 was obtained at the point which Trimlight met up with
4 J & J Electric and J & J said, "Yep, all we have to do
5 is this, this, this, this. We're in compliance.
6 We're good to go. By the way, here's your equipment.
7 There's where you're going. This is the amount of
8 money you collect. Bing it back to us."

9 BOARD MEMBER JOHNSON: I would like to --
10 So, I think there's a pressing matter that we need to
11 address first, and so I would like to make a motion,
12 make a motion that based on the evidence presented in
13 this case the Board would recommend that L & I
14 investigate Trimlight and J & J Electric for the
15 possible misclassification of employees, whether
16 Trimlight --

17 CHAIR JENKINS: Let's stay inside the scope
18 of this case, and that's something we can ask outside
19 of the case.

20 BOARD MEMBER JOHNSON: Outside the case.
21 So, put that in after this.

22 CHAIR JENKINS: That's not part of this
23 particular case. So, I see where you're headed with
24 this. I get that.

25 BOARD MEMBER JOHNSON: I can put that on



1 hold then.

2 CHAIR JENKINS: Yes, please. I think the
3 real question right now I think is the Department is
4 asking us effectively to remove 5.11 through 5.14, and
5 reconfirm 6.1, 6.2, and 6.3, and we affirm those,
6 reverse the ALJ's decision. And I really totally feel
7 for the situation you got put in, but the record
8 shows -- I'm going to say it wrong again, he's not an
9 employee legally with the employer, and, so, we, as a
10 board, don't get equitable authority to make any
11 changes with that. The reality is it wasn't legal.
12 The installations did happen. And so we as a board
13 have to decide whether or not this is a legal
14 installation, if it was applied correctly, and it's my
15 opinion that the Department did apply it correctly.
16 It's very -- I don't want to use the word unfortunate,
17 but I'll use that for the moment, that you got stuck
18 in this because you not knowing all of this it's a lot
19 of -- even if it being any type of equitable for not
20 knowing it, it's part of the law, and so that's the
21 way I'm seeing this because all the stuff, like you
22 said, the evidence was admitted, accepted, and then
23 lastly got thrown out with no other input to this. It
24 needs to be put back in, in my opinion, and we
25 affirm --



1 MR. RAY: I believe --

2 CHAIR JENKINS: We're not talking. We
3 affirm the actual judge's -- not judge's, but the
4 overturn the judge's system, and beyond there it's way
5 out of our hands. We have to make sure we uphold the
6 law as it's stated today. Does that make sense?
7 Yes, Board Member Bobby Gray.

8 BOARD MEMBER GRAY: Thank you, Mr. Chair.
9 Board Member Gray. I guess through the chair I'd like
10 to ask counsel, it appears to me that the question
11 really becomes are we going to allow the evidence that
12 was presented or are we going to overturn the judge's
13 action because, if we're not permitted to consider
14 that evidence, we're in the same boat the judge was.
15 That evidence is no longer there. So, I guess from a
16 legal aspect do we have any authority to evaluate the
17 legal ramifications of what the judge's decision was
18 on whether or not that evidence should be permitted or
19 should not be permitted because I think that's key to
20 our decision on whether or not the citations, these
21 citations should be upheld, if I may.

22 MR. BLOHOWIAK: So, the Board could
23 theoretically determine that the Administrative Law
24 Judge was incorrect in making the decisions that were
25 made on excluding that evidence and have it admitted



1 to the record. You could also have it sent. You
2 could also say that if that evidence is indeed
3 excluded because it is hearsay the timing of it was
4 improper doing it after the fact at the end of the
5 hearing, giving the Department no notice, no
6 opportunity to hear that deficit at hearing and send
7 it back so the Department could present further
8 evidence related to that information that would not
9 violate the rules of evidence, and that's what Mr.
10 Barnes was alluding to when he said we could go --
11 give it to the board, send it back, and ask Mr. Ray
12 about each one of these and get the evidence into the
13 record that way.

14 BOARD MEMBER GRAY: Thank you.

15 BOARD MEMBER ISAACSON: Board Member Ivan
16 Isaacson. Along with Bobby's question, I wonder if
17 it's appropriate for the Board, the Electrical Board,
18 to be making decisions on whether the evidence should
19 be admitted or excluded. I don't know if that's
20 within our expertise. Can you speak on that a little
21 bit.

22 MR. BLOHOWIAK: The Board certainly has the
23 authority to do it. It does put you all in a
24 difficult situation because you are not familiar with
25 the rules of evidence, and the nuances especially with



1 hearsay are -- well, they're voluminous, they're
2 legion, and it is a very tricky area of law. So, if
3 the Board -- I think Mr. Barnes has given you a couple
4 alternatives to consider, and certainly one of those
5 is sending it back for more testimony avoids the Board
6 making any sorts of decisions on the admissibility of
7 this evidence, but will allow the opportunity for the
8 Department to present further evidence and to have a
9 judge weigh in on the admissibility of that evidence
10 at each juncture with the questioning that would be
11 elicited at another hearing.

12 BOARD MEMBER JOHNSON: So, I would like to
13 make a motion. I would like to recommend that the --
14 make a motion that the Board does not revisit the
15 evidence and the Board looks at the evidence in the
16 record and deems that there is sufficient evidence in
17 the record to show that Mr. Ray did commit at least
18 one violation, and I would like to reverse the
19 judge's -- ALJ's ruling to say, yes, he is guilty, but
20 of a single infraction for each of the items, minus
21 the training without a permit, one, because I believe
22 that would be mutually exclusive because they're for
23 the same addresses, so find him in violation of a
24 single one and that would make the fine to be a
25 thousand dollars for the first one, two hundred and



1 fifty for the second one, and two-fifty for the next
2 one, two-fifty for the next one; so that's a total of
3 \$1,750.00. So, I think there's sufficient evidence in
4 the record to note that he did it. It's just without
5 that exhibit we can't say exactly the full 155 or 119
6 that were shown.

7 CHAIR JENKINS: So, a motion on the Board to
8 effectively, as you heard, to create one violation
9 versus multiple violations based upon the evidence
10 that's in the record. I have a motion. Do I have a
11 second?

12 SECRETARY MOLESWORTH: So, can we have
13 discussion on that before --

14 CHAIR JENKINS: After our second.

15 BOARD MEMBER KNOTTINGHAM: I'll second it so
16 we can have a discussion.

17 CHAIR JENKINS: We have a motion. We have a
18 second. Open for discussion. Yes.

19 SECRETARY MOLESWORTH: So, you know, as I'm
20 listening to Mr. Barnes and thinking about what we
21 have to do, it seems to me that the question is do we
22 send this back to allow more evidence to be heard or
23 do we overturn his ruling and accept the matrix, and
24 then with the evidence in the package make a
25 determination whether or not we affirm those



1 citations. So, I don't think we're in a situation
2 where we can reduce the number of citations because
3 that's reducing the penalty and that's not -- the
4 intent of the Board is not to adjust the penalty, but
5 to actually find the fact of law that, yeah, he did
6 violate the law or he did not violate the law. It's
7 not our intent to determine penalties through whether
8 we do it by number or by monetary.

9 CHAIR JENKINS: A lot of discussions.
10 Bobby Gray.

11 BOARD MEMBER GRAY: Thank you, Mr. Chair.
12 Yeah, I was getting ready to say pretty much the same
13 thing, I think for us to be consistent because we have
14 in the past tried to do this before and we found out
15 that we didn't have the authority to do that. I do
16 think we can take individual citations and act on each
17 one of those individually, but when it comes down to
18 us trying to use some reasoning to say we think you're
19 guilty and here's what we think you ought to be
20 charged for regardless of what the law says, or what
21 the judge says, or anyone else, I think that would be
22 exceeding what our authority is in this case. The
23 other thing -- Well, I'll leave it at that. Thank
24 you, Mr. Chair.

25 CHAIR JENKINS: I think we're at a point



1 whether it would be to modify the judge's situation
2 throughout 5.11, 12, 12, 14, we reconfirm the system,
3 or we send it back to the judge, or we leave it like
4 it is, and so that's kind of our really three options.

5 UNIDENTIFIED SPEAKER: Point of order.

6 CHAIR JENKINS: We still have this motion on
7 the table. Thank you. Anymore discussion?

8 BOARD MEMBER JOHNSON: May I say something?

9 CHAIR JENKINS: Yes. It's open discussion,
10 yes.

11 BOARD MEMBER JOHNSON: So, I -- I'm just
12 looking at the evidence record. Based on minus that
13 list that was thrown out of evidence, I mean I believe
14 there's enough evidence in the record both on
15 testimony and on invoices that were submitted that we
16 know that there was a violation. The challenge is
17 without that spreadsheet I can't say there's 155 or
18 119 violations because that is -- we're required to do
19 that. So, if we wanted to dispose of a decision
20 today, I think it would be consistent to actually say,
21 you know, we know there's a violation based on the
22 records in there, so option one is that we could --
23 we're not reducing a fine, we're just reducing the
24 number of violations because we're saying, "Hey, we
25 know there is a violation for each one, but we don't



1 know and we're not deciding to -- we're not reducing
2 the fine amount, we're reducing the number of
3 violations that we are able to.

4 CHAIR JENKINS: Any other discussion?

5 SECRETARY MOLESWORTH: So, just a little
6 bit more and this might be for Ben, so -- Wayne
7 Molesworth. When we look at this it's my opinion that
8 we're looking at the law that the judge may have not
9 stayed connected to, right, and he disallowed that
10 evidence after he had accepted the evidence, and so I
11 think we're looking at can we reinstate that evidence,
12 and if there is evidence in the file that says that,
13 yes, he committed, then he committed on each one of
14 those locations, and that would be -- that would be
15 the determination that we would make. The problem
16 when we start jockeying that around is that that's
17 kind of the Department's method or thing to do.
18 That's our responsibility and the Board has asked us
19 in the past to take a look at excessive penalties or
20 things the Board thinks are excessive and we have made
21 other arrangements after the findings, right? I think
22 we've been fair about that.

23 UNIDENTIFIED SPEAKER: Call for a vote.

24 CHAIR JENKINS: Okay. So, all in favor of
25 the proposal all in favor say aye.



1 UNIDENTIFIED SPEAKER: Aye.

2 CHAIR JENKINS: Opposed?

3 BOARD MEMBERS: Nay.

4 CHAIR JENKINS: The motion fails. Yes,
5 Board Member Don Baker.

6 BOARD MEMBER BAKER: Continue the
7 conversation. In I think it was findings of facts and
8 conclusions of law 5.11 is where it appears to me the
9 law judge threw out the spreadsheet based on hearsay
10 and the Department's case fell apart on account of
11 that. The hearsay statement, either oral or written,
12 is made by some person other than the person
13 testifying at the hearing offered in evidence to prove
14 the truth of the statement made by the person who was
15 not at the hearing. Hearsay is evidence which is not
16 supported by live testimony and is not subject to
17 cross-examination, and he goes on to say that it
18 doesn't give the defendant the opportunity to cross-
19 examine his accuser. So, I would propose not, and I'm
20 not necessarily making a motion right now, but for
21 conversation sake I would propose that we send this
22 back to a law judge and tell the Department, "You
23 might want to get yourself somebody that can testify
24 on behalf of this, otherwise this is probably going to
25 stand because you have to give him an opportunity,

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1 according to what's written here in this findings of
2 facts, to be able to cross-examine his accuser. I
3 don't disagree that he probably performed some
4 installations. I think he was taken advantage of by a
5 contractor or multiple contractors that were
6 mitigating their risk by assigning people as 1099
7 employees unbeknowing, they didn't know, he didn't
8 know, but yet here is a \$300,000.00 fine. I have no
9 doubt the Department would work that out. They're not
10 going to take your home away from you, they're not
11 so... But I think we need to send it back to the law
12 judge and give the Department an opportunity to find
13 proper witnesses and proper data so that a law judge
14 can sort this out because I don't think we have
15 necessarily the expertise to sort through the legalese
16 of this type of a case.

17 CHAIR JENKINS: Board Member Bobby Gray.

18 BOARD MEMBER GRAY: Thank you, Mr. Chair. I
19 agree totally. Here's what it feels like to me is the
20 law judge felt exactly the same way. Rather than make
21 a decision, they threw it over the fence to us and let
22 us deal with it. So, my tendency would be -- this
23 would be preferably it goes back into a pool and we
24 get a different judge that will evaluate it that can
25 do that. So, I would -- I would agree with Board



1 Member Baker that the motion should be that we refer
2 it back to the administrative law judge process and
3 let them re-evaluate the decision made by the law
4 judge. Thank you, Mr. Chair.

5 CHAIR JENKINS: We have a motion.

6 BOARD MEMBER BAKER: I'll second that.

7 CHAIR JENKINS: So, we have a motion to
8 return it back to the ALJ from Board Member Bobby
9 Gray, and then a second from Board Member Don Baker.
10 Any discussion?

11 BOARD MEMBER NORD: I have a question. Once
12 an Administrative Law Judge has admitted evidence into
13 a case it's on record he has admitted it. At the
14 conclusion of the case can he legally take it out?
15 Can he change his mind?

16 MR. BLOHOWIAK: So, yes. I don't know of
17 any rules that would prohibit them from doing that.
18 It is within their discretion to exclude admitted
19 evidence if it violates the rules, even if it has been
20 admitted without objection, so certainly within, I
21 think, the judge's discretion to do it. I think the
22 timing does put the department in an awkward position,
23 but I'm not aware of any rule that would prohibit them
24 from doing that.

25 BOARD MEMBER NORD: Taking that into



1 consideration, I concur with Board Member Baker and
2 Board Member Gray.

3 CHAIR JENKINS: So, any other discussion?

4 SECRETARY MOLESWORTH: So, I just want to
5 make sure that we understand that completely. It did
6 take away his ability to cross-examine the person that
7 made that list; however, by the judge removing it at
8 the end it removed the state's ability to create a
9 case based on not having that evidence.

10 BOARD MEMBER NORD: My point exactly.

11 SECRETARY MOLESWORTH: So, I agree that it
12 probably should go back for additional --

13 CHAIR JENKINS: Board Member Bobby Gray.

14 BOARD MEMBER GRAY: And just as a comment,
15 perhaps there could be some discussion between the two
16 prior to that so they could come to some equitable
17 resolution without going back all the way through the
18 process again. I just throw that out as a
19 possibility.

20 SECRETARY MOLESWORTH: It was rejected is my
21 understanding.

22 MR. BARNES: That's correct.

23 SECRETARY MOLESWORTH: We tried to settle,
24 present a settlement.

25 CHAIR JENKINS: Anymore discussion --



1 MR. RAY: Settlement? Nobody has --

2 CHAIR JENKINS: Anymore discussion on the
3 motion?

4 MR. RAY: -- presented me with anything at
5 any point in time.

6 CHAIR JENKINS: Hearing none, all in favor
7 of the motion signify by saying aye.

8 BOARD MEMBERS: Aye.

9 CHAIR JENKINS: Opposed? Hearing none, the
10 motion passes. All right. So --

11 SECRETARY MOLESWORTH: So, if that's the
12 case then --

13 CHAIR JENKINS: Yeah, let's --

14 (People speaking at the same time)

15 THE COURT REPORTER: I'm sorry, Mr.
16 Chairman, can you repeat what you just said? There
17 was some conversation and I couldn't hear you.

18 CHAIR JENKINS: He was asking if he could
19 put a different motion in concerning this case and how
20 it's looked at, and I'm suggesting that we wait until
21 after our next case to minimize -- to make it --

22 BOARD MEMBER BAKER: Jason, can I make one
23 more comment on the record for this case?

24 CHAIR JENKINS: Yes.

25 BOARD MEMBER BAKER: I just want to make



1 sure it's in the record that the Department recognized
2 that they made a motion, or made a statement, or a
3 settlement statement to plaintiff, is that the right
4 term, and he acknowledged, he admitted he never
5 received one and the Department's going to get with
6 him after the fact to work that out. I didn't say it
7 very well.

8 SECRETARY MOLESWORTH: I'd like to add on to
9 that comment. We don't know for sure. My
10 understanding was was that he did receive and it was
11 rejected, so...

12 MR. BLOHOWIAK: So, just it's my
13 understanding that the Board has passed a motion to
14 send this back to the Office of Administrative
15 Hearings to elicit new testimony and evidence and
16 re-open this case. So, Mr. Barnes, as the appealing
17 party, would you please prepare an order reflecting as
18 much?

19 MR. BARNES: Yes, I will.

20 MR. BLOHOWIAK: And if you could get with
21 Mr. Ray and discuss that order, and if you can't come
22 to an agreement on the order we'll set this for
23 presentment at our next board meeting. And, Mr. Ray,
24 you don't have to necessarily agree with the order and
25 what's happened, but you can review it and make sure



1 that it reflects what has transpired here today,
2 whether you agree with it or not.

3 MR. RAY: Yeah. It's like I told the -- I
4 guess the ALJ judge, I would never argue whether or
5 not wrong had been done on my part, and I have been
6 willing to pay something for that within the means of
7 my ability. So, yeah, if you want to send it back to
8 the ALJ, I have nothing more.

9 CHAIR JENKINS: All right. Thank you very
10 much. Any questions? Thank you, again.

11 BOARD MEMBER KNOTTINGHAM: Board Member
12 Knottingham. It does appear from the record that
13 mistakes were made, but you did try to address them as
14 you went through them; so, I do appreciate that fact.
15 I just want to point that, you know, you did try to
16 take steps to rectify the situation. It didn't
17 happen, but at least you made an effort to correct it.

18 MR. RAY: Yeah.

19 BOARD MEMBER KNOTTINGHAM: I appreciate
20 that.

21 MR. RAY: Absolutely. I have tried to not
22 break the law, you know, but in this type of setting
23 it's there are no, "Don't forget your permit signs",
24 like we have speed limits, you know, we have the 10
25 Commandments. There's not -- It's very, very, very



1 hard to get information on what is right and what is
2 wrong, what is allowable, what is not allowable. In
3 my conversations with the Department of Labor and
4 Industries I told them exactly what I was doing and
5 they said all I needed was a business license and
6 business insurance. This is at the time we met up
7 with J & J and I was given just absolutely false
8 information at every turn from the Department of Labor
9 and Industries. I have all those phone calls recorded
10 because I had already been given the fines and stuff;
11 so, I was like, all right, I'm covering every base
12 from now on. It was -- It was ridiculous.

13 BOARD MEMBER KNOTTINGHAM: So, I can
14 understand how that can happen. The Department of
15 Labor and Industries is a huge department. Primarily
16 it's industrial insurance, you know, Workers' Comp, I
17 guess that is industrial insurance, but, you know,
18 there's a lot of different aspects to it, and,
19 depending on who you asked, you may not get a full
20 answer.

21 MR. RAY: I understand, but I've been in
22 customer service and stuff, and if somebody asked me a
23 question I would rather, "Let me get you to the right
24 person rather than give you false information."
25 That's not okay.



1 CHAIR JENKINS: Let's stop this. That's a
2 side conversation you can have on a break time in the
3 next few, and that's what we're going to next. Any
4 other discussions that needs to be on the record?
5 Given that, we'll take a -- let's say a 10 minute
6 break so we can set up for the next case. So, let's
7 be back here at about fifteen after.

8 MR. RAY: Do I come back, as well?

9 CHAIR JENKINS: You're good.

10 MR. RAY: Okay. Thank you very much. I
11 appreciate your time.

12 (Recess)

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Mark Leon

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Appeal of License Revocation

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CHAIR JENKINS: Members, let's bring the
Electrical Board, Washington Electrical Board meeting
back to order. It is now 10:25. The next item before
us today is the Appeal of Mark Leon, ELO1 L-e-o-n,
MA919DP. This hearing is being held pursuant to due
and proper notice to all interested parties in
Tumwater, Washington, January 30, 2025, at
approximately 9:26 a.m. -- sorry, 10:26 a.m., thank

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1 you. This matter is set -- this matter is set for
2 original hearing before the Board. Do we have a
3 representative for Mark Leon present?

4 MR. JOHNSON: Yes. Members of the Board,
5 Your Honor, and Madam Court Reporter, my name is
6 Chalmers Johnson.

7 CHAIR JENKINS: And a spelling for the
8 Board, please.

9 MR. JOHNSON: C-h-a-l-m-e-r-s, Johnson,
10 J-o-h-n-s-o-n.

11 CHAIR JENKINS: Thank you very much. And do
12 we have someone from the -- representing the
13 department?

14 MR. BARNES: Yes, John Barnes representing
15 Department of Labor and Industries.

16 CHAIR JENKINS: And I'd like to introduce
17 you to Judge Martin here from the Office of
18 Administrative hearings. The Electrical Board has
19 invited him to preside over today's hearing. At this
20 time I would like to turn over the proceeding to Judge
21 Martin. Thank you much.

22 JUDGE MARTIN: Well, thank you very much,
23 Chairperson Jenkins. Thank you very much Electrical
24 Board Members. My name is Judge TJ Martin. I'm an
25 Administrative Law Judge with the Washington State



1 Office of Administrative Hearings, the agency that was
2 referenced in the preceding case. I am from that same
3 agency. I am here presiding over the matter and
4 appeal of Mark Leon. For Electrical Board
5 identification purposes, that case is EL01 and it is
6 E -- or L-E-O-N MA919DP, and so that is the case that
7 we are hearing the appeal of is Mr. Leon. Today is
8 Thursday, January 30, 2025, and the time now 10:25
9 a.m. Pacific Time.

10 As Chairperson Jenkins had alluded to, I am the
11 Administrative Law Judge who is in charge of presiding
12 only over this proceeding. The actual decision, or
13 verdict, if you will, will be decided by members of
14 this presiding Electrical Board, and, so, as a result,
15 I will only be governing the proceedings of this legal
16 matter today such as discussion, and admission of
17 exhibits, and making evidentiary rulings as needed.
18 The ultimate decision and triers of fact in this
19 matter will be the Electrical Board members
20 themselves, and so what I would like to do before we
21 jump right into it and proceed with this case is kind
22 of lay out the framework of what will occur during
23 today's hearing. And, Madam Court Reporter, if I'm
24 going too fast, please feel free to stop me, or repeat
25 numbers, or whatnot as needed.



1 So, what -- essentially what will happen in this
2 appeal is that I will briefly lay out or describe the
3 hearing process and identify the issue under appeal.
4 Namely the issue under appeal is the notice of intent
5 to revoke the electrical certification of Mark Leon
6 that is being appealed by Mr. Leon through his
7 attorney of record, Mr. Johnson, and so essentially
8 we will discuss the hearing process, then we will take
9 up the admission of exhibits. After that I will
10 discuss or we will discuss any preliminary matters or
11 motions before moving on to opening statements.

12 Now, opening statements, if the parties wish to
13 provide an opening statement, you're more than welcome
14 to. If you wish to reserve opening statements, of
15 course you have that opportunity, or if you wish to
16 waive opening statements you have that opportunity, as
17 well. After that, with the burden being on the
18 Appellant to -- in appealing this matter to establish
19 by a burden or by a standard of a preponderance of the
20 evidence that the Notice of Intent is in error.

21 I will allow Mr. Johnson to present his client's
22 case first and essentially, Mr. Johnson, you'll have
23 the opportunity to call any witnesses you have
24 previously disclosed. I'll swear-in that witness or
25 those witness. You can ask questions of your witness.



1 Once you are done concluding your direct examination,
2 I will turn it over to Mr. Barnes on behalf of the
3 Department of Labor and Industries to ask questions in
4 cross-examination. Now, once he is done I will then
5 turn it over to the Electrical Board Members and if
6 they have any questions you are welcome to ask
7 questions, and, then, after they are done, I will then
8 bounce it back to Mr. Johnson and Mr. Barnes for any
9 redirect and re-cross examination.

10 We'll proceed through the Appellant's case that
11 way. Once the Appellant has rested his case, I'll
12 then turn it over to Mr. Barnes to present the
13 Department's case, calling any witnesses he has
14 previously disclosed, and we'll repeat that same
15 process of direct examination, cross-examination, and
16 questioning by any of the Electrical Board Members, if
17 they have any questioning.

18 We'll proceed through the Department's case that
19 way. Once the Department and Mr. Barnes has rested
20 his case, I will then turn it, of course, back to Mr.
21 Johnson for any rebuttal case on behalf of his client.

22 Once both the Appellant and the Department have
23 presented their respective cases, we will then move on
24 to closing arguments, and I will give each party an
25 equal and ample opportunity if they wish to provide a



1 closing statement to do so. After that I will then
2 close the record, which means the -- this case will be
3 confined to the evidence and testimony that has been
4 admitted today, and I will then turn the case over to
5 the Electrical Board for a decision in this matter,
6 and then we will adjourn.

7 Now, I understand I went through describing the
8 hearing process fairly quickly, but, Mr. Johnson, on
9 behalf of your client Mark Leon do you have any
10 questions regarding that hearing process

11 MR. JOHNSON: The only issue I have is with
12 the burden of proof. In the documents that brought us
13 here and the letter that set hearing today it's stated
14 anyway that it's the Department's burden of proof to
15 prove fraud or error, rather than the Appellant's
16 burden of proof to prove that there was no error.
17 That's only the objection I have.

18 JUDGE MARTIN: Okay. I will note that
19 objection. Mr. Barnes, any questions, comments, or
20 concerns regarding that hearing process?

21 MR. BARNES: I have no concerns.

22 JUDGE MARTIN: Okay. All right. And, so,
23 I will note your objection. And Mr. Johnson's it's my
24 understanding that the burden of proof is on the
25 Appellant to show that the Department's Notice of



1 Intent was in error by a preponderance of the
2 evidence, and, of course, I will note your objection,
3 and the Electrical Board Members are welcome to
4 discuss that burden and standard of proof with their
5 legal counsel when they make their deliberations
6 regarding this matter.

7 And so with that, what I would like to do now is
8 take on a discussion regarding the admission of
9 exhibits. Mr. Johnson, did you -- are you seeking to
10 admit your client's Exhibits A through C.

11 MR. JOHNSON: Yes, Your Honor.

12 JUDGE MARTIN: All right. And did you
13 timely provide those to Mr. Barnes in advance of
14 today's evidentiary hearing?

15 MR. JOHNSON: I did, Judge.

16 JUDGE MARTIN: Okay. Mr. Barnes, did you
17 have the full opportunity to review Appellant's
18 Exhibits A through C, and do you have any evidentiary
19 objection to the admission of those exhibits?

20 MR. BARNES: I reviewed them and I have no
21 objection.

22 JUDGE MARTIN: All right. With that, since
23 there are no objections to Appellant's Exhibits A
24 through C, those are going to be admitted. I will
25 note that they are admitted without objection.



1 All right, now in regard to the Department, Mr.
2 Barnes, are you seeking to admit Department's Exhibits
3 1 through 14?

4 MR. BARNES: I am.

5 JUDGE MARTIN: All right. And did you
6 timely provide those exhibits to Mr. Johnson in
7 advance of today's fact finding evidentiary hearing?

8 MR. BARNES: I did, Your Honor.

9 JUDGE MARTIN: All right. And, Mr. Johnson,
10 did you have opportunity to review those exhibits
11 prior to today's evidentiary hearing?

12 MR. JOHNSON: I have, Your Honor, no
13 objection.

14 JUDGE MARTIN: No objection. All right.
15 Since there are no objections, the Department's
16 Exhibits 1 through 14 are admitted. It will be noted
17 they are admitted without objection. That means to
18 the Electrical Board Members Appellant's Exhibits A
19 through C are admitted into the record, and
20 Department's Exhibits 1 through 14 are admitted into
21 the record, as well. That means that as the
22 Electrical Board Members you are welcome to review and
23 consider those exhibits as a part of the record in
24 deciding this case. In addition, Mr. Johnson and Mr.
25 Barnes, as you present your respective cases to this



1 Electrical Board if you are referencing or referring
2 to any of these exhibits during the course of
3 testimony please reference what exhibit you're looking
4 at and what page number you're looking at so that the
5 Electrical Board Members can follow along with you,
6 okay? All right. With that --

7 MR. JOHNSON: Your Honor, I'm sorry, I have
8 one question --

9 JUDGE MARTIN: Sure. Go ahead.

10 MR. JOHNSON: -- on that topic.

11 JUDGE MARTIN: Sure.

12 MR. JOHNSON: Are the Electrical Board
13 packet records considered part of the record without
14 admission?

15 JUDGE MARTIN: Just the -- It's my
16 understanding, Mr. Barnes, did you -- were those
17 included as a part of the Department's Exhibits 1
18 through 14?

19 MR. BARNES: They did come from the record,
20 but the whole record has not been made an exhibit.

21 JUDGE MARTIN: Okay. So, just those
22 Exhibits 1 through 14 that were admitted will be
23 reviewed then.

24 MR. BARNES: Currently, I believe, yes.

25 MR. JOHNSON: Your Honor, I would propose



1 to move that the entire record be moved in as evidence
2 to make things move more quickly so that we don't have
3 to move every document in.

4 JUDGE MARTIN: Mr. Barnes, your response?

5 MR. BARNES: Well, I don't have the full
6 record before me right here, but I do believe that
7 from that record the exhibits were gathered and
8 admitted. I don't know exactly what further exhibits
9 he has that he wants admitted or is going to refer to,
10 but I think those can be brought up and discussed at
11 that time.

12 JUDGE MARTIN: Okay. And, Mr. Johnson,
13 what specific documents are you referencing besides
14 Department's Exhibits 1 through 14?

15 MR. JOHNSON: Your Honor, if you'd like, I
16 can go through a list of the pages that I will be
17 asking to admit as I go through, but some of them are
18 from the Department, some of them are from the record
19 itself, and a few of them are from the record itself,
20 but the Department didn't include them in its packet.
21 Does that make sense?

22 JUDGE MARTIN: Yeah, and when you the
23 reference the record, what specifically do you mean by
24 the record?

25 MR. JOHNSON: It was -- It's called the



1 Electrical Board packet and it was -- it like 1,500
2 pages long, but it includes all the records that the
3 agency, or, I'm sorry, the Department had from the
4 beginning to end basically of this investigation, so
5 that's why I think they are relevant, and I don't
6 object to anything in there because apparently the
7 Department reviewed it when making it's decision.
8 That's why I think it's relevant.

9 JUDGE MARTIN: All right. Mr. Barnes, your
10 response.

11 MR. BARNES: Well, I don't think there
12 really is a Department record at this time. That's
13 what this hearing is for. The Department did produce
14 in what's considered the record, I guess, everything
15 that they did have, but I think from there it would be
16 up to the parties to designate what they want to use
17 as exhibits and what they don't. But I don't see this
18 as like the record like if we had had a hearing in
19 front of OAH below, that would be -- the hearing
20 record would come up, and here we don't have any
21 record other than what the Department did produce as
22 its record.

23 JUDGE MARTIN: All right. Mr. Johnson,
24 your response to that.

25 MR. JOHNSON: Your Honor, I'm just trying



1 to streamline the process. If it's part of the case,
2 it should be part of the case. If everybody wants us
3 to dicker over each and every exhibit that comes in,
4 we can. I just feel like it goes quicker if you have
5 the record in front of everyone and you can just go to
6 the right page. That's why I am asking. It's not so
7 much of a legal tactic. It's because I want to
8 streamline this thing.

9 JUDGE MARTIN: All right. Mr. Barnes,
10 final thoughts, and then I'll make a decision.

11 MR. BARNES: Well, we did have a witness
12 and exhibit date when we had to provide those and they
13 should have been provided at that time. I don't know
14 what he plans on doing, but it sure sounds like
15 litigation by ambush.

16 JUDGE MARTIN: Here's -- Mr. Johnson, final
17 thoughts and then I'll make a ruling?

18 MR. JOHNSON: Sure. I did, I maybe made an
19 assumption about how an administrative law hearing
20 goes. Usually I'm working with the Protection Board
21 and the EEOC and the record is provided by the agency
22 to support what they did and we go from that record,
23 and if there are any exhibits that want to be put in
24 that aren't in the record that's what you need to give
25 notice of. The Department created the record. The



1 Department made its decision based on this record.
2 All of its notes are in this record; so, I can't
3 imagine how anything could be an ambush.

4 JUDGE MARTIN: Sure. All right, here's how
5 I'm going to rule on this. I am only going to allow
6 at this point Appellant's Exhibits A through C and the
7 Department's Exhibits 1 through 14. If you and Mr.
8 Barnes on a brief break or whatnot want to stipulate
9 to the admissibility of additional records or exhibits
10 beyond what has already been admitted, then you two
11 are welcome to meet and confer and just see if we can
12 parse through that. If not, any exhibit that is
13 outside or seeking to be introduced that's outside
14 Department's Exhibits 1 through 14 and Appellant's
15 Exhibits A through C, anything outside the scope of
16 that I'd need to hear an offer of proof and then allow
17 the opposing party an opportunity to respond. Does
18 that sound fair, Mr. Johnson?

19 MR. JOHNSON: Understood, Your Honor, thank
20 you.

21 JUDGE MARTIN: All right. And, Mr. Barnes,
22 does that make sense as well?

23 MR. BARNES: Yes, it does.

24 JUDGE MARTIN: Okay. And like I said, if
25 you two want to meet and kind of meet and do a meet



1 and greet outside when we take a break or whatnot as
2 to a stipulation of any records outside those admitted
3 exhibits, you're welcome to do so.

4 All right. So, now at this point, Mr. Johnson,
5 any additional preliminary matters or motions before
6 we move on to opening statements?

7 MR. JOHNSON: Nothing further, Your Honor.

8 JUDGE MARTIN: All right. Mr. Barnes?

9 MR. BARNES: Nothing further.

10 JUDGE MARTIN: All right. So, at this
11 point, as I had said, the burden is on the Appellant.
12 Mr. Johnson, if you wish, you are welcome to provide a
13 brief opening statement kind of acclimating the
14 Electrical Board to what they can expect to hear on
15 behalf of your client or you can waive your opening
16 statement, it's entirely up to you. And, then, Mr.
17 Barnes, I will give you the same opportunity on behalf
18 of the Department or you can reserve your opening
19 statement, it's up to you. If you are going to
20 provide an opening statement, I would just ask that it
21 be brief, maybe under 10 minutes each, but at this
22 point, Mr. Johnson, do you wish to provide a brief
23 opening statement on behalf of your client or waive
24 opening statement? It's up to you.

25 MR. JOHNSON: I'll provide a brief one and



1 it will be brief.

2 JUDGE MARTIN: Okay.

3 MR. JOHNSON: May I proceed?

4 JUDGE MARTIN: Yeah, go ahead and proceed.

5 MR. JOHNSON: Thank you, Your Honor. Now,
6 gentlemen of the board, my name is Chalmers Johnson.
7 I'm here representing Mark Leon. Mr. Leon took his
8 exam and was certified as a non-residential
9 maintenance certificate back in 2008. He's also taken
10 and passed his journeyman exam; so, he's been licensed
11 as a journeyman, certified as a journeyman since I
12 think it was about 2010. This revocation was brought
13 up very recently, and so the question is not whether
14 he cheated on his exam, or whether he passed his exam
15 or he didn't pass his exam, or whether any of the work
16 he has done in the last 10 to 20 years has been
17 substandard. That's not an issue. The question the
18 Department is raising now is whether he had enough
19 hours, enough supervised hours in order to qualify to
20 take the exam in 2008, and so that's what we're going
21 to be looking at.

22 You heard some talk about the burdens of proof
23 here. What the Department is going to provide you is
24 nothing. Their answer is we don't see evidence of
25 hours. Now, of course, our testimony is going to be



1 and we're going to show you that Mr. Leon was approved
2 twice on those hours to take the exams, that he took
3 the exams and passed them, and he's done exemplary
4 work. So, I don't really see how his certificate is
5 in question.

6 It's not a question of the legitimacy of his
7 certificate. The question is did he have enough
8 hours to qualify to take the exam and they found that
9 he did and he took the exam. So, the question of
10 whether somebody should be certified really shouldn't
11 be whether they passed the exam. If they're not
12 qualified to take the exam, you would assume they fail
13 him. That's the point of the exam.

14 What you're going to see, like I told you,
15 there's no evidence in this case. I'd like you to ask
16 yourselves as we go through this, when the Department
17 looked into this was this an investigation or a
18 prosecution. They're different. An investigation is
19 when you're trying to find out an answer to a
20 question. A prosecution is when you're trying to
21 build a case against somebody.

22 You're going to find the Department did not go
23 back and talk to the employer in Colorado, made no
24 effort to actually find out whether there was any
25 support for any of the hours, didn't go and find the



1 auditor, and the L & I employee who approved him twice
2 and asked them what they relied upon, none of those
3 people are here and none of them are going to testify.
4 There's no such evidence.

5 The burden, as you've heard me kind of talk
6 about it, seems to have flipped all of a sudden.
7 We're going to be -- you're going to be asked to find
8 that I can't prove what hours Mark worked in Colorado
9 between 2000 and 2006, 20 years ago. So, the
10 important things to remember as we go through this is
11 that Mr. Leon did his supervised hours in Colorado,
12 not in Washington, and Colorado has different rules as
13 to what supervised hours are, and the last case you
14 guys heard, of course, you know, the gentleman you
15 were hearing from he couldn't have supervised hours
16 from J & J because he wasn't an employee of J & J, but
17 Colorado doesn't have that rule. So, we're going to
18 explain to you in Mr. Leon's testimony how he was
19 supervised by master electricians for those hours, and
20 the evidence that he did provide. You're going to
21 hear about conversations he had with the auditor here
22 in Tumwater and with the person who approved him and
23 how he got approved. And, then, we're going to be
24 asking you to find that there was no error here and
25 there was no fraud here. He did have enough hours to



1 take the exam, and so his certificate shouldn't be
2 challenged and it shouldn't be revoked. He passed the
3 test. He's done good work.

4 And, of course, I'll be open after I ask
5 questions of my client, I will ask the judge if has
6 any questions, and I am open to you guys asking any
7 questions you want to know. Unlike the Department, we
8 are not hiding anything. We are not trying to keep
9 the record from you. I think the truth speaks for
10 itself and that's what we're here to offer. Thank
11 you.

12 JUDGE MARTIN: Thank you very much, Mr.
13 Johnson. Mr. Barnes, on behalf of the Department of
14 Labor and Industries do you wish to provide a brief
15 opening statement or waive opening statement? It's
16 entirely up to you. But go ahead.

17 MR. BARNES: Thank you. I'll make a brief
18 opening statement. Mr. Leon's association with the
19 State of Washington began in 2007 and in 2007 he
20 applied for an 07 license, which is non-residential
21 maintenance, so 2007 he applies for it, and what he
22 submitted for his hours was a statement from MIRR
23 Maintenance, Inc. from a Mr. Martinez and it indicates
24 that Mr. Leon has more than exceeded 4,000 hours
25 working residential, non-residential electrical



1 maintenance. It seems like everything is in order,
2 except come to find out Mr. Leon was a member of this
3 firm. He was an incorporator of MIRR. MIRR is not an
4 electrical contractor in the state of California -- in
5 the state of Colorado where these hours were
6 supposedly accumulated. The department witnesses will
7 testify that the Colorado electrical system, as far as
8 their certification, is much like Washington, and, in
9 fact, they'll testify what the similarities are and
10 what the differences are, and in this case there was
11 no certification from the electrical contractor that
12 these hours were legitimate or whether or not they
13 were even supervised. It was his own company that did
14 it.

15 Unfortunately, back in 2007 it doesn't appear
16 there was any investigation or research done on these
17 hours. That came out later when the Department
18 received a tip that Mr. Leon's hours might not be
19 legitimate and they did an investigation. Well,
20 that's in 2007 where we got this 07 license. Then, in
21 2008 Mr. Leon applied for an electrical trainee
22 certificate, which was granted. And then finally in
23 2009 he sat for the 01 license, but, when he did, he
24 certified his own hours for that, and that is Exhibit
25 No. 6, but he states, "As a sole proprietor starting



1 January 2000 with the proper supervision I have
2 performed at least 4,000 hours", and now he says of
3 new commercial installation. So, that's the end of
4 his certificate of hours and it doesn't appear that
5 those hours were investigated. But between his
6 certification that he did those hours and the one from
7 MIRR he was able to sit for the 01 exam and he did
8 pass it, and he's since been renewed every two years
9 from then. But once the Department received a tip
10 that there might be something erroneous with his
11 hours, the Department started an investigation.
12 You'll hear about that investigation. You'll find out
13 that none of these hours should have qualified him to
14 sit for the 01 exam. That will be from the testimony
15 of the Department's witnesses, as well as from Mr.
16 Leon.

17 So, the Department, after it concluded that it
18 could not verify any of his hours partly because they
19 were all self-certified or from a partner in his own
20 business, the Department then took the action of
21 revoking his 01 certificate. Thank you.

22 JUDGE MARTIN: All right. Thank you very
23 much, Mr. Barnes, and thank you very much, Mr.
24 Johnson, for providing opening statements much. At
25 this point I would like to turn to Mr. Johnson. Does



1 already admitted, or, if they weren't, he does not
2 object to them. So, the exhibits, they're going to be
3 presented during direct. They're all agreed upon.

4 JUDGE MARTIN: Okay. And do you want to
5 identify those into the record just so the Electrical
6 Board Members know exactly what exhibits they're
7 allowed to look at as a part of the record?

8 MR. JOHNSON: I will. Would you like me to
9 do it now or would you like me to do it as we go
10 because I -- usually I say turn to page so and so, and
11 give everybody a chance to get there and then start
12 asking about it.

13 JUDGE MARTIN: Yeah, that's fine, that's
14 fine, whatever to move this along. Whatever is a
15 better flow for you presenting your case, go ahead and
16 do that, Mr. Johnson.

17 MR. JOHNSON: Sounds good. And for the
18 Board, what I'll do is when I'm going to turn to an
19 exhibit or ask the witness to look at it, I'll say the
20 page number and then I'll kind of give a moment for
21 everybody to get there. If anybody is not there and
22 needs me to wait, please raise your hand or tell me to
23 wait and I will wait until you're with us.

24 JUDGE MARTIN: One procedural matter before
25 we jump into the presentation of the Appellant's case,



1 I am as -- Usually I'm the trier of fact in these
2 cases, but during that brief break of three to five
3 minute did either Mr. Johnson or you Mr. Barnes have
4 any ex-parte communication with any members of the
5 Electrical Board?

6 MR. JOHNSON: I did not, Your Honor.

7 MR. BARNES: No, Your Honor

8 JUDGE MARTIN: All right. Unless otherwise
9 noted, it will be assumed and affirmed that there were
10 no ex-parte communications. If there are any ex-parte
11 communications with any of the Electrical Board
12 members who are presiding on this matter I would
13 expect that attorneys would point that out once we go
14 back on the record, understood?

15 MR. JOHNSON: Yes, Your Honor.

16 MR. BARNES: Yes.

17 JUDGE MARTIN: All right. So, with that,
18 Mr. Johnson, you stated that you wish to call your
19 first witness, Mark Leon; is that correct?

20 MR. JOHNSON: Correct, Your Honor.

21 JUDGE MARTIN: All right. Mr. Leon, you've
22 been called as witness in your own appeal, do you
23 understand that?

24 MARK LEON: Yes, I do.

25 JUDGE MARTIN: All right. So, before you



1 begin testifying, do you mind if I place you under
2 oath so that anything you tell me going forward I'll
3 be able to properly consider as a part of the record?

4 MARK LEON: Yes, Judge.

5 JUDGE MARTIN: All right. So, if you could
6 please raise your right hand...

7

8

9 MARK LEON, having been first duly sworn by
10 Judge Martin, testified as follow:

11

12 JUDGE MARTIN: All right, let the record
13 reflect that Mark Leon has been sworn-in. Now, at
14 this point your attorney, Mr. Johnson will ask you
15 questions in direct examination followed by questions
16 from Mr. Barnes on behalf of the Department, and then
17 any Electrical Board Members are welcome to ask
18 questions, as well. If at any point you are asked a
19 question that you didn't hear, or didn't understand,
20 or are confused by, please immediately stop the
21 proceeding and ask that person to rephrase or restate
22 their question before you attempt to respond, okay?

23 MARK LEON: Yes.

24 JUDGE MARTIN: And if at any point you --
25 there's an objection made during the course of your



1 testimony, please immediately stop testifying so I can
2 hear argument on that objection and then rule on it
3 before you resume testifying, does that makes sense?

4 MARK LEON: Yes, judge.

5 JUDGE MARTIN: And because this is being not
6 only recorded by me, but as well as the court
7 reporter, please make sure if you're asked a question,
8 even though you nod your head yes or no, please out
9 loud say yes or no rather than uh-huh, or yeah, or
10 provide a head nod just so that our video or our audio
11 systems can pick up your response, okay?

12 MR. LEON: Okay.

13 JUDGE MARTIN: And, finally, Mr. Leon, do
14 you have any questions of me before I turn it over to
15 your counsel?

16 MARK LEON: I don't, Judge, thank you.

17 JUDGE MARTIN: All right. With that, Mr.
18 Johnson, you can go ahead and proceed with your direct
19 exam questioning.

20 MR. JOHNSON: Thank you, Your Honor.

21

22 DIRECT EXAMINATION

23 BY MR. JOHNSON:

24 Q Mr. Leon, for the record and for the court reporter,
25 can you say and spell your whole name?



1 A Mark, M-a-r-k, Leon, L-e-o-n.

2 Q Mr. Leon, how long have you lived in Washington?

3 A Recently as of 2007.

4 Q And where did you live before you moved to Washington
5 in 2007?

6 A The State of Colorado.

7 Q When did you start working in the electrical industry
8 in any capacity?

9 A I started about 1998.

10 Q Were you certified as an electrician back then?

11 A No, I was not.

12 Q What made you want to go into the field?

13 A It seemed like a lot of work in the industry. It
14 looked like it would be a lot of fun, something that I
15 would enjoy.

16 Q And so what did you do to prepare to work on getting
17 certification in that field?

18 A I researched in Colorado the requirements.

19 Q And what did you find out that you had to start
20 working on in order to move towards getting a
21 certification in Colorado?

22 A Sorry, could you please repeat that?

23 Q Sure. What did you have to do in order to qualify to
24 take an exam in Colorado?

25 A I found that I needed to perform a certain amount of



1 hours properly supervised, a certain amount of hours
2 properly supervised to qualify for the exam.

3 Q In your understanding of reading the Colorado rules,
4 who would have to supervise you?

5 A A Master Electrician.

6 Q So, would you please take a look at page 37 in the
7 Electrical Board packet. It's Exhibit 5 of the
8 Department's.

9 A Okay, I'm there.

10 Q I'll give everybody a moment to get there with us.
11 So, can you tell me what we're looking at in this
12 document?

13 A This is a letter that Mike Martinez in Colorado had
14 written.

15 Q It's notarized, too, isn't it?

16 A It is notarized, correct.

17 Q So, did you work for Mr. Martinez at MIRR Maintenance?

18 A Yes, I did.

19 Q And how long did you work with Mike?

20 A I worked with Mike from 1998 until 2006.

21 Q Was MIRR Maintenance an electrical contracting
22 business?

23 A No, they were not.

24 Q Was Mr. Martinez a master or journeyman electrician?

25 A No, he was not.



1 Q So, how would working with MIRR help you to get hours
2 that would qualify you to take the electrician
3 certification exams?

4 A Mike would subcontract -- subcontracted electrical
5 work to various electrical companies. He sub-
6 contracted work to various electrical companies and --
7 I'm sorry, I'm a little nervous. Can you please
8 repeat that one more time?

9 Q Let's start with something a little easier. What kind
10 of work did MIRR do when it came to electrical work?

11 A They subcontracted electrical work to various
12 electrical contractors.

13 Q And were they performing work on residential or non-
14 residential projects?

15 A It was multi-family and commercial; so, non-
16 residential commercial.

17 Q And in order to do the work that needed a certified
18 electrician, how would that be done through the
19 business? Is that where the sub-contracting came in?

20 A I -- I'm sorry, state that one more time. I'm getting
21 a little lost here.

22 Q In order to get the work done that needed to be done
23 by an electrical contractor or somebody who was
24 certified, was Mike hiring a separate company that was
25 certified as an electrical contractor to do that work?



1 A Yes. Mike would hire subcontractors. He would sub-
2 contract that work to electrical contractors. I then
3 per-- I then was given that work. I was
4 subcontracted. Contracted. I was paid by Mike and
5 subcontracted to do that electrical work.

6 Q So, when there was an electrical job, you were working
7 with an electrical contractor under a master
8 electrician?

9 A Correct. I was -- I was being supervised by the
10 master electrician for that electrical contractor.

11 Q And so was Mike kind of providing you as a helper to
12 the electrical contractor he was hiring?

13 A Yes, he was.

14 Q And so in that way were you gathering hours while
15 being supervised by a master electrician?

16 A Yes, I was.

17 Q You don't have to tell me the exact amount, but was
18 Mike paying you very much for this work?

19 A No, he was not. It was a flat rate every month while
20 I was learning.

21 Q So, was the benefit of this relationship that you were
22 earning hours towards an electrical certificate
23 certification while providing helpful work for Mike?

24 A Yes, that was correct. I was gaining hours towards my
25 journeyman exam in Colorado while being properly



1 supervised by a master electrician for those
2 electrical contractors.

3 Q Now would you please take a look at page 39 in the
4 Electrical Board packet. It's also Exhibit 10 for the
5 Department.

6 A Yes. I'm there.

7 Q And so on page 39 what are we looking at?

8 A We're looking at my tax record from 2000.

9 Q So, in 2000 you were reporting that you were
10 self-employed and you made a total of \$24,000.00,
11 right?

12 A That is correct.

13 Q And so were you actually self-employed during that
14 time?

15 A I was. I was not a member of the firm at that time.

16 Q And you weren't being paid as a W-2 employee, were
17 you?

18 A I was not a W-2 employee to any electrical contractor
19 or by Mike, that is correct.

20 Q And as we flip through to page 40, the next one, the
21 second page of 2000, and then on page 41 we have 2001
22 you made another \$24,000.00, right?

23 A Yes, that's correct.

24 Q And is that because you were being paid flat rates by
25 Mike to do this?



1 A Yes, just a flat rate to perform that work.

2 Q And rather than go through every single one of the
3 documents, as you flip through we have 2002, 2003, all
4 the way up through, I think, 2005, and so every one of
5 those years you filed self-employment tax. Is that
6 because you were part of this business with Mike, but
7 you were getting paid a flat fee to do the work?

8 A I believe 2000 through 2005 I was -- I was self-
9 employed. I was not a W-2 employee from Mike. I was
10 not a business partner. I was not a member of the
11 firm I believe until 2006.

12 Q And did you know that Mike had put you on the Articles
13 of Incorporation in 2001?

14 A No, I don't believe I did.

15 Q When did Mike tell you that you were a partner in his
16 business?

17 A I was told that in 2006. I do remember in 2006.

18 Q In fact, if you look at -- back at page 37, that
19 letter from Mike, that's what he says, right?

20 A Yes, that's correct. It says, "I added him to the
21 corporation at the start of 2006", that is correct.

22 Q Now, let's look at the Appellant's Exhibits, Exhibit
23 B.

24 A Okay.

25 Q That should be a photograph.



1 A Yes, that's me.

2 Q Okay. So, there's a little caption to it, but can you
3 tell me what this photograph is showing?

4 A Well, this is a picture of me performing work,
5 commercial electrical work in Colorado, and I found it
6 was 1999.

7 Q So, why did you produce this for this case?

8 A You had asked me to look and see if I had any pictures
9 of me performing any electrical work and this is what
10 I found.

11 Q So, at this point during this time who was actually
12 supervising your work, if it wasn't Mike?

13 A I mean there was various master electricians, but I do
14 not recall the names, not right now I don't.

15 Q Did you ever get paid by the master electricians
16 through their business, the people who were actually
17 supervising you?

18 A No, I did not. They only provided supervision. Mike
19 handled all the paperwork.

20 Q In Colorado were you ever an apprentice?

21 A No, I was never an apprentice.

22 Q In Colorado did you ever have any kind of
23 certification in the electrician field?

24 A No, I did not.

25 Q So, were you able to use the hours that you weren't



1 actually an apprentice or employed by the electrician
2 towards the certification to be able to test for an
3 electrician's certification?

4 A Yes, I was.

5 Q And how did you learn that as far as Colorado goes?

6 A I learned -- I learned that when I contacted DORA, the
7 regulatory agency for Colorado, and they informed me
8 that it is primarily the responsibility of the
9 electrical contractor to register its employees for
10 their apprentice cards. The burden falls on the
11 electrical contractor. However, they did inform me
12 that an individual could accrue hours, could submit an
13 application if an individual was not an apprentice,
14 but properly supervised by a master electrician.

15 Q And you mentioned DORA. Is that the Colorado version
16 of L & I?

17 A It is, that's correct.

18 Q And, so, as far as you were concerned, was the
19 relationship you had with Mike and the work you were
20 doing actually providing supervised hours towards a
21 certificate for you?

22 A I believe it was, yes.

23 Q So, did you ever actually submit an application to
24 test in Colorado?

25 A I did not.



1 Q Why not?

2 A Well, I had worked with Mike since 1998 until 2006. I
3 was -- I was ready to move on. I mean Mike did not --
4 was not interested in really growing the business
5 beyond what it was. Mike was not interested in having
6 employees ever. He wanted just to be a sole
7 proprietor company. I knew this going in, and I
8 just -- I didn't really see a future doing that.

9 Q So, where did you decide to go at that point?

10 A I decided to move back home to Washington.

11 Q And when you got to Washington what did you do to
12 start the process of getting certified as an
13 electrician in Washington?

14 A I had called -- I called Labor and Industries again
15 and talked with them about what it was that I needed,
16 and they let me know that I needed a notarized letter
17 from my supervisor stating that I had performed
18 electrical work.

19 Q And so who did you get that from?

20 A I asked Mike to write it.

21 Q And on page 37, that letter we looked at from Mike,
22 that's how you got that, right?

23 A That is correct.

24 Q So, once you got that letter from Mike, what did you
25 do next?



1 A I --

2 Q Where did you take it?

3 A I knew there were satellite offices and I knew that
4 the main headquarters was in Tumwater. I wanted to
5 speak to somebody directly in Tumwater. So, I lived
6 in Everett at the time and I drove down to Tumwater to
7 speak somebody about applying for the non-residential
8 maintenance exam.

9 Q Who was that? Did you come to this very building?

10 A I came to this building, and I stood at the counter
11 not far from here and spoke to a woman.

12 Q Do you remember her name?

13 A I do not.

14 Q What did you tell her?

15 A I showed her the documentation that I believe I needed
16 and she called over an auditor.

17 Q Do you remember the auditor's name?

18 A I do not. I do not, other than it was a big
19 individual. He had a really loud voice. Some things
20 I don't remember and that voice carried.

21 Q And, so, this gentleman, the auditor, when he reviewed
22 the letter from Mike did he accept it at as sufficient
23 proof of your supervised hours?

24 A No, he did not.

25 Q Did you explain to him how you worked under the



1 supervision of master electricians who were working as
2 subs for Mike?

3 A I did.

4 Q And so what was the problem then? What was explained
5 to you as to why it wouldn't work with the affidavit
6 from Mike?

7 A The auditor said that the letter did not -- Mike was
8 not -- Mike was not an electrician. Mike was not a
9 journeyman. He was not a master. MIRR was not an
10 electrical contractor. The auditor let me know that
11 what he needed was to speak with the individuals or
12 see documentation from the individuals that
13 performed -- that provided my supervision.

14 Q So, the master electricians you were actually
15 supervised by?

16 A That is correct.

17 Q At the time did you know who the person was who had
18 been supervising you?

19 A At that time I did. I provided the auditor with the
20 name and telephone number of the individual.

21 Q Did you have it on your phone?

22 A I did. I had it on my phone and --

23 Q So, what did the auditor do with that information?

24 A The auditor asked me to sit tight and then he would be
25 right back. I assumed he was going to make phone



1 calls.

2 Q And did he come back?

3 A He did come back. He did come back.

4 Q What did he tell you?

5 A And he said that he was able to approve me. He could
6 approve my on-the-job training experience. He could
7 approve my supervised hours.

8 Q Did he tell you that he had been able to talk to the
9 person whose phone number you gave to him?

10 A He did. He did let me know that he spoke to the
11 individual and it was evident that I would qualify for
12 that.

13 Q And so was the woman who was at the counter there,
14 too, when the auditor said that?

15 A Yes. He had let her know that I was okay to be
16 approved for the non-residential maintenance exam.

17 Q And, so, if you please turn to page 54 from the
18 record, this is also Exhibit 12 page one from the
19 Department's exhibits.

20 A Yes, I'm there.

21 Q What are we looking at here?

22 A This is my non-residential maintenance exam.

23 Q This says February 7, 2007. Is that the day you were
24 talking about that you spoke with the auditor?

25 A That is.



1 Q On the bottom middle part is that your signature?

2 A That is my signature.

3 Q And under that you see it looks like Magic Marker,
4 somebody else has signed it and approved. Who is
5 that?

6 A I believe that was the woman that I had spoken with at
7 the counter.

8 Q And, so, after you signed the document and it was
9 approved, did the auditor tell you anything else on
10 the way out?

11 A Yes, yeah.

12 Q What did he tell you?

13 A The auditor said that based on the conversation with
14 my supervisor, my supervising electrician, that I
15 would qualify for my journey level exam.

16 MR. BARNES: I'm going to object and move
17 to strike as hearsay.

18 JUDGE MARTIN: Mr. Johnson, your response.

19 MR. JOHNSON: It's not being offered to
20 prove the matter asserted. It is being offered to
21 prove that the auditor did make the phone call.

22 JUDGE MARTIN: Mr. Barnes, your response?

23 MR. BARNES: Well, that evidence is already
24 in. He's already testified that the auditor made a
25 phone call. This is what the auditor actually told



1 him, which is hearsay.

2 JUDGE MARTIN: All right. Typically in
3 administrative proceedings such as this the rules of
4 evidence are relaxed as it relates to hearsay. I
5 understand that this is hearsay, but something that
6 the Appellant, Mr. Leon, relied on, and it would be
7 something that a reasonable person would rely on in
8 the course of their proceeding; so, I will allow the
9 question and the answer. You can go ahead and
10 proceed, Mr. Johnson.

11 MR. JOHNSON: Thank you, Your Honor. I'll
12 move along from there.

13 Q (By Mr. Johnson, continuing) So, when you get this
14 application form approved on page 54 here, when do you
15 have to take the test?

16 A Is there --

17 Q Is there a certain amount of time you have to take the
18 tests after you get the approval?

19 A No. You can take the -- You can schedule and take
20 the exam as soon as you're approved.

21 Q And, so, did you go and schedule yourself to get the
22 exam done right away after you got this approval?

23 A No. I wanted to make sure I was studied up. I took
24 some time out, took some classes and studied to take
25 the exam.



1 Q Let's take a look at page 53 from the Electrical Board
2 packet. Are you with me?

3 A I'm there.

4 Q So, this is titled application for renewal of a
5 training certificate. Did you go get a training
6 certificate before you took the exam?

7 A I did. I got the training certificate before the exam
8 so that I could accrue my educational -- in-class
9 educational hours. I thought I'd accrue some
10 education hours, study up, and prep for my exam.

11 Q Is the training certificate something you need in
12 order to get credit for in-class training?

13 A Yes. You would need that for in-class training and
14 also any hours, any hours that they would have.

15 Q Now, let's take a look at page 52 of the Electrical
16 Board packet.

17 A Okay.

18 Q What is this?

19 A That is a picture of my -- or that is a report of my
20 exam that was passed.

21 Q So, you took the exam and you passed it in November of
22 2008, right?

23 A Yes.

24 Q And what does passing this test entitle you to?

25 A I was able to perform non-residential maintenance



1 work, electrical work.

2 Q And so did you actually -- were you issued a
3 certificate for non-residential maintenance
4 electrician work?

5 A I was, yes.

6 Q And did you start working under that certification?

7 A I did.

8 Q Did you ever go back to test for your journeyman
9 certificate?

10 A I did at the direction, suggestion of the auditor.

11 Q And about when did you go back to apply for the
12 permission to take that test?

13 A I think it was in 2008.

14 Q Let's take a look at the application. It's on page 35
15 of the Electrical Board packet. Are you with you me?

16 A I am with you.

17 Q Okay. This is 2009.

18 A 2009, okay.

19 Q So, this approval form is this for your application
20 for the journeyman test?

21 A Yes. This was for my journey level exam.

22 Q So, when you -- when you went in to get this, what did
23 you take with you that you didn't have the last time
24 you came in?

25 A I contacted Mike and asked him for a CD -- well, I



1 asked him for documentation, invoices and
2 documentation for when we worked together. Mike had
3 provided me with a CD.

4 Q And this is in 2009. Was this back before thumb
5 drives?

6 A No, we had -- There was no cloud storage, no thumb
7 drives. It was mostly on disk.

8 Q And when you -- Did you go back to Tumwater again?

9 A I did. I wanted to -- again, I just prefer to do it
10 in-person at the central office here, so I --

11 Q Why did you bring the CD to Tumwater?

12 A I brought the CD because I didn't have -- I didn't
13 have it last time and I thought it would be helpful
14 showing documentation.

15 Q So, you'd had this CD. How did you bring the CD and
16 the information on it to Tumwater to show the auditor?

17 A I wasn't sure what was needed. So, I had a really
18 large laptop and with a CD-Rom drive, and so I brought
19 it to the counter at Tumwater and spoke to a lady at
20 the counter.

21 Q Was this the same woman who had helped you the first
22 time?

23 A It was the same woman.

24 Q And what happened this time?

25 A Much like the last time, she called over an auditor.



1 She went and got an auditor.

2 Q Was it the same gentleman who had helped you last
3 time?

4 A It was the same individual, yes.

5 Q What did you show him on the computer?

6 A I showed him the invoices and documentation that I had
7 so that I could figure out, you know, what was needed,
8 what he might need to be approved for exam.

9 Q Did he take the CD with him?

10 A No.

11 Q What information did he get from the documents you
12 were showing him as you went through the computer?

13 A He had a pen and paper. I do remember him writing the
14 names and numbers of the electrical contractors that I
15 had worked for out of that, the information that was
16 contained on that CD drive.

17 Q Okay. Did you offer to print the documents out for
18 him?

19 A I did. I asked him if he needed anything.

20 Q And what, if anything, did he ask you to print out for
21 him?

22 A He said he didn't need anything.

23 Q What did he do?

24 A He went and he said to give him some time and he would
25 be right back.



1 Q Did he take the numbers and names with him and leave?

2 A He did. He took the names and numbers with him and
3 left. I assumed -- Again, I assumed that he was
4 making phone calls and doing some investigation of his
5 own.

6 Q Did you just wait for him there?

7 A I don't -- I don't recall whether I waited there or he
8 called me, but I do remember returning back to the
9 counter.

10 Q So, did you go back to meet with him in-person after
11 that?

12 A I did. I met with him back at the counter in-person.

13 Q And what did he tell you at that time?

14 A The auditor at that time said based on the telephone
15 conversations and his investigation that it was
16 evident to him that I was qualified to take the exam
17 and he was able to approve me.

18 Q And at that time did he want any of that information
19 from the CD?

20 A Again, I offered to print it off. He said he didn't
21 need it. He did, however, provide me with -- he
22 provided me a piece of paper and said that he needed
23 to have it notarized and signed, and he would be able
24 to approve me.

25 Q Please turn to page 38 in the Electrical Board packet.



1 A I'm there.

2 Q Is this what the auditor provided you with?

3 A This is what the auditor provided me with. He
4 provided me with this piece of paper and said that he
5 needed it to be signed and notarized.

6 Q So, had he already typed it up before he gave it to
7 you?

8 A He did. I did not have a printer. I was living in
9 Everett and I didn't have a printer. He provided that
10 to me.

11 Q Okay. So, he hands you the piece of paper. What did
12 you do?

13 A I signed it and had it notarized, and I brought it
14 back to the counter.

15 Q And did you hand it back to the auditor himself?

16 A I did. I gave it back to the -- I met with the woman
17 at the counter again. She went and got the auditor
18 and he looked at the piece of paper.

19 Q And then at that point what happened?

20 A He looked at it and let her know that I could be
21 approved for exam.

22 Q Please take a look at Electrical Board packet page 35.
23 Are you there?

24 A I'm with you.

25 Q So, this is dated 3/17/09, the same date you got this



1 page 38 notarized, right?

2 A Yes, that's correct.

3 Q And, again, it's your signature in the middle bottom?

4 A Yes, that's my signature.

5 Q And the same signature as the last time on the
6 approval line, right?

7 A Yes.

8 Q What happened to that CD that you brought in?

9 A Just after that, after being in Tumwater, that CD was
10 in the laptop and that laptop was taken during a
11 burglary.

12 Q So, when you found out some 15 years later that this
13 was being looked into again, did you call Mike and see
14 if he still had that information?

15 A I contacted Mike and asked him if he had any
16 documentation, any of the documentation that I was
17 needing. Mike has said he closed the business in
18 roughly 2013 and didn't have any -- did not have any
19 documentation available.

20 Q Now, would you please turn to Exhibit C from the
21 Appellant.

22 A Okay, I'm there.

23 Q This is one of our exhibits. Are the dates accurate
24 here showing when you were approved, and when you got
25 your license and all your renewals from L & I?



1 A Yes, I believe they are.

2 Q So, this hearing today is about whether or not there
3 was error or fraud involved in your certification.
4 Did you lie or misrepresent anything to the auditor
5 you met with on those two occasions?

6 A No, I did not.

7 Q How about an error, did you make any mistakes when you
8 described your work in Colorado to the auditor on
9 either occasion?

10 A No, I did not.

11 Q So, you're in front of this board today. What do you
12 have to say about whether you worked the hours
13 required to get approval to take those certification
14 tests?

15 A I performed that electrical work and I do qualify.

16 MR. JOHNSON: Your Honor, those are all the
17 questions I have from my client. Please answer any
18 questions that opposing counsel has.

19 JUDGE MARTIN: Okay. Assistant Attorney
20 General Barnes, do you have any questions for Mr. Leon
21 based on his testimony?

22 MR. BARNES: I do.

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CROSS-EXAMINATION

BY MR. BARNES:

Q Mr. Leon, when you were a sole proprietorship in Colorado what was the name of your business, if any?

A Anthony's Maintenance Services.

Q And was Anthony's -- was it licensed in the State of Colorado as a corporation or anything like that?

A I don't remember.

Q What type of work did you do as a sole proprietor?

A I mainly performed electrical work or I performed work with the subcontractors from MIRR.

Q Did you set up your sole proprietorship before you started working with MIRR?

A No. I set up that sole proprietorship when I started working with MIRR at the suggestion of Mike.

Q So, you were not an employee of MIRR?

A That is correct, I was not.

Q Were you a -- You were performing electrical work as a sole proprietor, correct?

A Yes. I was performing electrical work being supervised by a master electrician as allowed by the State of Colorado.

Q But the master electrician was not a member of your sole proprietorship, correct?

A He was not required to be in the State of Colorado,



1 that is correct.

2 Q And you were not an electrical contractor while you
3 were performing electrical work in Colorado; is that
4 correct?

5 A That is correct. The State of Colorado required
6 supervision of a master electrician while performing
7 electrical work.

8 Q And you -- Did you ever have an electrical trainee
9 license in the State of Colorado?

10 A I was not a registered apprentice. I was not a
11 registered apprentice because I was not a W-2 employee
12 for any of those electrical contractors.

13 Q When you say that Mike paid you, did Mike pay you as a
14 1099 employee, do you understand that?

15 A I don't -- I don't recall how he paid me. I just
16 remember that I was paid the same amount roughly every
17 month.

18 Q Can you explain how you were an incorporator of MIRR
19 Maintenance in 2001?

20 A I don't remember.

21 Q You don't remember being a member of MIRR Maintenance,
22 Inc. in Colorado?

23 A I do remember being a member of the firm in 2006. I
24 do not remember being a member of the firm prior to
25 that, no. Mike handled all of the paperwork.



1 Q In 2006 were you paid any differently than from 2000
2 and 2005?

3 A I don't believe I was, no.

4 Q So, you were not an employee of MIRR in 2006?

5 A I don't know if I technically was or was not. Again,
6 I was -- I was young and following the direction of
7 Mike who handled all the paperwork.

8 Q What type of electrical work did you do in Colorado?

9 A Multi-family and commercial.

10 Q Can you be more specific what type of work?

11 A Sometimes it was a tenant improvement. Sometimes it
12 was installing lighting. Sometimes it was replacing
13 lighting receptacles, running EMT.

14 Q Do you recall whether or not permits were required of
15 that work?

16 A Permits were required of that work and those
17 electrical contractors I was supervised by did obtain
18 those for inspections.

19 Q You weren't an employee of any of the electrical
20 contractors that you allegedly worked for, correct?

21 A I was not an employee and they did not pay me.

22 Q So, you were relying on payment from Mike of MIRR,
23 which was not an electrical contractor, correct?

24 A Correct. I was being paid by Mike.

25 Q Did you perform any work for Mike other than of an



1 electrical nature?

2 A Sometimes I did. We worked roughly six days a week.

3 Q And what type of work were you performing for MIRR,
4 other than electrical work?

5 A Sometimes I did HVAC work, sometimes I may have done
6 some drywall, some painting, but the majority, and I
7 worked with those subcontractors, as well, performing
8 that work.

9 Q Did you have a contract with MIRR to perform work?

10 A I did not, no.

11 Q So, did you have regular hours at MIRR?

12 A No. I started off in 1998 with a pager, and I would
13 get a page and I'd call back, and we discussed the
14 project, and where I needed to be, and who I needed to
15 meet with.

16 Q Did any of the subcontractors, the electrical
17 subcontractors, did any of them not want you to
18 perform any of the work that they had contracted for?

19 A I'm sorry, I don't understand the question.

20 Q I said did any of the subcontractors, the electrical
21 subcontractors, object to you working electrical work
22 on the project?

23 A No, they did not.

24 Q You mentioned that in the Electrical Board packet page
25 37, which is the MIRR Maintenance, Inc., the letter



1 that Mike wrote, that you have exceeded 4,000 hours
2 working residential, non-residential electrical
3 maintenance, do you see that?

4 A I did see that.

5 Q Do you know whether or not Mike ever kept track of the
6 hours that you worked? How would he know what hours
7 you worked for a subcontractor?

8 A Mike, like all -- Mike was an individual that kept
9 ledgers. Everything was done by paper. Most of the
10 individuals that supervised me were near retirement.
11 Mike was letting me know that he was near retirement.
12 Everything was done by paperwork. Everything was a
13 hand ledger. There was not a lot of computer work.
14 Mike did keep a record of hours of the various things
15 that I did perform.

16 Q While being self-employed, did you perform electrical
17 work in the State of California or State of Colorado?

18 A I did under the proper supervision of a master
19 electrician.

20 Q Did you perform any electrical work as a sole
21 proprietor other than through MIRR Maintenance?

22 A Again, I only performed electrical work working under
23 the proper supervision of a master electrician. Those
24 electricians were subcontracted through MIRR.

25 Q So, if the electrical work was subcontracted, did Mike



1 introduce you to the subcontractors, the electrical
2 subcontractors or how did you go about just going out
3 there and performing electrical work?

4 A Mike had known these individuals for a really long
5 time. I was very, very young at the time, and Mike
6 had these relationships already built up with all of
7 these subcontractors, electrical, plumbers, HVAC.
8 Mike had been in business I believe since the
9 seventies.

10 Q Did the subcontractors that you allegedly worked
11 electrical for, did they provide you with a list of
12 your hours?

13 A No, they didn't provide me a list of hours. Those
14 hours were given to Mike. He kept track of those for
15 job costing and that sort of thing. I am aware of
16 that.

17 Q So, you're relying on Mike Martinez of MIRR, which is
18 not an electrical contractor, to certify your hours
19 working for subcontractors in the electrical field, is
20 that your testimony?

21 A No. I initially provided this to the Department and
22 the auditor explained to me that this would not serve
23 as testimony, that this would not serve as anything
24 that would support as evidence. It was the auditor
25 who spoke to the master electrician that I performed



1 work with in Colorado that verified my hours, not this
2 letter.

3 Q This is the same auditor that you have no idea whose
4 name it is, yet you appeared before this individual on
5 numerous occasions?

6 A Yes, that's correct, and it was -- it was I think,
7 what, 2008? It was a long time ago. I do not
8 remember.

9 Q And how about the woman at the front desk that you
10 interacted with, do you recall her name?

11 A No, I do not.

12 Q And my understanding is that the proof of the hours
13 that you worked in Colorado is on a CD which you don't
14 have anymore; is that correct?

15 A That is correct. My home was burglarized and a police
16 report was submitted for that burglary. I did contact
17 the Everett Police Department and they said that that
18 report had aged out. They do not keep records that
19 long.

20 Q Did you ever print out any of the invoices or any of
21 the documentation that was on the CD?

22 A I did offer it to the auditor and he said that he did
23 not need it. He did view them with me on the laptop,
24 and he did write down the names of the individuals
25 that I worked with, the companies and their phone



1 numbers, and he did -- to my understanding he made
2 phone calls and talked to them.

3 Q And today is it safe to say that you don't have a name
4 of a single supervisor, electrical supervisor in
5 Colorado that would have certified your hours?

6 A Well, that was 17 years ago. I do not remember the
7 names of the individuals that I worked with. They
8 were not close relationships with mine. They were
9 mostly Mike's contacts, his subcontractors. I don't
10 recall their name.

11 Q Okay. I want to refer you to Electrical Board packet
12 page 54. You were asked some questions on this. This
13 is the application for the 07 license.

14 A Yes.

15 Q And you would agree with me that you are applying for
16 an electrical examination as in 07 non-residential
17 maintenance?

18 A I am, yes.

19 Q And under the part where it says about two-thirds of
20 the way through, all applications and documents
21 submitted must be original and become property of the
22 Department, do you see that? It says employment
23 history. Is that not blank?

24 A It is, correct.

25 Q So, did you submit any employment history with your



1 application for the 07 exam?

2 A Yes, I did.

3 Q And that was the MIRR Maintenance letter from Mike
4 Martinez, correct?

5 A No, that is not correct. It was provided verbally to
6 the auditor that I spoke with, who spoke with those
7 individuals and approved my hours.

8 Q Again, this is the auditor whose name you don't
9 remember. Let's take a look at the next page. It's
10 Electrical Board packet page 53. It is for the
11 electrical training certificate. Are you on that
12 page?

13 A I am.

14 Q And this is dated August 13th of 2008 in the left hand
15 corner there.

16 A Yes, that's correct.

17 Q Now, in order to apply for an electrical training
18 certificate you did not need to submit any hours or
19 any prior work history, correct?

20 A That is correct.

21 Q And so at that time you did not provide any work
22 history; is that correct? It wasn't required.
23 You didn't provide it.

24 A I don't recall. It's a long time ago.

25 Q You were able to successfully pass the 07; is that



1 correct?

2 A Yes, I did.

3 Q And then you set your sights on a general journeyman
4 certificate; is that correct?

5 A At the direction of the -- at the suggestion of the
6 electrical auditor who spoke to my supervising
7 electrician, yes.

8 Q And what type of hours would you -- Well, did they
9 indicate what type of hours you would need for that
10 exam?

11 A I don't understand you.

12 Q Okay. Well, let's turn to page 38, which is the next
13 one in the packet.

14 A Which page?

15 Q Page 38, which is your declaration.

16 JUDGE MARTIN: Mr. Barnes, what exhibit are
17 you looking at?

18 MR. BARNES: I was looking at his -- It
19 looks like page 38. It doesn't have one.

20 A Okay, I'm there.

21 MR. BARNES: Yeah, it is exhibit -- the
22 Department's Exhibit 8. No, excuse me.

23 Q (By Mr. Barnes, continuing) Do you have it?

24 A I do have it, yeah.

25 Q This was the -- his certificate or his certification.



1 Is it your testimony that you did not type out that
2 one sentence on that certification?

3 A I did not. I did not have the ability to type. I
4 could have typed it out, but I definitely did not have
5 the ability to print it. It was -- This -- I do
6 remember this was provided by the auditor because the
7 situation seemed really weird to me that somebody
8 would give me this and say, "I can approve you. You
9 just need to sign, and certify this, and notarize
10 this, and return it back."

11 Q Where did you take this to be notarized?

12 A I don't recall. I don't recall if I did it at the
13 Department, or a bank, or where I had done it. Again,
14 this was really a long time ago.

15 Q Did you obtain any hours for the 01 electrical exam in
16 the State of Washington?

17 A No, I did not.

18 Q So, you're relying on the hours from Colorado to sit
19 not only for the 07 exam, but the 01 exam, as well?

20 A Yes. I initially wanted to only work in the
21 non-residential electrical maintenance field. I enjoy
22 the work quite a bit, and it was at the suggestion of
23 the auditor and the electrical auditor not to cut
24 myself short, that I may want that certification
25 someday, and that based on his conversation with my



1 supervising electrician that I would more than likely
2 qualify for the exam.

3 Q You're assuming that the auditor went back and placed
4 those phones calls to your electrical contractors in
5 Colorado, correct?

6 A I do remember he had said that he had called the
7 individuals, yes.

8 Q Oh, once you moved to Washington in 2007, where did
9 you work?

10 A I believe I was self-employed at that time.

11 Q Does mark@repairitguys.com, does that sound familiar?

12 A It does.

13 Q Is that your, I guess, e-mail address?

14 A It is.

15 Q And --

16 A I believe so.

17 Q And when did you -- Was that the business that you or
18 the work that you were doing in 2007 when you came to
19 Washington?

20 A Yes. I started a maintenance company initially. I
21 started a maintenance company and had -- once I was
22 qualified for the -- once I completed the non-
23 residential maintenance exam, I went ahead and
24 licensed that company as an electrical contractor,
25 specialty electrical contractor.



1 Q Okay. That was in -- when you passed the 01 or the 07
2 exam?

3 A The 07.

4 Q And where were you located at?

5 A Bothell, Everett, somewhere in there.

6 Q What type of work did you perform?

7 A I did a lot of -- What year?

8 Q 2007.

9 A When did I become certified? Before I became --
10 Before I passed my non-residential certification I did
11 perform maintenance. Once I had been certified as
12 with -- for non-residential maintenance, once I had
13 passed my 01 electrical administrator certificate I
14 did -- I did perform electrical work, as well.

15 Q Okay. When you talk about maintenance work, that's
16 such a broad category. What do you mean maintenance?

17 A Maintenance, repair, just about anything.

18 Q Was it electrical maintenance?

19 A No. Well, yes, yes and no. It was electrical
20 maintenance once I was -- once my company was a
21 licensed electrical contractor, no sub.

22 Q Were you -- Did you hire subcontractors to perform
23 electrical work when you were in 2007?

24 A I don't believe I did. I don't believe I did.

25 Q So, it's your testimony that when you came to



1 Washington you performed maintenance work that was
2 non-electrical in nature until such time as you got
3 your 01 certificate?

4 A Yes. Getting -- opening a maintenance company is a
5 fairly easy thing to do. Many electricians are
6 extremely handy and there's no qualification for doing
7 so. I provided a good living for myself until I did
8 pass the exam, correct.

9 Q And how long did you work at mark@repairit.com?

10 A I don't know.

11 Q Do you know when that you were hired by the
12 Department?

13 A 2016.

14 Q So, between 2009 and 2016 were you a sole
15 proprietorship?

16 A Yes and no. I was a sole proprietor for awhile. I
17 did have a business partner for awhile. I had
18 multiple companies, some performing electrical work in
19 addition to maintenance. I enjoyed the variety of
20 work. It was a difficult time during the economy at
21 that time, as many of us recall, and it was required
22 to not just do one thing during that time.

23 Q Was the repairitguys.com, was that an electrical
24 contractor?

25 A I don't -- I don't remember if that company was



1 licensed or not.

2 Q All right. So, from 2007 to 2016 you were working as
3 a sole proprietor. Was that sole proprietor an
4 electrical contractor?

5 A No. That's not what I said. Sometimes I was a sole
6 proprietor. Sometimes I had business partners. Those
7 companies performed electrical work. Those companies
8 performed construction work. Those companies
9 performed maintenance work. In 2008 it was a
10 difficult time. So, moving forward I did a variety of
11 different -- different projects, enough to earn a
12 living.

13 Q Was your sole proprietorship in Washington ever an
14 electrical contractor?

15 MR. JOHNSON: Your Honor, at this point I'd
16 like to object as to relevance. The purpose of this
17 hearing is to determine whether he had enough hours to
18 take the exams, and this is going on for awhile, but
19 it seems like we left that way in the past. We're
20 going far afield of it now.

21 JUDGE MARTIN: Okay. Mr. Barnes, your
22 response to that relevance objection?

23 MR. BARNES: I'm just trying to figure out
24 if he has any hours as an electrical contractor or has
25 ever worked as an electrical contractor.



1 JUDGE MARTIN: Mr. Johnson, your response?

2 MR. JOHNSON: If that's the question, I'll
3 be happy to let him answer it.

4 JUDGE MARTIN: Okay. I'll allow the
5 question. Mr. Leon, if you know the answer, you can
6 go ahead and answer.

7 A Yes, I definitely performed electrical work. I did
8 obtain electrical permits in various jurisdictions,
9 and I performed electrical work, yes. Those permits
10 were inspected.

11 Q Was your sole proprietorship, though, an electrical
12 contractor?

13 A Yes. The various companies -- All of my companies
14 from 2008 once I became certified until I came to work
15 for the Department were all licensed electrical
16 contractors, and all of them had obtained electrical
17 permits and had performed electrical installations.

18 MR. BARNES: Thank you, Mr. Leon, that's all
19 the questions I have.

20 JUDGE MARTIN: All right. I'm going to go
21 and allow redirect and re-cross while it's still fresh
22 before I open it up to Board questions. Mr. Johnson,
23 redirect?

24 MR. JOHNSON: Thank you, Your Honor. I'm
25 going to waive redirect.



1 JUDGE MARTIN: Okay. Since there's no
2 redirect examination there would be no need for re-
3 cross. Do any of the Electrical Board Members have
4 any questions of Mr. Leon based on his testimony? If
5 so, you can go ahead and proceed. Any questions?
6 Yes, go ahead.

7 SECRETARY MOLESWORTH: I've got a few.

8

9

EXAMINATION

10 BY SECRETARY MOLESWORTH:

11 Q I got a little confused. I was wondering when you're
12 talking about submitting hours or approved hours by
13 working for a master electrician in the State of
14 Colorado, how does that law read in the State of
15 Colorado?

16 A Which law?

17 Q The law that allows you to work for a master
18 electrician to gain hours?

19 JUDGE MARTIN: And if you need to review
20 an exhibit to refresh your memory, you're more than
21 welcome to. If you do cite it, please let us know
22 what exhibit you're looking at.

23 MR. JOHNSON: Will do, if you'll give us
24 just a moment, Your Honor.

25 JUDGE MARTIN: Okay.



1 A Well, I will say in the e-mail from Phil Jordan it
2 does state from DORA, from Colorado, from DORA, it
3 does state that they do consider applications from an
4 individual who is not a registered apprentice, but was
5 properly supervised. It does not say that you need to
6 be employed.

7 Q Does the master electrician have to be employed by an
8 electrical contractor?

9 A Yes. That would be proper supervision.

10 Q Under proper supervision, and my understanding of that
11 law is that proper supervision is that an employee of
12 the company which is a master electrician is able to
13 supervise other employees of that -- of that company.
14 Is that what you would --

15 A Page 1551 there's an e-mail from Joyce Young from DORA
16 to Phil Jordan and she states, "As it is the
17 responsibility of an electrical contractor to register
18 apprentices, and apprentices are typically an entry
19 level position, the Board may consider applications
20 for an individual who is not registered, but is
21 otherwise supervised."

22 MR. JOHNSON: Your Honor, at this point
23 we'd like to move that page into evidence, if it
24 hasn't already been moved into evidence, as responsive
25 to the Board.



1 JUDGE MARTIN: Mr. Barnes.

2 MR. BARNES: I don't have any objection.

3 JUDGE MARTIN: Okay. And that page will be
4 admitted into the record. What page exactly is that
5 for that record?

6 MR. JOHNSON: 1551.

7 JUDGE MARTIN: 1551 is so admitted. The
8 Board Members can proceed or if Mr. Leon wants to
9 continue with his answer he's welcome to. If not, the
10 Board Members are welcome to ask questions at this
11 point.

12 BOARD MEMBER COX: Your Honor, can I ask --
13 As a Board Member, can I ask a point of clarification
14 of the Board's counsel?

15 JUDGE MARTIN: Sure. Go ahead.

16 BOARD MEMBER COX: Ben, is it appropriate
17 for the Secretary of the Board, is he officially a
18 board member to be asking questions of the Appellant
19 or is the Secretary taking the position as the Chief
20 Electrical Inspector of the Department? I'm just
21 trying to get some clarity here when our
22 Administrative Law Judge asks for the Board Members to
23 ask questions, I just want to make sure it's
24 appropriate of our Secretary.

25 MR. BLOHOWIAK: He is a member of the board



1 as the secretary. He's also the Chief Electrical
2 Inspector. We're counting on Mr. Molesworth to be
3 able to wear two hats and understand that his role on
4 the Board is different than his role as the Chief.
5 And also he is not a voting member.

6 BOARD MEMBER COX: Very good. Thank you for
7 the clarity.

8 JUDGE MARTIN: Any other questions of Mr.
9 Leon based on his testimony. If so, go ahead.

10

11

12

EXAMINATION

13

BY BOARD MEMBER KNOTTINGHAM:

14

Q Board Member Knottingham. You keep mentioning
15 apprentice. I'm not familiar with Colorado laws. You
16 know, we have trainees and we have apprentices. Is
17 Colorado similar or how are they set up as far as
18 learning the trade?

19

A If you're employed by an electrical contractor, so
20 you're receiving a W-2, it is the responsibility of
21 the electrical contractor within 30 days to register
22 those individuals for an apprentice card.

23

Q So, other than that, if you're just working, then
24 there's not documentation, there's -- what's the
25 process?



1 A I'm sorry, I don't understand.

2 Q If John Doe goes out and works for a company, but he's
3 not registered, how -- I don't understand the
4 documentation trail.

5 A Based on my conversations with DORA, and the only -- a
6 licensed electrical contractor can perform electrical
7 work. A general contractor cannot. A -- However, an
8 individual working for a general contractor can be
9 supervised by the master electrician performing work.

10 Q Are there any requirements for training, classroom
11 training in Colorado for apprentices?

12 A I don't know. I was never an apprentice.

13 JUDGE MARTIN: Other Board questions?

14 BOARD MEMBER JOHNSON: Yeah, Board Member
15 Johnson.

16

17 EXAMINATION

18 BY BOARD MEMBER JOHNSON:

19 Q Mr. Leon, did you ever apply for an electrical permit
20 trainee or anything within the State of Colorado?

21 A I was ineligible to apply for a permit since I was not
22 a licensed journeyman or master, and I did not apply
23 for an apprenticeship. I never was employed, directly
24 W-2 employed by an electrical contractor.

25 Q Did you ever take any exams in Colorado or do anything



1 besides accrue hours in Colorado?

2 A I just accrued hours, which is pretty common in our
3 industry to accrue hours until you're eligible and
4 then apply.

5 Q And so then if it's only hours, then I'm wondering do
6 you have an interpretation on the applicability of
7 Colorado's laws, aside from being allowed to work
8 there, what's the applicability of those laws
9 pertaining to obtaining licensure in Washington State?

10 A I'm not sure I understand the question.

11 Q I guess I'm wondering, and maybe this is for your
12 counsel to answer, or maybe Mr. Barnes to answer, but
13 I'm wondering does Colorado's laws pertaining on how
14 you obtain licensure are they relevant when you're
15 obtaining licensure in Washington State?

16 A I don't know. I don't know the answer to that.

17 MR. BARNES: I think that would probably be
18 best directed to one of my witnesses later on.

19 JUDGE MARTIN: All right. Any other Board
20 questions? Mr. Gray.

21 BOARD MEMBER GRAY: Thank you, Your Honor.

22

23 EXAMINATION

24 BY BOARD MEMBER GRAY:

25 Q If I could just clarify the chronological flow of



1 this, on Board Packet page 37 is the statement by Mike
2 notarized that talks about the hours over 4,000 hours
3 of residential, non-residential maintenance, and I
4 assume that is to support the application for the 07
5 exam, is that correct?

6 A Yes, that's correct. Initially I did submit this, but
7 however, the auditor said it would not qualify.

8 Q Okay. This would not qualify you to take the
9 residential exam.

10 A Correct. He said he would not qualify me based on
11 this since Mike was not an electrical contractor, was
12 not also a master electrician, so he would not -- he
13 would not qualify me.

14 Q And that's when he went back to go confirm with the
15 actual electrical experts to verify those hours?

16 A Yes. I did -- I did give him the name and telephone
17 number of the individual who provided my supervision.
18 I also gave him the number of DORA so he could call.

19 Q All right. So, then, on page 36 and 38 it looks like
20 a duplicate. I may have missed something here, but it
21 looks like a duplication of a statement made by you
22 and notarized that beginning in January of 2000 you
23 have more than 4,000 hours of new commercial
24 installations, is that correct?

25 A That is correct.



1 Q And is that to support your 01 application, which
2 would be on, I think, page 35, if I'm not mistaken?

3 A I believe the Department auditor gave that to me, yes,
4 to support that.

5 Q And is that the case that there's a duplicate on page
6 38 of that same confirmation?

7 A I'm sorry?

8 Q If we go down to -- So, that was on page 36. If we go
9 to page 38 --

10 A Oh. Yes, those are duplicate.

11 Q That's just a duplicate. But both of those were to
12 support your application to take the 01 exam, is that
13 correct?

14 A It looks like it was the same copy, yes.

15 Q All right. So, those have -- The only thing then we
16 have there for evidence of the necessary hours is just
17 your statement that says you worked on new commercial
18 installations during the period of time that you
19 worked for Mike, is that -- do I have that correct?

20 A That is correct, unless there are notes from the
21 auditor that I would have expected the Department to
22 make. I -- When somebody tells you something, you
23 just -- You know, somebody with authority like a
24 Department auditor I would believe and trust in what
25 they're telling me.



1 Q So, Mike is saying you worked in maintenance,
2 residential/non-residential maintenance, but you're
3 saying you actually did commercial type installations,
4 new installations, is that accurate?

5 A We -- I did all of the above.

6 Q Okay.

7 A I worked six days a week. I worked a lot.

8 Q All right. It's just that Mike didn't note those
9 other activities that you did. He only noted the
10 maintenance activities, not the actual commercial
11 installations, correct?

12 A I only wanted to perform non-residential maintenance,
13 electrical maintenance. When I called L & I and asked
14 what I needed to provide, that is what they told me.
15 And I -- Based on Mike's ledgers and his paperwork,
16 that's what his letter was written from.

17 JUDGE MARTIN: All right. Other Board
18 Member questions? Mr. Cox, do you have another one?

19 BOARD MEMBER COX: To communicate with Board
20 Member Gray, if I remember from the testimony, it was
21 the Labor and Industries electrical program auditor
22 who suggested to the Appellant that he would
23 qualify -- based upon his conversation with the
24 supervising electrician in Colorado, that he would
25 qualify to sit for his 01. I think that's -- when



1 you're looking at that chronological or as he just
2 stated his desire was to do maintenance type
3 electrical work, but it was at the suggestion of the
4 auditor that he could have that opportunity if he
5 qualified for -- to sit for the 01.

6 MARK LEON: Yes, that was correct.

7 BOARD MEMBER COX: The question I would have
8 would be for the Department's counsel, Mr. Barnes.
9 Would it be the responsibility and duty of a Labor and
10 Industries electrical program auditor back in the 2007
11 era to understand laws, rules, and regulations
12 regarding examination and licensure for electricians?

13 MR. BARNES: I cannot speak to the
14 particular auditor that was allegedly talked to, but I
15 would not expect that auditor to know other states'
16 electrical laws.

17 BOARD MEMBER COX: That's not -- The
18 question I'm asking is it would be his responsibility
19 and duty to understand what the Washington State Labor
20 and Industries electrical program would have required
21 in the 2007 era in order for the Appellant to apply to
22 sit for the examination, would that be a true
23 statement?

24 MR. BARNES: Yes, that is correct.

25 BOARD MEMBER COX: Thank you, Mr. Barnes.



1 JUDGE MARTIN: Okay. Any other Board
2 questions?

3

4 EXAMINATION

5 BY BOARD MEMBER JOHNSON:

6 Q So, you mentioned that you provided a variety of work,
7 both electrical and non-electrical for MIRR?

8 A Correct.

9 Q Can you -- I know it's a long time ago, but can you
10 generally specify a rough approximation of percentages
11 or hours that you spent on electrical versus non-
12 electrical?

13 A Yes. A majority of that was performing electrical
14 work. I did work six days a week. It was -- I know
15 that I performed the hours stated. I performed at
16 least that. I worked all the time.

17 Q Roughly six days a week, roughly how many hours a day?

18 A I probably worked at least 10 hours a day. I mean I
19 was working an awful lot, which is the reason for my
20 departure in 2006.

21 Q So, was there ever a -- When Mike signed his letter,
22 did he refer back to his ledger, or was he basing it
23 on just memory of rough approximations, or do you
24 know? Did you have any conversation when you had him
25 sign that?



1 A I believe he did look at his ledger. I know that Mike
2 kept meticulous track of -- generally of hours for
3 understanding job costing. He did not do anything by
4 computer really. It was nearly all handwritten,
5 things that were handwritten.

6 BOARD MEMBER JOHNSON: Thank you.

7 JUDGE MARTIN: All right. Member Nord.

8 BOARD MEMBER NORD: Board Member Nord. I
9 have a question for Mr. Barnes. In State of
10 Washington WAC 296-46B-945 it sets out what the
11 demands are of the State of Washington to qualify you
12 for a master journey level or specialty electrician
13 examination and it particularly talks to all
14 applicants in or out of state must demonstrate the
15 completion of a basic training class as described in
16 WAC 296-46B-970, which is a rather long chapter that
17 details what the requirements are for a person to sit
18 for an exam in the State of Washington. My question
19 to you is: Would this apply at the time that this
20 gentleman would have allegedly taken his examinations
21 with the proper qualifications?

22 MR. BARNES: Without testifying myself, I
23 do have a witness that will answer that question
24 because we'll go back to the 2007 and '9 requirements.

25 BOARD MEMBER NORD: Okay. Because we do not



1 and he made his calls.

2 Q So, what I'm wondering is, is it at the time that you
3 applied was that he was telling you this in 2007 and
4 you hadn't supplied anything, and by talking to a
5 master -- one master electrician, correct, is that the
6 only person that had supervised you in that period of
7 time?

8 A No. There were several.

9 Q So, he only talked to one?

10 A I don't remember.

11 Q Okay. So, he is assuming that you've got I think at
12 that time it might have been 7,000 hours that would
13 qualify you for an 01 exam. There was no way for him
14 to verify except through verbal conversation with
15 somebody on the other end of a phone, that they
16 couldn't verify their license; is that correct?

17 A I would assume that he was able to verify that
18 individual's license and their credentials. I don't
19 know. I know it's common as an auditor, as I was a
20 former auditor, to make phone calls to verify
21 credentials of individuals I'm speaking with.

22 Q Correct. So, I guess what I'm looking for here is
23 that he would assume that you had the 7,000 hours by
24 talking to that master electrician because he told you
25 you could apply for the 01, but you didn't take the



1 opportunity to submit those to Colorado, that 7,000
2 hours, is that what you are stating?

3 A Yes. I did not want to live in Colorado. I wanted to
4 move home to Washington.

5 JUDGE MARTIN: Member Knottingham.

6

7 EXAMINATION

8 BY BOARD MEMBER KNOTTINGHAM

9 Q Does Colorado have a non-residential --

10 A I don't know.

11 Q Okay. Did you -- When you asked for a letter, some
12 kind of documentation from Mike, and understand it
13 wasn't accepted by the auditor, did you tell him what
14 you needed, that you needed 4,000 hours or did he just
15 come up with the number?

16 A I believe the person on the other end of the phone had
17 probably mentioned the 4,000 hour requirement, which
18 is why he said that it had exceeded.

19 JUDGE MARTIN: Any other Board Question
20 Members [sic]. Mr. Johnson.

21

22 EXAMINATION

23 BY BOARD MEMBER JOHNSON:

24 Q Yeah, going back to 2000 and 2006 when you worked with
25 a bunch of contracted master electricians in



1 Colorado --

2 A Yes.

3 Q Can you -- How many, and magnitude in particular, and
4 different electricians were you working with
5 throughout that time?

6 A There was a few. I don't have an exact number, but it
7 was a couple, I mean three or four. It was no more
8 than that probably.

9 Q So, with three or -- If it was three to four master-
10 electricians, and the majority of your work was at
11 four years, was there any strict periods you had, and
12 you can't remember their names, but you spent how many
13 hours working with these electricians? Do you have
14 anymore details you can provide us regarding who these
15 master electricians were?

16 A Well, I mean I'd refer to them by first name, but I
17 don't have a full name for somebody who, per se,
18 looked them up. That was -- I never referred to an
19 individual by their first and last name. These were
20 not individuals that I was -- I mean they were not my
21 contact. So, they were introduced to me by a first
22 name basis. We had conversations, but I didn't say
23 their last name long enough to recall 25 years later
24 when I performed the work between, you know, 1998 and
25 2006.



1 Q Can you provide the first names now at this time?

2 A I just don't recall. I mean it's just I met with
3 auditors. It just -- It was a long time ago. It was
4 a really long time ago.

5 JUDGE MARTIN: Any other Board Questions?

6 Mr. Cox.

7 BOARD MEMBER COX: I have a question for

8 Mr. Leon.

9

10 EXAMINATION

11 BY BOARD MEMBER COX:

12 Q Since successfully passing and obtaining your
13 Washington State journeyman's certification for the
14 last 20 years, have you maintained your certification
15 in good standing?

16 A Yes, I have.

17 JUDGE MARTIN: Any other questions by Board
18 Members? Re-Redirect within the scope of any
19 questions asked by any Board Members you want to
20 follow up on, Mr. Johnson?

21 MR. JOHNSON: A quick follow up on Mr.
22 Johnson's question, by Mr. Johnson.

23 ///

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RE-REDIRECT EXAMINATION

BY MR. JOHNSON:

Q Mr. Johnson had asked you about how many master electricians you worked with at the time. You said it was three or four people. So, during that time if the auditor had called anyone of those three or four would that person have been able to confirm that you had worked thousands of hours for him?

A Yes, they would have.

MR. JOHNSON: Thanks. That's the only question I had, Your Honor.

JUDGE MARTIN: Mr. Barnes, any Re-Recross within the scope of questions asked by Board Members?

MR. BARNES: Yes, I just have a couple.

RE-RECROSS EXAMINATION

BY MR. BARNES:

Q While you were working for these electrical contractors in Colorado, did any of them ever ask you whether or not you were an apprentice or a trainee?

A The electrical contractor, they knew that I was not.

Q Did any of them ask you to join their firm if you were performing that type of work?

A Yes. These were individuals that were about to retire. They did not have employees, didn't want



1 employees, but were happy to provide supervision so
2 that I may accrue electrical training hours.

3 Q So, these were electrical contractors, but they were
4 sole proprietors?

5 A To the best of my knowledge. I don't -- Again, they
6 were Mike's subcontracted electrical contractors. I
7 just performed the work for them.

8 Q And these subcontractors, electrical contractors, they
9 did not have any employees?

10 A No, they did not.

11 Q So, you would be working directly with the sole
12 proprietor electrical contractor?

13 A Yes.

14 Q They were supervising you, correct?

15 A They were supervising me, which meant they needed to
16 be on the job site. So, at the same job site, that
17 could have meant that they were in the parking lot
18 while I performed electrical work all day. They met
19 the definition of supervision.

20 Q And you got your 4,000 hours of commercial work
21 through these electrical contractors, correct?

22 A Yes.

23 Q And you're saying today you don't even know the first
24 name of any one of them?

25 A I complete-- I had carried a pager for years and I



1 had completely forgotten that I carried a pager for
2 years until this morning when I woke up and remembered
3 that I had a pager attached to my hip and that's how I
4 received calls.

5 Q I have just one question. Who is DORA again?

6 A DORA is the regulatory agency for Colorado.

7 Q For Colorado, okay.

8 MR. BARNES: Thank you. That's all the
9 questions I have.

10 JUDGE MARTIN: Re-Redirect within the scope
11 of Mr. Barnes' questions?

12 MR. JOHNSON: No, Your Honor, thank you.

13 JUDGE MARTIN: All right. Since there's no
14 further questioning, thank you very much for your
15 testimony today, Mr. Leon. Of course, since you're
16 the Appellant you're welcome to remain here in this
17 hearing through its duration.

18 At this point, Mr. Chairperson Jenkins, do you
19 wish to address taking a break for lunch or how do you
20 wish to proceed?

21 CHAIR JENKINS: First of all, I guess the
22 question I have is do we have facilities here?

23 UNIDENTIFIED SPEAKER: Only until one
24 o'clock.

25 CHAIR JENKINS: So, I would say yes with the



1 looks I'm getting, a half hour, maybe until 1:00, does
2 that sound good?

3 JUDGE MARTIN: All right. So, we will take
4 a brief break during this proceeding and we will go
5 back on the record promptly at one o'clock. Mr.
6 Johnson, in advance, were you anticipating calling any
7 witnesses or how does the Appellant wish to proceed?

8 MR. JOHNSON: Your Honor, at this point the
9 Appellant rests, thank you.

10 JUDGE MARTIN: All right. I will note that
11 Appellant is resting, subject to presenting a possible
12 rebuttal case. So, at this point, Mr. Barnes, on
13 behalf of the Department of Labor and Industries at
14 one o'clock will you be ready to proceed to present a
15 case?

16 MR. BARNES: I will, Your Honor.

17 JUDGE MARTIN: Okay. So, it is now 12:20.
18 We stand adjourned until one o'clock p.m. when we will
19 resume. We're off the record.

20 (Lunch recess)

21 JUDGE MARTIN: All right. We are now back
22 on the record in the matter of Mark Leon. We took
23 about a 35 minute break during that time for lunch.
24 Prior to adjourning for lunch the Appellant had rested
25 his case subject to possibly presenting a rebuttal



1 case, and, unless otherwise noted by any Electrical
2 Board Members, there were no ex-parte communications
3 regarding the merits of this case, and, so, with that,
4 what I'd like to do now is to turn it over to
5 Assistant Attorney General John Barnes on behalf of
6 the Department of Labor and Industries. Mr. Barnes,
7 do you wish to present a case on behalf of the
8 Department in this matter, and, if so, who do you
9 wish to call as your first witness?

10 MR. BARNES: Yes. I will call Chris
11 Campbell as my first witness.

12 JUDGE MARTIN: All right. Chris Campbell,
13 can you hear me okay?

14 CHRIS CAMPBELL: Yes.

15 JUDGE MARTIN: All right. You have been
16 called as a witness in the matter of Mark Leon, do you
17 understand that?

18 CHRIS CAMPBELL: Yes.

19 JUDGE MARTIN: All right. Before you begin
20 testifying, do you mind if I place you under oath so
21 that anything you tell me going forward I'll be able
22 to properly consider as a part of the record?

23 CHRIS CAMPBELL: Of course.

24 JUDGE MARTIN: All right. So, if you'd
25 please raise your right hand.



1 this is being recorded by a court reporter, as well as
2 I'm keeping a record of it, as well, please, if you're
3 asked a yes or no question, please answer yes or no
4 rather than uh-huh, or yeah, or with a head nod just
5 because I want to make sure your voice is picked up
6 clearly and distinctly by my recording system, okay?

7 CHRIS CAMPBELL: Yes.

8 JUDGE MARTIN: Any questions of me, Mr.
9 Campbell, before I turn it over?

10 CHRIS CAMPBELL: No.

11 JUDGE MARTIN: All right. At this point,
12 Assistant Attorney General Barnes, you can proceed
13 with your direct examination questioning.

14 MR. BARNES: Thank you.

15

16 DIRECT EXAMINATION

17 BY MR. BARNES:

18 Q Mr. Campbell, could you state your full name for the
19 record?

20 A Christopher Allen Campbell.

21 Q And Mr. Campbell, what is your occupation?

22 A According to the org. chart, I'm an electrical
23 construction inspector lead.

24 Q And for what agency do you work for?

25 A Department of Labor and Industries electrical program.

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1 Q How long have you worked for Labor and Industries?

2 A It will be 11 years in February, a couple weeks.

3 Q And have all of those been for the electrical program?

4 A They have, yes.

5 Q What are your qualifications to work for the
6 electrical program?

7 A So, you have to have obtained and held a journey level
8 electrician certificate for four years.

9 Q And when did you obtain your journey level electrician
10 certificate?

11 A I believe it was '09 shortly after I turned out for my
12 Oregon State Apprenticeship.

13 Q So, what has your work been like at the electrical
14 program?

15 A So, with the electrical program initially I hired on
16 as a field inspector in Region 5 and, boy, inspected
17 all over Eastern Washington, Regions 5 and 6, east
18 side of Region 4, and I operated in that capacity
19 until about 2017, early 2017. So, three years in I
20 transferred back over to the Tumwater Avenue field
21 office and spent another eight months to a year
22 inspecting, then became a lead electrical inspector in
23 that field office, performed those duties for about a
24 year, and then I applied for a lateral transfer to
25 work with the audit team in the central office, and I



1 believe I came over there in 2019, very early, I think
2 February 2019, if memory serves me correctly.

3 JUDGE MARTIN: I apologize for the
4 interruption. Mr. Campbell, if you could elevate your
5 voice just a little bit --

6 CHRIS CAMPBELL: Yeah, yeah.

7 JUDGE MARTIN: I just want to make sure your
8 voice is picked up by the recording system, as well as
9 for the members to hear, okay?

10 CHRIS CAMPBELL: Okay. Sorry about that.

11 JUDGE MARTIN: Okay. Go ahead.

12 Q What is the audit team?

13 A Okay, so the audit team is a designated group, albeit
14 small, of individuals who -- our goal is, and this is
15 my words, we operate in the hopes to qualify people
16 for the electrical exam or hours of work experience
17 towards a future electrical certificate of competency
18 examination in Washington State based on military work
19 experience, out-of-country work experience,
20 out-of-state work experience, really any work
21 experience gained outside of our jurisdiction, and
22 that's what we do. We work with contractors all over
23 the country, individuals all over the world, yeah.

24 Q Do you verify hours if an individual is going to take
25 an electrical test?



1 A Yes. Yeah, we -- Well, to the best of our ability,
2 yes. Yeah. So, it's not uncommon for us to get work
3 experience verification letters, attestations of an
4 individual's work experience, the capacity in which
5 they worked, you know, attesting that they -- that
6 this work experience was lawfully gained in the
7 jurisdiction in which it was performed, but, you know,
8 we operate on a trust but verify basis, right? So,
9 it's real easy. I mean if documents -- I have been
10 witness to fraud. I have been lied to on the phone.
11 So, it's not uncommon. So, you know, we do our due
12 diligence, and we make phones, and we talk to
13 contractors. Sometimes we call licensing authorities
14 when we can get them on the phone in other states and
15 jurisdictions, yeah.

16 Q Once you verified these hours do you document that
17 verification?

18 A Yeah. So, I was trained early on by my supervisor at
19 the time to -- it was incumbent upon us to make very
20 clear comments on an individual's file, especially if
21 we're operating in the gray, right? Some -- Some of
22 these applications or some of the stuff is black and
23 white, real easy to approve, requires no real deep
24 dive, but, when, it does or when things come up that
25 are out of the ordinary it is -- it serves both the



1 auditor, and the program, and the stakeholders if we
2 are very clear with why and how we came up with that
3 determination, right? So, there's an indefinite
4 amount of comments, at least to my knowledge. I could
5 be corrected on that. But I mean you can add a
6 comment to a file. Some people have over 100 comments
7 on their file on their certificate record. So, it's
8 really easy to do.

9 Q Is that kept electronically?

10 A Um-hmm. Yeah, it's kept in our Quick Cards database.
11 I think that's what it's called technically.

12 Q Have you had an occasion when checking the database to
13 come across somebody whose hours have not been
14 verified?

15 A Could you rephrase the question?

16 Q Sure.

17 A I'm curious exactly what you're asking.

18 Q When certifying hours have you come across a situation
19 where you cannot confirm those hours?

20 A Oh, absolutely, yeah.

21 Q What are the circumstances of that?

22 A Field supervision levels. Basically we require that
23 the work experience was gained lawfully, and that's a
24 key word, that's an important term, and that's going
25 to vary across our nation and across all



1 jurisdictions, and, you know, when you get into the UK
2 or, you know wherever, insert country here, it's going
3 to vary even more. So, yeah, we want to make sure
4 that it was lawfully gained. And it can be difficult
5 to discern at times depending on the state or the
6 country; however, yeah, we find it. We find it often,
7 more than I should.

8 Q Were you here this morning paying attention to Mr.
9 Leon's testimony?

10 A Yeah, as much as I could hear, yeah.

11 Q I'm showing you what's been marked as Exhibit 5.
12 That's Electrical Board packet page 37. That is the
13 MIRR Maintenance letter. If you receive something
14 like this, what would you do with it?

15 A Well, I mean so -- okay, so for starters, we would
16 refer to this in-house as a work experience, an
17 employer verification letter, okay. So, an individual
18 comes to us from out of state, if -- especially --
19 well, Colorado is unique because they are a licensing
20 state, but these are always nice to have, right? We
21 want somebody just to create a chain of liability. We
22 want to establish that chain of liability, okay.
23 Somebody is willing to attest to this individual's
24 work experience, and that's -- that's a great start,
25 and, you know, we're always -- at least I -- yeah,



1 we're always looking to find a way to get people
2 qualified when we can. So, I would -- I would take
3 this letter. I would go into the Department or
4 Regulatory Affairs or Regulatory Agencies, that's the
5 acronym DORA that we were all talking about earlier,
6 it's Colorado's division of the Department of
7 Professions and Occupations, so a big department,
8 small group, that covers electrical. So, I would hop
9 on their web page. They have a phenomenal web page,
10 by the way, it's great -- a great tool, and I would
11 look them up as an electrical contractor, and, if I
12 was successful in finding them, I would, you know,
13 take a look at the individuals working for them, you
14 know, and just -- and start, that's where I would
15 start my investigation.

16 Q Did you do anything, an investigation at all on MIRR
17 Maintenance, Inc.?

18 A A question came to me about -- So, it was asked if
19 they had a database. I mean I don't -- I don't --
20 honestly, I don't really recall. I know I've looked
21 the company up. I don't remember how it came to me,
22 but I know that I have looked the company up. They
23 show up -- They do not show up in the Department of
24 Regulatory Agencies, but I believe we established that
25 earlier that they were not a licensed electrical



1 contractor.

2 Q Okay. So, if that draws a blank, do you do any
3 further research into these hours?

4 A Well, situations are going to vary, but, yes, yes.
5 Colorado is nice because their laws and rules aren't
6 that dissimilar to us. They're part of NERA, you
7 know, so they have a pretty robust set of laws and
8 rule in place, contractor licensing requirement,
9 individual licensing certification, all that good
10 stuff. So, it's -- they're a nice state. So, I can
11 do a lot just doing a deep dive on the internet, but,
12 yeah, I'm going to reach out to the contractor,
13 absolutely. Sometimes the letters, this one doesn't,
14 but sometimes the letters provide a name of a
15 supervising electrician. But sometimes I'll contact
16 the installing supervising electrician, or the
17 qualifying person for the firm, or whatever, right,
18 because oftentimes the owner of the firm doesn't
19 really know. He's not boots on the ground. He's
20 wearing a lot of hats, doesn't really know what's
21 going on within the company, not to the level that I
22 need to learn about, so --

23 Q Would this letter, MIRR letter, would that be
24 sufficient to qualify an individual for the 07
25 license?



1 A In and of itself, no. I would -- It would require
2 further investigation.

3 Q Were you aware that Mr. Leon's electrical certificate
4 was revoked?

5 A I had heard that it was or the process had begun, yes.

6 Q Do you know what the allegation was at least against
7 Mr. Leon?

8 A What I heard was that it would -- that revocation was
9 being pursued under WAC 296-46B-990 Subsection (2)(a),
10 which basically alludes to the fact that it was
11 obtained through error and that's, yeah, through a
12 Department error.

13 Q But did it relate to the documentation?

14 A I believe it did. You know, I wasn't -- I wasn't part
15 of the investigation; so, I just, you know, want to be
16 very clear about that. I'm kind of making an
17 assumption there.

18 Q Now, since you've been working for the Department,
19 when you audited somebody's hours have you always
20 documented what work you've done?

21 A Yeah. I do the best -- I try very hard to document
22 things very well above beyond what's required of me.

23 Q Is it required of your position to document what
24 investigation you've done to verify these hours?

25 A Well, it's such a moving target and it would be hard



1 to put a firm requirement. I mean we have standard
2 work, right, which tells us, and we have guidelines,
3 and, but, depending on the investigation and how I had
4 to go about it, and the findings that I found, for
5 lack of a better term, that's going to go into the
6 comments, okay. So, yeah. So, I would -- Basically
7 what you want, what I want, my goal as an auditor is I
8 understand that I get audited, too. I've been audited
9 before. My work performance here has been audited.
10 So, if get audited regarding an individual that I
11 approved or denied, whether it was work experience or
12 for exam, I want to leave robust enough comments in
13 there to where all I have to do is re-visit that
14 individual's file in our server farm, do the math,
15 present my case. So, it's incumbent upon us to make
16 solid comments in the file to justify the decisions
17 that we make.

18 Q Do you recall whether or not there were any comments
19 or any other documentation in Mr. Leon's file?

20 A I didn't see any other documentation, no, other than
21 what's presented here.

22 Q Mr. Leon applied for a 07 non-residential maintenance
23 license in 2007. Do you know what the requirements
24 are so far as hours are concerned in 2007 for an 07
25 license?



1 A Yeah. So, an 07, I mean the laws and rules haven't
2 really changed much. The bar hasn't moved much. So,
3 at the time it would have been 4,000 hours of non-
4 residential maintenance specialty electrician work
5 experience lawfully obtained. That would have been
6 the minimum requirement. And, you know, including the
7 classroom education component, as well, which would
8 have been 48 hours in classroom education.

9 Q And, then, in 2009 Mr. Leon applied for an 01
10 electrician's license. Do you know what the
11 requirements were for then in 2009 for an 01?

12 A Yeah. Again, for out-of-state applicants, it hasn't
13 really changed much. 8,000 hours minimum work
14 experience, 4,000 of which were required to be
15 obtained in new commercial industrial work experience
16 in that scope. The other four were allowed to be
17 performed in a specialty, so insert specialty here.

18 Q So, the requirements for an 01 in 2009 have not
19 changed materially from today?

20 A Not in terms of what we're talking about today, no.

21 Q Now, if somebody is applying for let's say the 09
22 position, do you look at their prior work experience
23 and what they make?

24 A The what position?

25 Q For an 01?



1 A An 01? Yeah, yeah. I mean we do that in a number of
2 investigations or audits. Yeah, we're looking at
3 compensation records. What we want -- You know, part
4 of our job is to reduce the impact of fraud. I think
5 that's even listed in the PPAF performance
6 requirements. In one of the two -- one of the ways
7 you can do that is by identifying whether or not an
8 individual's compensation is commensurate to the
9 duties and responsibilities that that individual has
10 claimed to have had. It's a very powerful tool
11 because, as you can imagine, W-2, itemized social
12 security statements, payroll, they give us -- they
13 tell us -- they say a lot, but they don't really tell
14 you anything, right? Yeah, he was employed by you.
15 What was he doing? Was he sweeping floors? Was he,
16 you know, running parts? Was he an electrician, or
17 was he a foreman, or was he the qualifying person, and
18 you can kind of read between the lines. Especially
19 when you really dig down, if you have a complete
20 payroll picture you can read between the lines and
21 figure out who is where, you know. Okay, this
22 individual is rock solid. That's the foreman. That's
23 the qualifying person. I can just pick them off and
24 probably with pretty incredible accuracy.

25 Q Did Mr. Leon's self-employed tax returns, does that



1 indicate to you that he was working six days a week,
2 eight hours a day?

3 A In and of themselves, no. Even in that economy, no.

4 Q So, what is it about the tax returns from 2000 to 2006
5 that leads you to believe that Mr. Leon was not
6 working those hours?

7 A I mean the number is too low. But in and of itself,
8 what's reported on those documents, the number is too
9 low. I want to be very clear on that.

10 Q Now, Mr. Leon submitted as Exhibit 6 the Electrical
11 Board page 38, his declaration that he worked or
12 performed 4,000 hours of review commercial insta-- new
13 commercial installations. Do you see that?

14 A I do.

15 Q Would you accept this affidavit without more as proof
16 of the hours for the 01 exam?

17 A That's one of the first things I learned as an auditor
18 from my supervisor. We refer to that as a
19 self-attestation. And because of the potential for
20 fraud we would require more information. We would
21 have required -- We have -- We have documents we'll
22 send out, questionnaires to contractors. You know,
23 we're looking at permit records, job logs, and we're
24 going to need some more information. I mean it's not
25 uncommon. You have owner operators all the time,



1 trainees that got their administrator card and want to
2 test out so they hire their buddy. Yeah, I mean so
3 this is just a self-attestation, and I was a little
4 confused about this in earlier testimony, so, you
5 know, but in and of itself that letter as written
6 absolutely not.

7 Q Okay. So, let's say that this came in and you as an
8 auditor what would you do with this letter?

9 A I would immediately call the individual. I mean I
10 couldn't do much with it. So, you know, as -- When
11 we -- When we start an audit or when we -- So, when we
12 open up a file and we're performing a technical
13 review, you know, I'm auditing the information that I
14 have, and, you know, there's not -- there's nothing I
15 can do with that without supporting documentation.
16 So, that's what I'm going to ask for.

17 Q Mr. Leon's testimony was that he came into the
18 Department and submitted or applied for an 01, and
19 actually one of the auditors typed out this
20 declaration. Have you ever done that in your
21 experience?

22 A No. I would -- I'm pretty careful, yeah, so, no.

23 Q Now, and the testimony earlier today was that when Mr.
24 Leon applied for the '01 that the auditor was right
25 there, went in the back room, called I guess some



1 sources, and came back and verified it. Have you ever
2 done that that quickly?

3 A Not in-person, no, but I've never been in that
4 situation. So, you know, I came to work for the
5 Department in 2014; so, you know, things could have
6 changed.

7 Q So --

8 A But, no, I have not done that. Now, I've handled some
9 situations similarly over the phone, but never
10 in-person like that, no.

11 Q Now, assuming, though, that this self-serving
12 declaration was submitted, is it your testimony that
13 you would then verify it and document it?

14 A Oh, absolutely. Like -- Well, that wouldn't be -- In
15 and of itself that document would not be sufficient to
16 approve anyone for hours of work experience or for an
17 exam. So -- So, any documentation that we receive we
18 store in our server and so that might go to a server,
19 and it would, however so would the supporting
20 documentation. So, ideally I would like to collect
21 the supporting documentation that led me to my
22 determination, combine it into a pdf, send it to the
23 server just in case.

24 Q Was there any documentation in Mr. Leon's case for
25 these hours worked?



1 A I did not see any.

2 Q Is that unusual?

3 A Yeah.

4 Q Can you explain, then, how if this declaration and
5 this letter from the employer was not sufficient to
6 verify hours, how was he able to sit for not one, but
7 two exams?

8 A That's a great question. I cannot explain that, other
9 than possible Department error.

10 Q Well, is it -- In your experience when you get busy do
11 all of the affidavit of hours get verified or do you
12 just sample them and do a few of them?

13 A No, no, we go through everything, yeah. I
14 thoroughly -- I process -- I process every file that
15 comes across my desk no matter what time of year it is
16 with the same thoroughness, and I expect the licensing
17 team does, as well, yeah, absolutely.

18 Q Now, did you do any research in the State of Colorado
19 in their computer files for electricians, and
20 trainees, and things like that?

21 A Yeah, yeah, I'm in their web page quite a bit. It's a
22 great web page. I'd love to have it over here.

23 Q Can you verify whether or not Mr. Leon showed up in
24 any of these databases as ever having an electrical
25 license, or a trainee certificate, or anything in the



1 State of Colorado?

2 A No. As we talked about earlier or as was mentioned in
3 the testimony earlier there's no record of him being
4 an apprentice or an electrician in the State of
5 Colorado.

6 Q Now, do you know whether or not in the State of
7 California -- State of California -- State of Colorado
8 whether or not the supervising electrician needs to be
9 a member of the same firm as the trainee?

10 A I don't know for a fact. I'm pretty good with their
11 law and rule, but as I learned very quickly working
12 here, I used to think I was good with Washington law
13 and rule. Now I speak it quite fluently. But
14 Colorado, yeah, there's a chance that I'm wrong, but
15 my understanding is, and is that, you know, the chain
16 of liability needs to be met and it's important
17 because somebody needs to be responsible for an
18 electrical installation. You can wire something the
19 wrong way a thousand ways. You can wire -- wire
20 correctly five or ten ways, but usually, but, you
21 know, you need a chain of liability in place in case
22 there's injury, electric shock, God forbid
23 electrocution, or loss of property. It's important,
24 so... But I kind of went off track there. I'm sorry.
25 I'm not 100% confident, but I believe that's the case.



1 MR. BARNES: Those are all the questions I
2 have of Mr. Campbell.

3 JUDGE MARTIN: All right. Cross-
4 examination, Mr. Johnson?

5 MR. JOHNSON: Thank you, Your Honor. Give
6 me just one moment, Mr. Campbell. I'm going to grab a
7 notebook so you can follow along with exhibits.

8 CHRIS CAMPBELL: Thank you, sir.

9

10 CROSS-EXAMINATION

11 BY MR. JOHNSON:

12 Q So, you ended up your testimony, you were just talking
13 a little bit about Colorado law. Would you please
14 turn with me to page 1551 in that first section?

15 A Of 1.551?

16 Q It should be almost before you get to that first
17 question. This is -- It should be almost before you
18 get to the first orange divider there.

19 A Oh, goodness, you've got a whole tree.

20 Q Smaller tree.

21 A This? We're good, yeah, yeah.

22 Q Okay.

23 A I'm excited.

24 Q This is an e-mail. Have you ever seen this e-mail
25 before? I'll give you a moment to look at it.



1 A No, I have not. It's a little unclear, and I'm very
2 very curious about this. I've tried to reach out to
3 the Department of Regulatory Agencies multiple times.
4 They are a tough group to get ahold of, especially
5 (inaudible)

6 THE COURT REPORTER: Especially what? I'm
7 sorry, can you speak up just a little bit.

8 A They're hard to get ahold of. So, no, I have not seen
9 the e-mail.

10 BOARD MEMBER TUMELSON: Excuse me. What
11 page?

12 CHRIS CAMPBELL: 1551, their exhibit.

13 MR. JOHNSON: 1551, the main body. And, Mr.
14 Campbell, try to speak a little more slowly and speak
15 towards the court reporter. She's writing down
16 everything you say.

17 CHRIS CAMPBELL: All right. I turn my head
18 and it all goes sideways.

19 MR. JOHNSON: If you don't do this for a
20 living, you don't think about these things.

21 Q (By Mr. Johnson, continuing) So, please read just --
22 At the bottom you can see the e-mail. On the top you
23 can see the response. When you're done with it, let
24 me know, and I have a quick question. Just the one
25 page, 1551.



1 A This makes sense. Okay.

2 MR. BARNES: Can I take a look?

3 CHRIS CAMPBELL: Yeah, absolutely.

4 MR. JOHNSON: Mr. Barnes, I actually have
5 another notebook for you.

6 MR. BARNES: Thank you.

7 Q So, my first question is: This is DORA. It's their
8 version of L & I, right?

9 A Yeah, basically.

10 Q And have you ever worked with Joyce Young, the Program
11 Director?

12 A I have not met or worked with Joyce Young, no.

13 Q Okay. Any reason to believe that she's not a
14 legitimate authority to be answering this question?

15 A No, not at all.

16 Q And, so, the question was whether somebody had to work
17 as an active apprentice to get hours.

18 A Sure.

19 Q And she's answered the question. Would you agree with
20 me that at least based on what Ms. Young has to say
21 here that you don't have to be working for the person
22 who is supervising you in order to get hours that
23 Colorado might count towards your exam?

24 A I actually wouldn't jump to that conclusion, but I --
25 I could see how you could land there. I read it a



1 little bit differently.

2 Q Okay. So, it says, "As it is the responsibility of an
3 electrical contractor to register apprentices, and
4 apprentices are typically an entry level position, the
5 Board may consider applications where an individual is
6 not registered, but was otherwise supervised." So,
7 help me understand how you interpret that?

8 A So, from what I know about all the states and, you
9 know, the background of licensing laws and rules, what
10 she's talking about -- I mean Washington has these,
11 Oregon has these, these are alternative pathways to
12 exam that are a certification exam or licensure exam,
13 and they exist, and this is interesting because she's
14 speaking to the maintenance field and work associated
15 with new commercial buildings as Phil questioned her
16 on, but what she doesn't speak to, and I can be making
17 an assumption, but I think I might be right, is that
18 this allowance would be for an individual that's
19 employed by the firm doing -- providing the
20 supervision, right? And I could be wrong, I could be
21 wrong.

22 Now, Colorado has three license types, three
23 installer license types. They have a residential
24 wiring, same requirements as our is, journeyman
25 electrician, same requirements as ours, and they have



1 a master's, which is a little bit different
2 requirements. They only require one year to hold your
3 J card over there before they qualify you for the AME,
4 but they do care about liability. So, I'd be
5 interested to learn more about this.

6 Q Well, let's go there and learn a little bit more.

7 A Okay.

8 Q If you could please turn to page 1524 with me, 1524.

9 There we go. Okay, so we're at some -- This is
10 Colorado code.

11 A Sure.

12 Q Have, you looked up Colorado code before in your job?

13 A Yeah, yeah.

14 Q So, we're looking at 12-115-10, License Requirements.

15 And, then, if you look down where it says journeyman
16 electrician --

17 A Sure.

18 Q I'm looking at five right under there. I've got it
19 highlighted here.

20 A Single I, AI?

21 Q 2(i).

22 A Okay, under the 2, okay.

23 Q The requirement is at least four years of
24 apprenticeship in the electrical trades or four years
25 practical experience in wiring, installing, repairing



1 electrical apparatus and equipment for electric,
2 light, heat, and power.

3 A Sure.

4 Q Do you interpret that to mean that at least in
5 Colorado either you can be an apprentice or they can
6 review your actual work that might qualify you, as
7 well?

8 A Yeah, absolutely. Yeah. It's pretty typical for a
9 state to have allowances here and there.

10 Q And let's go forward a little to page 1529. So, this
11 one starts on 1528, and these are exemptions --

12 A Okay.

13 Q -- definition area.

14 A Sure.

15 Q I'm looking way at the bottom at number seven right
16 here. It says, "An individual firm, co-partnership,
17 or corporation may engage in business as an electrical
18 contractor without an electrician's license if all
19 electrical work performed by the individual firm,
20 co-partnership, or corporation is under the direction
21 and control of a licensed master electrician." Did
22 you hear Mr. Leon kind of describing what the
23 situation was with Mike's work in Colorado where Mike
24 would hire an electrical contractor and then put Mr.
25 Leon under the supervision of the master electrician?



1 A Yeah, yeah, I heard.

2 Q Does that look like it would comply with what you see
3 here?

4 A If it is what Colorado law and rules deem as under the
5 direction and control of, absolutely, probably.

6 Q Thank you. Now, let's shift gears a little bit. You
7 were talking about in your testimony earlier that
8 really the requirements haven't changed very much for
9 how many hours you need to take the exams, right?

10 A Correct.

11 Q Back from 2007?

12 A Correct.

13 Q You also mentioned a couple things that I wasn't
14 familiar with. What's a server farm?

15 A A data center, server farm, sorry, industry lingo.
16 Basically, it's a -- I mean insert square footage
17 number here, it's ridiculous. I mean a half million
18 square foot facility, concrete, really nice working in
19 the summertime, it's just nice and chilly.

20 Q And, so, and the context you were using it in was
21 that, and I think -- help me if I'm getting this
22 wrong, you were talking about comments that you would
23 put in so that when you got audited all you had to do
24 was go to the server farm and pull it up?

25 A Well, yeah, yeah. Okay, so let me again apologize



1 for the lingo. So, everything is stored in a
2 database, and, you know, I don't know what that
3 database is called, I don't know where it's at, but
4 it's a database and I refer to them as server farms
5 because that's -- I mean to me that's what they are,
6 but, yeah, it's just a giant storage facility where
7 servers are racked and massive amounts of information
8 are just ready at hand, and we keep that stuff. We
9 log that on our database just like Colorado does, just
10 like most states do.

11 Q Okay. So, this is a computer database --

12 A Yeah.

13 Q -- for L & I where you put your comments as an
14 auditor, right?

15 A Yeah.

16 Q And so the -- You started in 2014, right?

17 A Correct.

18 Q Do you know back in 2007 would auditors have been able
19 to jump on a server farm and put in comments in a
20 database?

21 A Well, it would have been stored in Quick Cards. Quick
22 Cards has been around for a long time, absolutely.

23 Q So, if the auditor that Mr. Leon is describing wanted
24 to put comments in back in 2007, he could have put
25 them in a computer system called Quick Cards?



1 A Not only do I think he could have, I think that him
2 specifically, knowing of him, he would have been
3 required to by his supervisor.

4 Q So, mystery solved. Who is he?

5 A Well, his name was Steve, I believe, but supervised
6 by my former supervisor who spoke a lot about her -- a
7 couple of pets of hers that she had to take care of
8 all the time and keep track of, and monitor their
9 work, and double-check their work.

10 Q What's Steve's last name?

11 A It starts with an M, Memuse or --

12 Q And why do you think it was Steve that Mr. Leon was
13 describing?

14 A I'm guessing, but I'm pretty sure, a loud voice, boom.

15 Q Somebody you've worked with for awhile?

16 A I haven't worked with him, no. I just -- You know,
17 you hear -- People like to talk.

18 Q Okay.

19 A And Faith liked to talk. She would tell stories all
20 the time.

21 Q Was Faith Steve's supervisor?

22 A Yeah.

23 Q And, so, you've never met Steve, have you?

24 A Not personally, no.

25 Q Okay. And you never worked with him?



1 A No.

2 Q Any other reason why you believe that's the person
3 described as Steve besides the description of a loud
4 booming voice?

5 A I think I looked at the initials once. So, we have --
6 what do we have -- what do you call them -- log-in IDs
7 here at L & I, and I believe that the log-in ID fit
8 him, yeah.

9 Q Okay. And you said you looked at Mr. Leon's file and
10 didn't see any comments, right?

11 A Not enough comments to justify approving an
12 application or work experience based on those letters,
13 no. There are comments, but...

14 Q Well, so where is that file?

15 A That's going to be on -- attached to his certificate
16 record.

17 Q Something that could have been printed out by the
18 Department?

19 A If it was asked for, yeah, absolutely.

20 Q Nobody ever asked you to print that out, did they?

21 A No.

22 Q So, there are comments on the file, but we don't have
23 them today; is that right?

24 A Boy, I'm sorry, I don't -- I don't -- Yeah, I don't --
25 I didn't know. I don't know. I have no idea. I'm



1 not an attorney.

2 Q Okay. I mean it's a big issue here today.

3 A I wasn't even given this or that until just now.

4 Q You're not under attack. I'm just trying to find out
5 what there is and what we do and don't have. So, what
6 comments did this Mr. Steve M. make about his efforts
7 to determine what the hours were that didn't show up
8 today?

9 A I wouldn't want to speak out of turn. Are you asking
10 me?

11 Q Yeah. Do you know?

12 A I -- I can't really recollect exactly what the
13 comments were, no, but they were not robust enough at
14 the time to justify a decision to be made based on the
15 documentation.

16 Q How robust were they?

17 A They were pretty weak.

18 Q And do you remember any of them?

19 A No, not off the top of my head.

20 Q Would there be any reason why we don't have them here
21 today to show the Board?

22 A No.

23 Q It's not something you couldn't go get right now, is
24 it?

25 A I don't know that I have the authority to do so. I'd



1 have to talk to Your Honor over there. Physically,
2 yeah, physically easy, but, you know -- Boy, oh, boy.

3 Q Well, let's ask a little bit about what you heard.
4 You listened to Mr. Leon's testimony about what he
5 said happened, right?

6 A Um-hmm, yeah.

7 Q So, let's put it -- You said, I think, that you could
8 not explain that. Well, if you listened to what Mr.
9 Leon said, if you did have somebody come in with a
10 letter from Mike like Mr. Leon said, would you as an
11 auditor have asked him, you know, is this an employer
12 or an electrical contractor?

13 A Absolutely.

14 Q And if the person said, no, he's not an electrical
15 contractor, would you also have told the applicant,
16 "Well, this isn't going to do"?

17 A No, no. I would have began a larger conversation, a
18 deeper dive into the state's laws and rules, and what
19 the requirements are, yeah. It would have been -- It
20 could have been very well a fairly lengthy audit.

21 Q Okay. So, you would have asked more questions after
22 he told you that he wasn't an electrical contractor,
23 right?

24 A Absolutely, yeah.

25 Q And you heard Mr. Leon testify that after he told them



1 this isn't an electrical contractor, he did provide
2 the number and a name for an electrical contractor.
3 If that happened, as an auditor would you contact that
4 person?

5 A Absolutely.

6 Q What kind of questions would you ask?

7 A I would -- Well, it's going to depend on the
8 situation, the tone of the -- you know, the tone of
9 the call, right? You've got to read your room, but
10 you've got to do the same thing on a phone call. So,
11 we have conversations about work experience, time
12 together, types of installation performed. Yeah, I'm
13 just -- because -- yeah, I would just start asking or
14 I'll start with a line of questions, and, depending on
15 those responses, that's going to depend on my -- what
16 my next question is.

17 Q Okay. And depending on those responses, if you're not
18 completely satisfied with them you'd continue a deeper
19 dive, right?

20 A Absolutely. Matter of fact, based on earlier
21 testimony, I would probably want to talk to every
22 master electrician, not just one, if there were
23 several.

24 Q And, so, do you think it was reasonable of Steve, if
25 that was the auditor, to have asked for the number of



1 the contractor and gone back to call them?

2 A Absolutely, yeah.

3 Q And if as an auditor you were satisfied, have you ever
4 been satisfied with talking to one person and said, "I
5 don't need to do a deeper dive?"

6 A Well -- How many -- Okay, so --

7 Q Well, let me ask it a different way.

8 A Okay.

9 Q That'll be easier.

10 A Please, thank you.

11 Q How do you decide when you've heard enough and when
12 you need to go further?

13 A Well, depending on the situation, the individual, the
14 responses to the questions that I'm asking, I'll be
15 satisfied when I feel like I have a reasonable cross
16 section, I have all my I's dotted and T's crossed. My
17 goal is to qualify people for exam. That's why we
18 have the program, so...

19 Q And one of the things you testified to, and I put
20 quotes around it, so I think I got it right, it says,
21 "We were looking to find a way get people qualified,
22 if we can"; is that right?

23 A Yeah, lawfully, lawfully. I mean you always -- You
24 don't want to come into this with the idea that you're
25 here to deny hours, that you're picking everybody



1 apart. You know, you don't want that. The electrical
2 trade is vast, and nobody knows everything. Nobody
3 has done it all. So, yeah, you want to -- you want to
4 go in with the right attitude. We're trying to serve
5 the industry. We're trying to serve the
6 stakeholders, at least that's my attitude.

7 Q Part of that right attitude is for auditors to try to
8 help people qualify for the exam, if they can
9 lawfully, right?

10 A If we can lawfully, if the work experience was gained
11 lawfully, yes.

12 Q And, in fact, if it turns out that the auditor, you
13 know, made a bad call on the person, they're not going
14 to pass the exam and the person won't get their
15 certificate, right?

16 A No, I disagree. Some of the worst electricians I've
17 ever worked with and worked for have done really well
18 on that test; so, I disagree wholeheartedly, with you
19 on that.

20 Q But certainly if somebody wasn't qualified to take the
21 test and passed the test anyway, they wouldn't go on
22 to continue to hold the license for a decade?

23 A I disagree with that, too. Again, some of the worst
24 electricians and most awful electrical contractors
25 I've ever worked for have no problem with that exam,



1 held their electrical contracting license and just
2 kept marring the industry, in my opinion.

3 Q Did they also work as auditors for L & I?

4 A No. Well, not to my knowledge. I don't know. I've
5 only worked with a handful.

6 Q Okay. But you were aware Mr. Leon worked as an
7 auditor just like you, right?

8 A We worked side by side.

9 Q And besides looking at the tax documents, any other
10 reason you have to be testifying here today that you
11 think the auditor in that case made a mistake?

12 A Well, I'm speaking to the evidence that's here, so --
13 I mean could you rephrase that?

14 Q Sure. The evidence that you referred to was the tax
15 forms. You said he got paid too low, and you thought
16 because he got paid that little he probably wasn't
17 working that many hours.

18 A Yeah. It's a massive red flag.

19 Q Right. So, based on any other reason besides that,
20 any other evidence you can point to for the Board here
21 that makes you believe that the auditor, if it was
22 Steve, made a mistake?

23 A No, no. Well, I mean, again, I have -- I've been
24 shown the evidence today, both sides. I barely
25 touched any of it. But based on our conversation,



1 based on the information that I have, that's the
2 biggest red flag. I wasn't involved in the
3 investigation or the revocation, so...

4 Q Okay. And this will be my last question on this
5 topic, but I'm just trying to nail it down. Besides
6 the taxes themselves, do you have any evidence that
7 you can talk about right now to this Board upon which
8 you based the conclusion that the auditor made a
9 mistake?

10 A Well, okay, so I don't know if I'm understanding your
11 question. It feels a little trappy. So, with the
12 material that the Department has right now, with the
13 information that the Department has right now, not
14 just the pay, but the submitted self-verification of
15 hours of work experience, and the original
16 verification for the original 4,000 hours when the
17 individual was listed as an incorporator of the firm,
18 a document signed by Mark, that -- those are massive
19 red flags; so, there's something wrong here. Maybe a
20 deeper dive was done, but there is no evidence of
21 that. So, you know, I don't -- I'm not 100% clear,
22 but those are the things that I am concerned with
23 right now.

24 Q Okay. Great. Well, let's look at those. If you
25 would please turn to page 36 and 37 in there.



1 JUDGE MARTIN: Mr. Johnson, what exhibit?

2 MR. JOHNSON: I'm sorry, this is the court
3 record -- sorry, the Board record 36 and 37.

4 A 36, first?

5 Q Sure. So, let's look at 36 first.

6 A Okay.

7 Q So, this is the document that's signed by Mr. Leon.

8 A Yeah.

9 Q And so the reason this -- Is the reason that this
10 would raise a red flag for you because you believed
11 that Mark just brought this in and handed it in
12 support of his request for a certification or to take
13 a test?

14 A No. I have no idea what the intent was. My concern,
15 the red flag for me is this is not an adequate veri--
16 work -- employer verification letter. Not only is it
17 a self-attestation, which is an immediate red flag and
18 requires further documentation, there are no date
19 ranges. There are no -- no supporting documentation.
20 This is -- Although, while I appreciate the
21 succinctness of it, it is one sentence and it is --
22 you know, it's self-attesting to work experience
23 gained. So, the letter in and of itself does not meet
24 the requirements, it just doesn't. So, there must
25 have been something else in play.



1 Q Is it possible that the something else in play was a
2 CD full of documents that Steve looked at before he
3 wrote this letter and gave it to Mr. Leon to sign?

4 A I guess. I suppose. If that's the case, then the
5 auditor in question made a tremendous mistake and
6 failed in his duties to secure the documentation and
7 store it properly.

8 Q There you go. And so his mistake was not allowing Mr.
9 Leon to take the test, it was in failing to store the
10 documents that were brought to him in support of the
11 case, right?

12 A Either/or. It could have been either way.

13 Q You don't know whether Mr. Leon actually brought in
14 the CD, do you?

15 A I have no idea. I wasn't there.

16 Q And certainly no self-respecting auditor would accept
17 this letter and nothing else, and allow somebody to
18 certify their own time, would they?

19 A No.

20 Q Can you imagine that ever happening?

21 A Well --

22 Q I mean even the worst auditor you know, would they
23 accept this and let somebody get certified?

24 A There are training issues. There are a number of
25 reasons. I mean we make mistakes. We're not perfect.



1 Q But this one is outrageous, isn't it?

2 A Yeah.

3 Q Okay.

4 A Absolutely.

5 Q So, doesn't it make more sense then that if Steve
6 actually accepted this there was probably more
7 documentation that it was based on than that Steve
8 just went crazy one day and did the dumbest thing in
9 his career?

10 A I don't -- I can't speak to that. It's one or the
11 other.

12 Q Okay. Let's take a look at page 37. This is one --
13 the other thing that you say raised a red flag.

14 A Yeah.

15 Q Is the reason that this raises a red flag, in your
16 opinion, because that's based on the belief that Mr.
17 Leon brought this in and submitted it in order to get
18 his hours?

19 A No, not necessarily. I mean this is -- Again, this is
20 an employer verification letter from out of state.
21 The document requires a deeper dive. That web page
22 from DORA -- I mean I was looking at that thing in the
23 early 2000s and it's really, really impressive. So,
24 this would have been really easy to verify. Now, I
25 mean I would have required further documentation on

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1 the sole fact that this is not an electrical
2 contracting firm. I would want to know. I would want
3 to learn.

4 Q How does the fact that you disagree with the way
5 Steve, the auditor, handled this prove that Mr. Leon
6 didn't actually work those hours?

7 A Oh, I'm not. Hold up. I'm not saying that he didn't.
8 I'm saying that this letter is not robust enough in
9 and of itself to attest to those hours and to accept
10 them as hours of work experience towards a future
11 certificate of competency examination. That's what
12 I'm saying.

13 Q Oh, got it. So, you're not here to testify to this
14 Board that you have any evidence that Mr. Leon didn't
15 work the hours that he said he worked?

16 A I'm here to speak on the auditing process, the
17 technical review process, you know, what we do, what
18 we approve, what we don't approve.

19 Q Okay. Well, let's talk about the records a little bit
20 more about the process then. When you are going to
21 deny somebody who's presenting evidence of hours, what
22 kind of records do you take before you deny them or
23 what kind of records do you keep?

24 A Boy, it's going to be -- it's going to vary from state
25 to state, right, so --



1 Q How about you? I'm talking about L & I here.

2 A Well, no, no, no. It's going to vary depending on the
3 jurisdiction in which they're coming from, the state,
4 or the bureau, or whatever. It doesn't matter. So --
5 Okay, so please restate the question.

6 Q Sure. Let me ask it this way. If you -- As an
7 auditor, if somebody comes in with proof of hours and
8 you find that it's not sufficient and you deny them,
9 does that person have some recourse or right to appeal
10 that decision?

11 A Absolutely.

12 Q So, would you keep a lot of records if you were going
13 to deny somebody because you know there's probably
14 going to be a question about it?

15 A I would keep every record they provide. It's required
16 of me.

17 Q But, if you're not going to deny somebody and you're
18 going to approve them, do you keep the same amount of
19 records?

20 A Absolutely.

21 Q Why is that?

22 A Because, again, to reiterate, I get audited, too, and
23 if I'm ever called in to my supervisor's office who's
24 the program manager over there and they have questions
25 about why I approved this guy who is responsible for



1 burning down a Safeway and I approved him for an exam,
2 I need to be able to justify that decision at all
3 cost, otherwise it's mine, it's my butt on the line,
4 so...

5 Q Do you know whether any inquiry like that was ever
6 made of Steve concerning Mr. Leon?

7 A No, I have no idea.

8 MR. JOHNSON: Thank you. Those are all the
9 questions I have for you, Mr. Campbell.

10 JUDGE MARTIN: All right. Redirect
11 Examination questioning by Mr. Barnes before I open it
12 up to the Board?

13

14 REDIRECT EXAMINATION

15 BY MR. BARNES:

16 Q Mr. Campbell, does the Department allow for practical
17 experience in place of, let's say, a training
18 certificate or an apprenticeship?

19 A So, work experience gained outside of certificate or
20 licensure?

21 Q Correct.

22 A I mean it can happen. You know, there are states
23 where contractor licensure is optional or it's not
24 even required, or installer certification isn't
25 required, but if I get an applicant from these states



1 who has completed an IBEW program, and they're working
2 for an electrical contractor, and they are engaging in
3 the trade lawfully in the jurisdiction in which
4 they're working, I can work with that guy, I can
5 approve, absolutely.

6 Q But in that situation you would have verification from
7 the electrical contractor as far as the number of
8 hours the applicant has worked?

9 A And the apprenticeship and the NECA program and the
10 IBEW, absolutely.

11 Q Okay. But if you cannot get any verification from the
12 electrical contractor or anybody that he's worked for,
13 would you just take their word for it that they have
14 the experience?

15 A Generally, no. As an electrician you can tell, you
16 can tell how experienced somebody is over the phone.
17 You know, if I have a 15 minute conversation with
18 somebody, I can get a pretty good read on them. I can
19 tell whether or not they're just an engineer or
20 they're an actual electrician.

21 Q You mentioned that Steve M. was an auditor for the
22 Department of Labor and Industries in approximately
23 2007 data. Was he working when you were an auditor?

24 A No, no.

25 Q Okay. So, he left -- Did he leave the office or did



1 he get transferred?

2 A I don't know. I know that in 2014 there was a
3 shake-up and I was recruited. I was asked to come to
4 audit and I turned it down at the time. I can assume
5 that he left. I don't know. I know he's no longer
6 with the Department.

7 Q When did you work with Mark as an auditor?

8 A So, I believe -- Time goes by, man. I think I started
9 with the audit group in February of 2019, I believe.
10 Yeah, the timeline looks about right, so, yeah. So,
11 from at that date until the date of his resignation,
12 yeah. So, it was awhile.

13 Q Did Mark Leon train you as an auditor?

14 A No, no. I received my training from Benjamin Chavez.

15 Q Was Mr. Leon, though, in the same office as you were
16 as an auditor?

17 A He was actually closer in, like, distance, like he
18 actually showed up here every day most of the time, as
19 did I.

20 Q You mentioned, though, that one of the things that
21 were lacking in Mr. Leon's file was any comments that,
22 let's say, an auditor might have put in there; is that
23 correct?

24 A Yeah.

25 Q Where would you find those comments?



1 A They're tied to the certificate record. So, depending
2 on the certificate record in question or the type of
3 record that we are working with, if I'm working on a
4 processed application I'm going to leave comments
5 regarding data on processed application on that
6 application file. If I'm working a trainee, the same
7 thing.

8 Q I want to refer you to what's been marked as Exhibit
9 C, which was an exhibit of Mr. Leon's. Can you help
10 identify what that document is?

11 A Yeah. This is the comment section for his EL01
12 certificate, yeah.

13 Q Okay. Is there any date on this?

14 A Yeah. I mean, you know, its got when he was approved
15 for exam March 17, 2009, which is probably about the
16 time he -- No, I think he passed his exam in April,
17 April 1st, if memory serves me correctly. But, yeah,
18 yeah, so this is his -- this is his EL01 certificate
19 comment record, and this is going to start when he
20 applied, was approved, you know. And there's really
21 not much going on here. This is all certificate
22 renewals, address changes, until you get to the Notice
23 of Revocation or Intent to Revoke, you know, and
24 that's a robust comment.

25 Q Is there any comments on this that indicate that any



1 auditor did any checking of any hours?

2 A No, no.

3 Q Would that have necessarily been on there if the
4 auditor had any questions about the hours worked?

5 A It should have been on his trainee certificate because
6 at the time he had a trainee certificate and possibly
7 could have been also tied onto his EL07 certificate,
8 which I believe he held a non-residential maintenance
9 specialty certificate, as well, and unfortunately
10 these comments do live in different places tied to
11 different certificate numbers.

12 Q But there's nothing on his EL01 licensing certificate
13 or licensing form here that indicates that there was
14 any checking of his hours, correct?

15 A Correct.

16 Q Then, finally, you mentioned that there was a question
17 asked of you about verifying his hours in Colorado and
18 you said that it would be relatively easy to do that.
19 What did you mean by that?

20 A Well, okay, typically speaking, most individuals in
21 Colorado, the vast majority, are going to gain their
22 work experience as an apprentice. Apprenticeship has
23 been required in Colorado since the late nineties, to
24 my knowledge. RSI requirements didn't come into place
25 until around 2011, but apprenticeship has been pretty



1 rock solid. So, it's just -- it's easy to do. You
2 can look them up on a web page. They have a really
3 handy tool. You can even -- Their tool even provides
4 who was providing supervision for that individual
5 during that time frame; so, it's pretty honest.

6 Q Well, would Mr. Leon's -- This the Electrical Board
7 packet page 37, this is that, the MIRR Maintenance,
8 Inc., the letter, would that even qualify in Colorado
9 to verify hours?

10 A I don't know. Again, I'm not -- I don't represent
11 that body, so, that regulatory body. I have no idea.

12 Q Do you know whether or not in Colorado a -- one
13 qualifying to be an electrician needs to be either in
14 an apprenticeship or some training facility?

15 A So, they have to be registered as an apprentice. I
16 mean Mark laid it out really nice. They have to be
17 registered as an apprentice. It is incumbent on the
18 contractor to register them I'm pretty sure it's
19 within 30 days. They obviously give a little time
20 just in case the guy doesn't work out. Yeah, so the
21 requirement is in place, right? Yeah.

22 Q Was Mr. Leon ever registered then as an apprentice?

23 A No, no. Just like we covered earlier, he's never been
24 an apprentice or an electrician, not listed as in
25 Colorado's database.



1 MR. BARNES: Thank you very much. That's
2 all the questions I have.

3 JUDGE MARTIN: Re-recross, Mr. Johnson?

4 MR. JOHNSON: Just one last question.

5

6 RE-CROSS EXAMINATION

7 BY MR. JOHNSON:

8 Q Mr. Campbell, you said that you could get a pretty
9 good read on somebody and their level of experience in
10 a 15 minute conversation, right?

11 A Usually, yeah.

12 Q Can you think of any reason why Steve wouldn't have
13 been able to do that, too?

14 A Um, yeah. I mean there's lots of reasons. Some
15 people don't have the soft skills to do this job.
16 They've got the -- They meet the minimum quals, they
17 have the technical knowledge, right? I know the WAC
18 and RCW like the back of my hand, and I'm a code nut,
19 whatever, but they don't have the soft skills to have
20 these conversations. You know, the industry is filled
21 with people that have spent their entire careers in
22 one little corner of the trade. You know, I've been
23 fortunate to be very, very well-versed and to have
24 been passed around quite a bit, willingly seeking
25 that; so, you know, I'm able to, I don't know -- I'm a



1 soft skills guy. So, I don't know what Steve's soft
2 skills are like. You know, was he a big gruff guy on
3 the phone and just couldn't read people for anything?
4 I have no idea.

5 Q So, the answer to the question is you don't know
6 whether Steve had that same ability as you?

7 A I have no idea. Never met the guy.

8 MR. JOHNSON: Thank you, Your Honor, that
9 was my last question.

10 JUDGE MARTIN: All right. Re-Redirect, Mr.
11 Barnes?

12 MR. BARNES: I don't have anything further.

13 JUDGE MARTIN: Okay. At this point, I'll
14 open it up to the Electrical Board Members. Mr.
15 Johnson, do you want to go first?

16

17 EXAMINATION

18 BY BOARD MEMBER JOHNSON:

19 Q You had mentioned a lot of hours were obtained in
20 Colorado, but you didn't actually -- it was previously
21 established and you didn't actually apply for anything
22 in Colorado. So, I'm wondering, you referenced
23 Colorado law, but is that applicable for how he
24 obtained hours, like how would you treat that?

25 A Well, I mean my prime directive is to verify whether



1 or not the hours of work experience were lawfully
2 gained; so, I would want to make a determination. I
3 think that was in the 1550s there. Sorry, I talk a
4 lot. So, I'm trying to continue with that. It would
5 make sense to me that Colorado, just like other
6 states, other licensing states has these allowances,
7 those pathways for individuals to become certified and
8 qualify for exam without being in an apprenticeship,
9 even though it's an apprenticeship state, right?
10 Oregon has a nice pathway for that, but -- So -- So, I
11 would need -- I just need to cover my butt. I would
12 need to learn more, right? So, I'm going to call the
13 contractor, have a conversation. I'd want to talk to
14 the supervising electricians and have a conversation,
15 and, you know, I'd want to talk to the regulatory
16 body, too, somebody that knows -- What I've learned
17 working at L & I is the long bull does not say what it
18 you want it to say, it doesn't say what you think it
19 says, and the best place to go to figure out what the
20 heck they're talking about, even though you've read it
21 20 times, is to call the person that enforces it. So,
22 I'm going to really -- going to really kind of try to
23 talk to that regulatory body and have a conversation,
24 and I've had to do that with multiple states. That's
25 really, really tedious. It's really important.



1 Q Would you be using Colorado law or Washington law as
2 the basis for --

3 A Oh, I'm going to use Colorado law, lawfully gained in
4 the jurisdiction in which the work experience was
5 obtained, absolutely. Sorry, I went off base there.
6 You've got to reign me in.

7 Q And, then, you made a mention to a potential
8 Department error. Just to clarify, is this being
9 alleged as being an error or is this being alleged as
10 being fraud? In what way is the Department
11 investigating this?

12 A So, I've got to clarify that. I -- I was not part of
13 the Intent to Revoke, nor just like I was not part of
14 the exam approval process. I'm speaking to the audit
15 process and that's really it. So, I -- I mean, yeah,
16 I don't know. I don't know if that's the reason why
17 the Intent to Revoke is. I'd have to -- It's probably
18 in the comment. Yeah, I mean all it's doing is it's
19 citing RCW -- I'm sorry, it's citing WAC 990
20 Subsection 2, and I believe that's obtained through
21 error or fraud, yeah. So, I think that's what it's
22 alluding to, yes, based on the comment on the file.

23 Q And, then, when you were reading stuff I saw that you
24 were reading off it looked like comments in the quick
25 system off a piece of paper?



1 A Yeah.

2 Q Was that in the Board packet on a page that I can
3 reference or --

4 MR. BARNES: That is Exhibit C of Mr. Leon's
5 submission.

6 Q Okay. So, Exhibit C. So, is that the full record
7 that was referenced?

8 A This is going to be the record that's tied to the
9 Intent to Revoke only. Washington does this cool
10 thing where they separate everybody's certificate, and
11 they don't blend -- An individual can have multiple
12 certificate records, and registrations, and licenses
13 at L & I, and this is one of those cases. So, this is
14 his EL01 file, comments tied to just that EL01
15 certificate and that's it.

16 Q So, to clarify, this is exactly what you were speaking
17 to and referencing?

18 A Oh, yeah.

19 Q Or do you have additional --

20 A No, I don't have anything additional. LIke I said,
21 this has all been presented to me right here.

22 BOARD MEMBER JOHNSON: And then I have one
23 more clarification, which may be for -- so, there was
24 made reference to potentially some additional records
25 that weren't submitted in evidence. I did not hear



1 any motions or anything to actually bring that into
2 evidence; so, would the attorneys have the ability to
3 do that, if they so desired, or is that not --

4 JUDGE MARTIN: Yes, Mr. Barnes and Mr.
5 Johnson, there was a -- was there a stipulation in
6 regard to that record, the 1,500 hundred pages?

7 MR. BARNES: No, I don't believe so. The
8 1,500 pages was the -- the spreadsheet of Colorado.
9 So, what he's referring to is the comment section on
10 this 01 license renewal or licensing, and after his
11 testimony he will pull the same comment sections from
12 the 07 maintenance and also the electrical trainee.
13 Then, of course, I'll have to talk with Mr. Johnson
14 about it.

15 JUDGE MARTIN: Okay. So, at this point
16 they're admitted with Department Exhibits 1 through 14
17 and Appellant's A through C, and then also page 1551
18 was listed as admitted at this point. Okay.

19 MR. JOHNSON: Sorry, we agreed to admit
20 everything that we brought up in the direct
21 examination; so, I'm not sure whether that may cover
22 some pages that weren't in that spread that you just
23 read.

24 JUDGE MARTIN: And we'll sort that out at
25 the next break.



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MR. JOHNSON: Yes, Your Honor.

JUDGE MARTINI: Mr. Johnson and/or Mr. Nord.

EXAMINATION

BY BOARD MEMBER NORD:

Q Yeah, Board Member Nord. I have a question as to the audit process. Under WAC 296-46B-975, which sets forth the electrical audit process of doing it, under item two it says, "Every employer or contractor must keep a record of trainee, assigned administrator/master electrician employment so the Department may obtain the information it needs to verify electrical trainee, assigned administrator, or assigned master electrician status and trainee work experience. Upon the request of the Department's auditors or agents these record must being made available to the Department for inspection within seven business days."

As part of the audit process, no matter who it was done by, how does this section of our state law apply to this case?

A I don't think that 975 applies to this case at all, personally. You know, to me, this is about RCW 19.28.181 and 19.2A.191, and 296-46B-945.

Q Okay. But we're talking about an audit process, as I



1 understand it, that Mr. Leon's case is based upon.
2 He's complied with the audit process and there should
3 be no parts of this process that are in error, am
4 incorrect in what I'm receiving?

5 A That may very well be correct. 975 gives us -- 975 is
6 a tool. It's -- You know, we -- we use this
7 multiple -- in multiple different cases, scenarios.
8 This is a tool to verify appropriate levels of trainee
9 supervision with Washington State Electrical
10 Contractors and also to verify business relationships
11 between qualified persons, administrators, or masters,
12 and the electrical contractor firm.

13 Q Okay. And I'd agree with that. So, taking that into
14 consideration, my question is: Does Mr. Leon's
15 employers have an obligation to comply with this
16 portion of the Washington state law if you contact
17 them because all I've heard today is, "I don't know.
18 I don't remember." How can you -- How can you verify
19 an audit or run an audit if nobody knows anything when
20 you contact them?

21 A So, you know, WAC -- Okay, so in WAC 945 when you're
22 qualifying for exam it says things like work
23 experience is to be lawfully gained in the
24 jurisdiction.

25 Q Correct.



1 A Verifiable work experience.

2 Q Correct.

3 A Requiring supporting documentation.

4 Q Correct.

5 A So, we're looking to check all those boxes, right?

6 So, if I initially get a work experience verification
7 letter and I start making my phone calls and those
8 boxes aren't getting checked, I need more information,
9 and the onus is on the contractor or the entity in the
10 other state to willing provide me with that
11 documentation.

12 Q That's how I also see it.

13 A My understanding, and as I've been directed, since
14 I've been working in the central office is in no way
15 does this WAC article give me the authority to demand
16 this information from an Oregon, or a Colorado
17 contractor, this is solely for Washington state
18 electrical contractors using trainees and/or, you
19 know, we're going to leave the administrator out of
20 it, using trainees in Washington State. Hours worked
21 in Washington by Washington State electrical
22 contractors is the only time I have the authority to
23 use this tool.

24 Q Okay. Is Colorado a reciprocal state to Washington?

25 A No. They reciprocate with 11 or 13 other states, but



1 Washington is not on the list and neither is Oregon.

2 Q So, if an out-of-state contractor does not have to
3 comply with this portion of the Washington State law,
4 how do you do an audit then? How do you know that
5 you're getting lawfully required information you need
6 to perform your audit to comply with our law when the
7 answers you keep receiving is, "I don't know. I don't
8 remember. And I didn't work for them directly. I
9 walked onto the job site and they supervised me"?

10 A Okay, I see what you're saying. If I can't -- If the
11 supporting documentation is not verifiable, then I
12 don't have the authority to approve the hours of work
13 experience. I don't have the authority to approve
14 them for exam. I have to be able to verify the
15 supporting documentation as attested to, and 99.99%
16 of the time when I get an applicant from another
17 state, they have a good business relationship with
18 their contractor. It's really easy for them to get
19 work experience verification letters, and their
20 contractors and employers, whoever, are more than
21 willing to have a conversation with me about
22 installations and, you know, where they work and
23 projects they've been on, things like that.

24 Q Okay. So, as a reasonable person looking at this line
25 of questioning -- I want to make sure I word this



1 right. Mr. Leon's supporting documentation doesn't
2 exist. We don't have the names. We don't have any
3 employer records. We don't have any time records. We
4 don't have any verifiable experience of employment.
5 All we have is, and these are my words, all we have
6 is, "I was an employee of Company B. I walked on to
7 Company A's work site and they supervised me doing
8 electrical work." How does that qualify me as a
9 person seeking to establish and verify a work record
10 to get a license that I'm doing that? I don't see any
11 path to getting there.

12 A I would agree, based on the information that we have.

13 JUDGE MARTIN: Other questions?

14 BOARD MEMBER ENTREKIN: Yeah. Board Member
15 Entrekin.

16
17 EXAMINATION

18 BY BOARD MEMBER ENTREKIN

19 Q You had mentioned, and Board Member Nord mentioned
20 this, too, that there's just a lot of documentation
21 that's missing from his approval. Once that's been
22 put into the database, does anybody, another auditor
23 or any other employee, have the ability to remove some
24 of that information?

25 A I don't think any -- To my knowledge, and I'm not an



1 expert on our imaging department, but to my knowledge
2 you can't remove anything, no.

3 JUDGE MARTIN: Any other Board Member
4 questions, please go ahead. Mr. Baker.

5 BOARD MEMBER BAKER: Thank you.

6

7

EXAMINATION

8

BY BOARD MEMBER BAKER:

9 Q I've got to admit I feel like I walked onto a set of a
10 Jerry Springer show and you said you worked with him.
11 I'm past that now, though. I appreciate your candor.
12 I'm just curious, how long have you been doing working
13 in an auditing position?

14 A Let's see, so it's coming up on six years.

15 Q Long enough. Can you recall a time when the
16 Department has gone back 14 years with someone's
17 application to determine whether or not it was valid
18 because that's what we're looking at here, right,
19 maybe 15 years, if you do the math? It seems unusual
20 to me.

21 A Yeah.

22 Q I'm trying to figure out why. I'm trying to figure
23 out what was the trigger? What -- How did this all
24 start? And the Jerry Springer comment is really not
25 in vain because I'm like, well, there's this



1 interesting connection here.

2 A Absolutely. I don't have firsthand knowledge of what
3 kicked this off. I was --

4 Q That was not -- I'm sorry. Let me reframe the
5 question. Do you have any knowledge of the Department
6 ever going back 15 years looking at an application and
7 saying that it was invalid?

8 A I do not have any firsthand knowledge of that, no.

9 Q Ten years?

10 A No.

11 Q Five years?

12 A Five years, yeah. It might be a stretch, but, yeah.

13 BOARD MEMBER BAKER: Okay. Thank you.

14 JUDGE MARTIN: Any other Board questions?

15 BOARD MEMBER KNOTTINGHAM: Yeah. Board
16 Member Knottingham.

17

18

19

EXAMINATION

20 BY BOARD MEMBER KNOTTINGHAM:

21 Q So, Mr. Johnson pointed out subsection 72 12-115-116
22 on page 1528. So, if we look at the very bottom of
23 15-115-116, what is the heading?

24 A At the very bottom of 115, 116, that's the section,
25 page 1528.



1 Q 1528?

2 A Yeah. So, subsection two, you want to me to read that
3 sentence?

4 Q No, what is the heading?

5 A Oh, the heading, Exemptions Definition.

6 Q Okay. And, then, if you drop down to subsection two,
7 could you read subsection two?

8 A "Nothing in this article 115 shall be construed to
9 require any individual to hold a license before doing
10 electrical work on his or her own property or
11 residence if all such electrical work, except for
12 maintenance or repair of existing facilities is
13 expected" -- or "is inspected", sorry, "as provided in
14 this article." Would you like me to continue?

15 Q Yes, please.

16 A All right. Semicolon, "However, if, however, the
17 property or residence is intended for sale or re-sale
18 by a person engaged in the business of constructing,
19 remodeling of facilities or structures, or its rental
20 property that is occupied or is to be occupied by
21 tenants for lodging, either transient or permanent, or
22 is generally open to the public, the owner shall be
23 responsible for and the property shall be subject to
24 all the provisions of this article 115 pertaining to
25 inspection and licensing unless specifically exempted



1 therein." That was a wordy, wordy paragraph.

2 Q Does Washington have similar rules about licensing
3 exemptions?

4 A Yeah, yeah. I mean, you know, most licensing states
5 have exemptions.

6 Q So, typically you're required to be licensed. You're
7 offering work to the general public, then you have to
8 be a contractor, I'm paraphrasing, right, but you have
9 to be a contractor, be a certified individual?

10 A Yeah.

11 Q Inspections, etc?

12 A Yeah.

13 Q And it appears by reading this that Colorado is
14 similar?

15 A It's pretty similar. They don't have -- What do we
16 have? We have a ton of scopes, right? They've got
17 three, so...

18 Q So, one additional -- So, back to the comment that was
19 made by Mr. Johnson that as long as they're under the
20 control of a licensed electrician they could certify
21 hours. If that is the case, then what would preclude
22 a contractor from just certifying hours for anybody
23 and everybody?

24 A Well, that's just it, there's checks and balances in
25 place and there's more to the law and rule than



1 excerpts, there always is, and this is why it's -- I
2 wish that Joyce, I believe that was her name, would
3 have elaborated a little bit more in DORA.

4 Q Yeah, me too.

5 A That would have been nice because I couldn't get her
6 on the phone or anybody from that team on the phone.

7 BOARD MEMBER KNOTTINGHAM: Thank you.

8

9

10

EXAMINATION

11

BY SECRETARY MOLESWORTH:

12

Q Wayne Molesworth. So, what I'm curious about, because
13 I've heard a few things about "have we ever", right,
14 so, I've got a couple questions here, but the first
15 one is: Have you ever approved hours for an
16 individual that wasn't working for a -- the contractor
17 or employed by the contractor that they were gaining
18 experience from?

19

A So, I believe what you're asking me is have I ever
20 approved hours, attested hours when the individual
21 wasn't specifically working for that electrical
22 contractor? I think I've had one case like that and
23 there was a really rock solid workplace agreement in
24 place, a subcontractor agreement, right, that they
25 were an electrical contractor, but, and they subbed



1 out this -- I don't know, it was -- and -- oh, and it
2 was on reservation land, all res work experience. So,
3 I think there might be one instance, but it's really,
4 really rare.

5 Q Reservation law is different.

6 A Absolutely.

7 Q We treat reservation laws different.

8 A Yeah, very loose.

9 Q So, as Mr. Leon testified earlier, his supervision
10 could be parked out in the parking lot as long as it
11 was on the same property. Do you agree with the fact
12 that supervision is just on the site and not working
13 with an individual?

14 A No. No, I've seen too many people get hurt, no.

15 Q So, if you were aware that somebody got their
16 supervision with somebody just sitting in a parking
17 lot, you would not approve those hours?

18 A I would be less inclined to approve the hours, yes,
19 absolutely.

20 Q What's important about -- you know, with your audit,
21 why do we audit those hours? What's important about
22 somebody having the experience, supervised
23 experience?

24 A Well, I mean it's the whole reason we have an
25 electrical program. I think it's in the RCW, for the



1 furtherance of safety, life, and property, that's why
2 we exist, right? That's why electrical licensing laws
3 and rules exist. That should be our prime directive,
4 right? I mean sure, if we could pump out the world's
5 greatest electricians non-stop, that would be great,
6 but all I care about is that they're safe on the job
7 site. That's what I care about. Everything else is a
8 self-cleaning oven because everybody's got a place
9 where they'll fit, right? This guy is a service guy.
10 We're going to give him a box fan and he's going to go
11 around downtown Seattle and repair stuff, and he's
12 great with the customer, and this guy likes to hide in
13 a panel room. They're both safe. That's all I care
14 about. And you learn how to be safe out of gained
15 knowledge and respect, those great conversations you
16 have with your journeyman in the morning on your way
17 from Burlington, you know. It's just -- it's good
18 stuff.

19 Q So, is there any way that you can learn that
20 experience on your own?

21 A Oh, boy, I don't think so, no. I mean I -- I dabbled
22 before I joined the apprenticeship. I quickly learned
23 I didn't know a thing, you know, about electrical
24 safety or anything. I had no idea.

25 Q So, would you agree with me that experience and proper



1 supervision for an electrician is probably more
2 important than being able to study up, as it was said,
3 to pass an exam?

4 A Absolutely, yeah.

5 JUDGE MARTIN: Any other Board questions?

6 BOARD MEMBER GRAY: Thank you.

7

8 EXAMINATION

9 BY BOARD MEMBER GRAY:

10 Q I believe I heard you say that you would attest to
11 submittals by phone and then document the results of
12 that, is that --

13 A Yeah.

14 Q Did I understand that correctly?

15 A Yeah.

16 Q So, here we're talking about validating a certificate
17 due to error or fraud. I haven't heard anybody make
18 the accusation of fraud. So, if we could focus on the
19 error, when I read this submittal, the comment, to me
20 it's pretty generic. It says that the document was
21 not sufficient to qualify; however, no one was there
22 other than Mr. Leon where the validation was done by
23 phone by the auditor. So, can you articulate based on
24 your experience as an auditor, can you articulate
25 exactly what the error was? Was the error that the



1 documentation -- sufficient documentation was not
2 provided by Mr. Leon or was the error the fact that
3 the auditor didn't document it, as you would, in order
4 to be able to support that 14 years later?

5 A Great question. I'd have no way of knowing, but it
6 does seem like a mistake was made because we don't
7 have the evidence, the supporting documentation that
8 we required at the time, very similar to what we
9 require now. Now, whether -- whether that -- I don't
10 know. I don't know. I don't know where that error
11 went wrong, but my guess is this was a Department
12 error, and, you know, we make mistakes. Contractors
13 aren't the only ones that mess up once in awhile. So,
14 it happens.

15 JUDGE MARTIN: Other Board questions?

16
17 EXAMINATION

18 BY BOARD MEMBER JOHNSON:

19 Q So, just to go back to what was referenced in the
20 Board packet previously, it was pages 35 and 54, which
21 are the applications, on the bottom right corner under
22 the initial of TM and I just want to verify is that --
23 you mentioned Steve M. Is that the same person?

24 A Oh, I have no idea. This -- Who's the T? I don't
25 know.



1 Q I thought that might have been --

2 (People talking at the same time)

3 Q But I might have made an assumption there.

4 A Yeah, I'm not sure. Now, this is his -- This is the
5 application for his EL -- What year is this, '09? I
6 don't know. I don't know whose initials those are, to
7 be honest with you. What was the other page you
8 referenced?

9 Q They're the same, 35 and 54.

10 A Oh, okay.

11 Q One was for the '09 and was for the '07 years, 2007,
12 2009.

13 A Yeah, I mean I don't -- I don't know, but it's tough
14 to say. They sure look like the same person. I don't
15 know, though. Based on initials alone, I don't know,
16 handwritten initials especially.

17 Q So, another question. I mean obviously we have a lack
18 of documentation. How does the -- During your
19 experience in the audit department, when you encounter
20 situations where there is a lacking of documentation,
21 how is that typically handled?

22 A Well, I can only speak to what I experience. I just
23 set down the path of getting that documentation,
24 right? You know, if I can't find it, I'm going to
25 request it again, but, you know, we need to be able to



1 justify our decisions the stakeholders require. But I
2 mean it should be demanded of us, right? The Board --
3 We owe it to the Board. We owe it to the
4 stakeholders. Yeah. So, I would -- I would try to --
5 I would try to obtain it again, get it back to them in
6 the certificate record database, server farm, server
7 facility.

8 JUDGE MARTIN: Mr. Baker.

9

10 EXAMINATION

11 BY BOARD MEMBER BAKER:

12 Q I want you to elaborate on that, please, because --

13 A Yeah.

14 Q -- we have to be able to justify our decisions.

15 A Yeah.

16 Q 14 years later, help me understand that.

17 A I don't know. I haven't been here for 14 years.

18 Q I know, but we're here to justify a decision that was
19 made 14 years ago. Help me understand that. Help me
20 understand why we have to do that?

21 A Why we have to?

22 Q That's what we're doing here today.

23 A Yeah. Well, there was --

24 Q This happened 14 years ago. Why are we trying to
25 justify that?



1 A My understanding was there was a referral made, and I
2 don't fully understand that referral process. There
3 was a referral made I believe from outside the agency.
4 I could be wrong. Again, I'm not part of the referral
5 process or the Intent to Revoke, nor was I a part of
6 the application approval, but when we get referrals
7 just like -- It's our duty to respond to that
8 referral, right? That's -- At least that's my
9 takeaway anyway. I think we have a responsibility to
10 whoever made that -- whoever the whistleblower is.

11 BOARD MEMBER BAKER: Very good. Maybe
12 that's come up.

13 JUDGE MARTIN: Further testimony?

14 BOARD MEMBER ENTREKIN: Board Member
15 Entrekin.

16
17 EXAMINATION

18 BY BOARD MEMBER ENTREKIN:

19 Q When those referrals are made for something very
20 similar to this, is this the procedure to revoke their
21 license or is there other steps?

22 A I'm sure that there are other steps. Again, I don't
23 know how these referrals come into the Department.
24 I'm not privy to that. It's a little bit out of my
25 wheelhouse. But I know from time to time I get a



1 request from my supervisor to perform a technical
2 review of a file, a meticulous review of a file based
3 on an outside referral, and I mean for me they've
4 never landed us in this situation, no. Oftentimes
5 it's -- it ends up in a -- maybe I determined that
6 there was egregious -- egregiously reported hours of
7 work experience and I have to adjust the heck out of
8 their file, or supervision issues, or something crazy,
9 yeah, but usually it's just an adjustment of hours of
10 work experience. This is the first time this has ever
11 happened to me that I know of.

12 JUDGE MARTIN: Mr. Knottingham.

13
14 EXAMINATION

15 BY BOARD MEMBER KNOTTINGHAM:

16 Q Board Member Knottingham. So, you were hired as a
17 state electrical inspector, correct?

18 A Correct.

19 Q What are the requirements to be hired as a state
20 electrical inspector?

21 A Four years J Card holder, right? So, once you card
22 out, the clock starts, you hold your J Card for four
23 years, and, then, if you're lucky enough to find an
24 opening and if you're lucky enough to get interviewed,
25 and if you're lucky enough to be the successful

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1 candidate, there you are.

2 Q So, are there any work requirements during that four
3 years or is it just a time period?

4 A I think you just have to -- That's a great -- I don't
5 know exactly. I'd have to read the WAC, but I believe
6 the requirement is that you've held your J -- journey
7 level certificate for four years.

8 Q You stated, the Jerry Springer comment from Mr. Baker,
9 that you worked with Mr. Leon?

10 A Yeah.

11 Q Did -- Mr. Leon worked for the Department as an
12 electrical inspector and he would have to meet those
13 same qualifications, correct?

14 A Absolutely, yeah, yeah. I mean I carded in Oregon and
15 Washington in '09. It's right about the time he
16 applied for his EL01. So, we're not too -- we're not
17 too far apart on that.

18 JUDGE MARTIN: Any other Board questions?
19 Mr. Molesworth.

20

21 EXAMINATION

22 BY SECRETARY MOLESWORTH:

23 Q So, Mr. Campbell, if we received -- and do you agree
24 with me that we received an anonymous complaint?

25 A That's what I've been told, yes.

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1 Q Okay. And we didn't know inside, outside. It
2 doesn't make any difference. We would treat those the
3 same way, right?

4 A Absolutely.

5 Q Okay. And so what -- I'm trying to figure out how to
6 ask that. When we look at -- When we look at from an
7 interior -- from a standpoint of why would we look at
8 something like this, when it has to do with one of our
9 own employees it becomes probably a little bit more
10 serious, wouldn't you agree --

11 A Yes.

12 Q -- because of the ethics involved, right? And so is
13 it -- would it be uncommon if another staff member
14 was -- decided that we wouldn't treat that staff
15 member the same way?

16 A Are you asking about like retaliation or --

17 Q No, no. I'm just asking you do we look at each
18 individual in our staff the same way?

19 A I believe we do, yeah. I think we do, yeah.

20 Q If something like this would happen -- If somebody
21 would accuse Wayne Molesworth, the Chief, of not
22 having enough hours --

23 A Right.

24 Q -- you'd investigate me?

25 A Oh, I'd be happy to.



1 Q I know you would, and I appreciate that much. And so
2 it wouldn't be uncommon for us to open a -- what we
3 want to call an investigation to determine whether or
4 not proper legal hours were received, and, because we
5 don't have the ability to verify the hours, that
6 really is the point of this case, wouldn't you say?

7 A Um --

8 Q I'm -- Yeah, I'm asking you --

9 A Yeah, yeah.

10 Q -- if that would be your opinion?

11 A That would be my opinion, yeah.

12 BOARD MEMBER ENTREKIN: I'm sorry, one last
13 question. Board Member Entrekkin.

14

15 EXAMINATION

16 BY BOARD MEMBER ENTREKIN:

17 Q We're investigating somebody's information from 15
18 years ago that there's a lack of information.

19 A Yeah.

20 Q If we were to look at to -- if we were to look into
21 other people's 15 years ago database, would we see
22 similar missing documentation? Is that kind of what
23 happened similar 15 years ago and we're just a lot
24 better now?

25 A I'd say, no, I don't think so. I would just -- I

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1 would think that we would be able to justify most, if
2 not all.

3 JUDGE MARTIN: Any other Board questions?

4 BOARD MEMBER NORD: I have one.

5 JUDGE MARTIN: Okay.

6

7

EXAMINATION

8 BY BOARD MEMBER NORD:

9 Q Board Member Nord. Is it correct and proper to say
10 that the audit division is the gatekeepers of the
11 integrity of our licensing system?

12 A Well, honestly, I would say licensing staff would be
13 the gatekeepers. We're just the guards at the door
14 making sure nobody busts it down.

15 Q As a resident of the State of Washington is it not
16 reasonable for myself to have an expectation that
17 those people that are gatekeepers responsible for the
18 integrity of the system their integrity should be
19 above reproach, their record should be absolutely
20 clean, correct, and complete?

21 A I think that's fair, very fair.

22 Q As a citizen I have the right to demand that those
23 people fulfill all these obligations?

24 A Yeah, I believe so, as a stakeholder especially.

25 JUDGE MARTIN: Any other Board questions?



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BOARD MEMBER JOHNSON: Yes.

EXAMINATION

BY BOARD MEMBER JOHNSON:

Q I was wondering -- What onus is on the individual to maintain records in a case like this? Are there any requirements for Mr. Leon to keep records back this far?

A Nothing in statute or rule, no. I mean it's important. I mean anybody in here who gets licensed in multiple states understands the importance of maintaining that documentation, right, because every application is different. You never know what you're going to need to do and the last thing you want to do is call your former boss 14 times to get licensed and certified in 14 states. You want to do it once, if you can, and don't waste his time. But there is no requirements, no.

Q Is there -- I'm not aware. Are you aware of any requirements the Department has to maintain records?

A Well, I mean we have requirements to maintain our records, yeah.

Q Beyond policy, is there any statute requirements for maintaining?

A There might be outside of -- outside of 19.28 and



1 outside of WAC 296-46B. I'm sure that there is. I
2 mean we have data stewards. Yeah, we get a little
3 bit -- a little bit crazy about our data. It's pretty
4 nuts.

5 JUDGE MARTIN: Other Board questions?
6 Mr. Knottingham.

7 BOARD MEMBER KNOTTINGHAM: Yeah.

8

9

EXAMINATION

10 BY BOARD MEMBER KNOTTINGHAM:

11 Q I don't know how much information you have about Mr.
12 Leon and what he did before he came to the Department,
13 but he had testified earlier that he was a contractor
14 and had been a contractor. Is it reasonable to
15 believe he was doing that for at least four years or
16 he had a license for four years, as we've established?
17 Is it reasonable to believe that he would have had
18 enough hours in that period when he either obtained
19 his license by mistake or it wasn't documented that he
20 would have accrued enough hours to sit for the exam
21 then.

22 A When did he get his -- When did he state that he got
23 his first contractor license, was it '06 in
24 Washington?

25 Q He was a con-- As I believe, he was a contractor, but

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1 and there is a notice from the information systems
2 group or IT group that says, "We did an update over
3 the weekend. Some information may be delayed as we
4 finish the upgrade". Have you had those situations
5 where information you were looking for wasn't there
6 until they finished?

7 A Oddly enough, I have that happen quite often with
8 almost every other database that I interact with, with
9 the exception of our imaging program, which is called
10 IDM. I can't recall ever getting an e-mail. I'd have
11 to check through my archives to know for sure, but I
12 can't recall that, no.

13 Q But there has been times when information that you're
14 looking for was either not there or delayed because
15 it's in one database or another is what I mean.

16 A Oh, in other databases, yeah. External to the agency
17 they're glitchy. Yeah, they're a real problem, but
18 that's -- that's the product that we have to deal
19 with. But, yeah, this is a pretty boring, very simple
20 document management system. You know, the worst thing
21 that ever happens to me is I have to reboot my
22 computer. Maybe it's not recognizing my credentials,
23 and I know it's a problem, and I always ping myself in
24 that database when I have an issue, "Okay, is this
25 thing acting up?", ping myself, nothing, okay, restart



1 my computer, but, yeah.

2 Q Thank you.

3 A No problem.

4 JUDGE MARTIN: Any other Board questions?
5 All right. Seeing that there are no other Board
6 questions, Mr. Barnes, any follow-up questions of your
7 witness based on the questions that were asked by any
8 of the Board Members?

9 MR. BARNES: Just a few.

10

11

FURTHER EXAMINATION

12

BY MR. BARNES:

13

Q Mr. Campbell, you mentioned that your investigation
14 into Mr. Leon or at least this -- our verification or
15 audit was based on a referral; is that correct?

16

17

A So, my understanding -- Kind of. My understanding is
18 that we received a referral. I was not part of the
19 initial investigation. The only reason I looked this
20 up was because I was asked to speak here today and I
21 wanted to be prepared; so, I did a minor deep dive,
22 and, you know, tried to gather my thoughts on Colorado
because every state is so different.

23

24

Q And, then, you also mentioned that in Exhibit C of Mr.
25 Leon's exhibits, which is the E1, I guess, sort of
licensing history.



1 A Yeah.

2 Q That's where the comments are to be placed?

3 A Well, that's going to be any comment associated with
4 that specific certificate record, right? So, if
5 anything happens with his certificate record, it's
6 going to be -- if it's of significance, the comments
7 will be attached there.

8 Q Now, Exhibit C is specifically for the 01 journeyman
9 electrician. Would there be a similar licensing
10 thing for say when he was an 07?

11 A Absolutely.

12 Q Or an electrical trainee?

13 A Yeah, yeah. So, the certificate record is tied to a
14 unique certificate number.

15 Q Is it possible for you to obtain those two licensures
16 for the electrical trainee for the 07?

17 A The comment sections, absolutely.

18 Q Yes. And they supposedly or allegedly would fill in
19 the gaps as far as what was done to verify these
20 records?

21 A Well, they should, yeah, yeah.

22 MR. BARNES: That's all the questions I
23 have.

24 JUDGE MARTIN: Cross-Examination, Mr.
25 Johnson?



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MR. JOHNSON: Thank you, Your Honor.

FURTHER CROSS-EXAMINATION

BY MR. JOHNSON:

Q This is a follow-up from a question by a Board Member, and I think it's Baker. I'm sorry, sir, I can't see your --

BOARD MEMBER BAKER: Oh, Baker.

Q Baker. My apologies. -- on the Jerry Springer question you had. So, you worked with Mr. Leon as an auditor, right?

A Correct.

Q He was an auditor, too?

A Correct.

Q Who was your and Mr. Leon's first level supervisor?

A At the time, Faith Jeffries.

Q And who was your second level supervisor?

A At the time -- Well, ultimately our Program Manager right over there, Mr. Wayne Molesworth.

Q And Mr. Molesworth mentioned an anonymous tip that came in and started this whole thing. Isn't it true that right before the anonymous tip came in the Department became aware that Mr. Leon had filed a whistleblower complaint with the internal State Ethics



1 Board about audits approving people without
2 investigations?

3 A I would not know. I don't have the ability. I don't
4 know. That's out of -- That's above my pay grade.

5 MR. JOHNSON: Thank you. Those are all the
6 questions I have, Your Honor.

7 JUDGE MARTIN: All right. Mr. Barnes,
8 follow-up and then we'll take a break.

9 MR. BARNES: I have no follow up.

10 JUDGE MARTIN: All right. Since there's no
11 further questions at this time point, thank you very
12 much, Mr. Campbell, for your testimony today. You are
13 excused. So, you're welcome to leave this fact
14 finding evidentiary hearing, if you'd like, or you're
15 welcome to remain and observe if you so choose.

16 At this point it is now 2:52. My suggestion is
17 maybe take an eight minute break until three o'clock.
18 Before we do that, Mr. Barnes, was the Department
19 planning on calling any additional witnesses or how
20 does the Department wish to proceed when we come back?

21 MR. BARNES: The Department has one
22 additional witness to call and it should be very
23 short.

24 JUDGE MARTIN: Okay. So, we'll take a
25 break until three o'clock and then we'll come back and



1 go ahead with the Department's second witness. We are
2 now off the record until three o'clock.

3 (Recess)

4 JUDGE MARTIN: All right, we are now back
5 on the record. We took about an eight minute break
6 and concluded the testimony of the Department's first
7 witness, Chris Campbell. At this point, Assistant
8 Attorney General Barnes, who does the Department wish
9 to call as its second witness?

10 MR. BARNES: The Department wishes to call
11 Shawn Johnson.

12 JUDGE MARTIN: All right. Mr. Johnson,
13 can you hear me okay?

14 SHAWN JOHNSON: Yeah.

15 JUDGE MARTINI: All right. You have been
16 called as a witness in the matter of Mark Leon, do you
17 understand that?

18 SHAWN JOHNSON: I do.

19 JUDGE MARTIN: All right. So, before you
20 begin testifying, do you mind if I place you under
21 oath so that anything you tell me going forward I'll
22 be able to properly consider as a part of the record?

23 SHAWN JOHNSON: No.

24 JUDGE MARTIN: All right. So, if you'd
25 please raise your right.



1 sure to answer yes or no when asked a question rather
2 than uh-huh, or yeah, or answering with a head nod,
3 okay?

4 SHAWN JOHNSON: Okay.

5 JUDGE MARTIN: I just want to make sure
6 your voice is picked up by my recording system, okay?

7 SHAWN JOHNSON: All right.

8 JUDGE MARTIN: All right. Mr. Johnson, any
9 questions of me before I turn it over to Assistant
10 Attorney John Barnes?

11 SHAWN JOHNSON: No.

12 JUDGE MARTIN: All right. At this point,
13 Assistant Attorney General Barnes, you can proceed
14 with your direct examination questioning of Shawn
15 Johnson.

16 MR. BARNES: Thank you.

17

18

19

DIRECT EXAMINATION

20

BY MR. BARNES:

21

Q Mr. Johnson, please state your full name for the
22 record.

22

23

A Shawn Johnson.

24

Q And what is your occupation, sir?

25

A I am an electrical virtual supervisor at the moment.



1 Q And who do you work for?

2 A I work for Labor and Industries.

3 Q How long have you worked for Labor and Industries?

4 A Going on 11 years.

5 Q Can you take us through your history, what positions
6 you held at L & I?

7 A I started as an electrical inspector in Region 3,
8 worked there a year, then went to Region 5 as an
9 electrical inspector, then left as an electrical
10 inspector in Region 5 and went to the virtual program
11 as virtual inspector for two years, I think, and then
12 went back to Region 5 to Kennewick, Walla Walla
13 service location as a supervisor, and then just a year
14 and a half ago or year ago, I guess, went back to be
15 the supervisor virtual electrical inspector program.

16 Q What are your qualification to be an electrical
17 inspector?

18 A The EL01 for four years to become an inspector and
19 I've had mine for more than that.

20 Q Did you have any practical electrical experience prior
21 to L & I?

22 A Yes. Yes, I worked at Local 76 for a contractor in
23 Local 76 for 26 years.

24 Q Now, what is a virtual electrical inspector?

25 A It is an inspector that we do inspections all across



1 the state via now we use Teams, and not all
2 inspections, but a lot of different inspections
3 throughout the state for different installations.

4 Q How does an electrical inspector get involved in a
5 revocation hearing?

6 A Say that again.

7 Q How does an electrical inspector get pulled into a
8 revocation hearing? What was your involvement in
9 this?

10 A I was asked from my boss at the time, the regional
11 administrator out of Region 5. He was asked, I think,
12 by Mr. Hornback as an innocent bystander, so to speak,
13 to ask to investigate an issue that was going on, an
14 anonymous tip or something, so...

15 Q So, what were your marching orders? What were you
16 supposed to do?

17 A Just investigate hours, see if hours were -- that I
18 could verify for Mr. Leon.

19 Q Have you ever been an L & I auditor?

20 A No.

21 Q So, can you tell us, then, what your investigation
22 consisted of? What did you do?

23 A I received some information from the Colorado website
24 and different -- and so I went through a lot of
25 paperwork through the Colorado web page, which, like



1 Chris said, is a great website, I think we talked
2 about it a lot here, and trying to verify training
3 hours, journeyman hours, or any type of hours, or
4 electrical contractor stuff, and so there's -- well, I
5 don't know how many, 1,500 some pages of it that we've
6 seen today, so trying to verify hours.

7 Q Okay. What did you find out about Mr. Leon's
8 connection with Colorado?

9 A As far as what I researched and found was nothing. He
10 was not a trainee, nor a registered 01, or electrical
11 contractor. I couldn't find anything.

12 Q So, after that dead-end, what did you do next?

13 A I researched some of -- you know, I've seen some of
14 the paperwork that we've had here. I actually --
15 the -- I think it's the 01, to take the 01 test. Both
16 tests, 01 and the 09, I believe were signed by the
17 same -- we were talking about the TM. It actually was
18 a customer service personnel who signed that, a
19 Treasure Mitchell, who signed for those. I
20 actually -- She no longer works at L & I, but she does
21 work for the State. I tried to call, left a message
22 with no response, but that -- that initial is a
23 customer service person. It's not an auditor, so...

24 Q So, what are you saying? Is it the comments that are
25 put into the electrical licensing Exhibit C was not



1 done by an auditor?

2 A Not to my knowledge, no. I was never able to talk to
3 her, but the initials and who signed for those was a
4 customer service agent.

5 Q Did you try to contact any of Mr. Leon's former
6 employers?

7 A There was -- The MIRR is no longer in existence and I
8 did not try to contact them.

9 Q Did you -- In your investigation, did you talk to Mr.
10 Leon at all?

11 A Not at all, no. I have never -- This is the first
12 time I've ever seen Mr. Leon. I didn't -- I don't --
13 didn't know Mr. Leon.

14 Q So, you mentioned that you were in receipt of the
15 letter from MIRR certifying electrical hours?

16 A I've seen that, yeah.

17 Q Did you try to confirm that in any way?

18 A I tried from the Colorado web page, yeah, their
19 website, and, like I said, like we've all -- I think
20 we've hammered that out a lot here. There was --
21 There's nothing. And I think Mr. Leon here admits and
22 says it is not.

23 Q Other than the two exhibits, the MIRR and then the
24 self-declaration of Mr. Leon, is there anything else
25 in the file that contains hours?



1 A No, nothing I could find at all.

2 Q Did you look at the comment section for Mr. Leon's 01
3 license?

4 A I have seen it.

5 Q It's Exhibit C.

6 A Right.

7 Q Is there anything on there that you can see that would
8 indicate an auditor signed off on the hours?

9 A No.

10 Q Is this Treasure Mitchell is her name on it?

11 A I don't see -- Yeah, at the very bottom, the 3/17/09,
12 9:22 a.m., yeah.

13 Q And what is that --

14 A Approved for the exam, EL01 exam.

15 Q So, it appears that Treasure Mitchell approved Mr.
16 Leon for the E1, the E1 exam?

17 A EL01, correct. And I believe also for the '07 exam
18 also, I believe.

19 Q Mr. Johnson, I am showing you -- this is not an
20 exhibit. This was pulled just this afternoon. These
21 are the comments for the licensing for the 07, the
22 administrator, and for the -- the trainee certificate,
23 and I believe, Mr. Johnson, that you have received a
24 copy of this?

25 A I have.



1 JUDGE MARTINI: All right. Mr. Barnes, are
2 you seeking to admit this an exhibit or merely to use
3 it to refresh this witness's memory?

4 MR. BARNES: I would hope to have it as an
5 exhibit, if possible, but I'm having him identify it
6 now.

7 JUDGE MARTIN: A foundation, but go ahead,
8 yeah.

9 Q Can you, Mr. Johnson, tell us what that document is?

10 A These are the -- his electrical trainee in the State
11 of Washington, the 07 for the State of Washington, and
12 his electrical administrator 01 specialty in the State
13 of Washington.

14 Q And from this, can you tell who you approved his hours
15 for the electrical trainee license?

16 A The trainee license they were approved by Treasure
17 Mitchell, approved, and they approved from the EL01
18 exam, and it says, "Received additional information
19 attesting to an additional 4,000 hours of 01
20 commercial industrial experience working as a sole
21 proprietor EC in Colorado, and that's signed also by
22 Treasure Mitchell.

23 THE COURT REPORTER: I'm sorry, you said
24 working as a sole proprietor what?

25 SHAWN JOHNSON: Sole proprietor electrical



1 contractor in Colorado.

2 Q Is there anything on the comment section that would
3 indicate that an auditor verified the hours that Mr.
4 Leon submitted?

5 A Not that I see.

6 Q Is there any other place besides the license where
7 there would be comments or something that would show
8 that the hours were verified?

9 A I think this was would be the place where it would be
10 in anything that I've seen.

11 MR. BARNES: Your Honor, I would like to
12 admit I guess as Exhibit 14 -- 15.

13 JUDGE MARTIN: Exhibit -- Department's
14 Exhibit 15; is that correct?

15 MR. BARNES: Correct.

16 JUDGE MARTIN: All right. Mr. Johnson, did
17 you have a chance to review that and do you have any
18 objection?

19 MR. JOHNSON: I have, Your Honor. I don't
20 have any objection.

21 JUDGE MARTIN: All right. So, Department's
22 Exhibit No. 15 is admitted without objection. You can
23 go ahead and proceed, Mr. Barnes.

24 MR. BARNES: Thank you. I'll provide a
25 copy at the next break.



1 Q (By Mr. Barnes, continuing) So, Mr. Johnson, after
2 contacting Colorado and looking at his file, were you
3 able to verify any of the hours Mr. Leon submitted?

4 A I wasn't no. By looking at their -- their website and
5 going through all their database, no, I could not
6 find, and from what I see Colorado is very similar, if
7 not followed what Washington does as far as their
8 rules and regulations.

9 Q And I want to refer you to Exhibit No. 12, which is
10 page 54 of the packet, and it was Exhibit 12 of the
11 Department's exhibits. Mr. Johnson, can you identify
12 what this document is?

13 A This is the application to take the 07 exam.

14 Q And, then, on the very bottom there are it looks like
15 in a Sharpie it looks like the letters TM and 27--

16 A 07.

17 Q 07.

18 A Um-hmm.

19 Q Do you know who the TM is?

20 A It's Treasure Mitchell. It's the same as what has
21 been on the -- in the same as the 09 or the 01.

22 Q Okay. And, so, this was the application for the 07.
23 Is there any employment history listed here?

24 A No.

25 Q I want to then refer you next to what's been marked as



1 Exhibit 4, Department's Exhibit 4, page 35. Can you
2 identify what that document is?

3 A That's the application for the 01 exam.

4 Q Okay. And, again, is it dated?

5 A It is, 3/17/09.

6 Q In the bottom right hand corner is the same initials
7 TM 3/17/09. Can you identify those initials?

8 A Treasure Mitchell.

9 Q Okay. And, then, halfway down it talks about
10 employment history and what was placed there?

11 A On file.

12 Q And in your research of the file were there just the
13 letter from MIRR and Mr. Leon's self-declaration
14 attestation? Were those the only hours you found?

15 A That's the only thing I've seen.

16 Q Did you do any investigations in your work as an
17 electrical inspector?

18 A Not really, no, I don't.

19 Q Well, have you ever come across or have you ever heard
20 of a situation where the hours are never verified?

21 A No.

22 Q What would you expect to be in the file if these hours
23 were verified?

24 A To state where they were verified from, where he
25 worked as either a trainee under an electrical



1 contractor somewhere.

2 Q Would it include the name of the electrical
3 contractor?

4 A It should, I would think.

5 Q Now, there has been some mention of this Department
6 employee named Steve. Do you know who that might be?

7 A I have no idea.

8 Q Okay. And did you see Steve's name on any of the
9 comments to any of the Mr. Leon's licensure or
10 documents?

11 A Nothing that I've seen, no, nothing that I've looked
12 at.

13 Q Mr. Johnson, do you have anything to add that you
14 haven't gone over today that deals with your
15 investigation?

16 A Just that, like I said before, the state of Colorado
17 mirrors what Washington does and I could not find
18 anything in my investigation. I know we've talked
19 about different things, but -- today, but nothing that
20 I found in the State of Colorado has Mark Leon's name
21 on it, nor any company that was an electrical
22 contractor that he was affiliated with.

23 MR. BARNES: Thank you. That's all the
24 questions I have.

25 JUDGE MARTIN: Cross-Examination, Mr.



1 Johnson, on behalf of your client, Mr. Leon?

2 MR. JOHNSON: Thank you, Your Honor.

3

4 CROSS-EXAMINATION

5 BY MR. JOHNSON:

6 Q So, who is Treasure Mitchell? You said she was a
7 customer service person?

8 A Yes, she was at this time, and she doesn't work for
9 the Department, and I am trying to remember -- I was
10 able to find her number in our database in the address
11 database, but I left a number or left a message and
12 never -- never had a response.

13 Q So, the customer service person, who's -- Treasure
14 Mitchell is a female, right?

15 A Yes.

16 Q And she would have been working at the counter here in
17 Tumwater?

18 A I don't know at the counter or if it was customer
19 service, but somewhere in here, yeah.

20 Q Did you hear Mr. Leon's testimony earlier this morning
21 about he how came and talked to a young woman at the
22 counter and she went and got the auditor?

23 A I heard it, yeah.

24 Q Okay. She would have been in that position of who --

25 A I don't know if she's at the -- I don't where she

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1 would have been, at the front desk or behind.
2 Customer service usually doesn't -- usually is
3 answering phones behind somewhere. They're not at the
4 front, but I don't know. I'm just -- Region 5 and
5 Region 3 customer is sitting behind.

6 Q If anybody, she would have been able to confirm or
7 deny everything Mr. Leon just told us about how he
8 came in and talked to the auditor, right?

9 A If she was able to be here, yeah.

10 Q And all you did was look up her number from the
11 L & I --

12 A From here, from our address book, and left a message
13 yeah.

14 Q When did you leave that message?

15 A When I was doing the investigation. I was still a
16 supervisor in Region 5 or in Kennewick; so, it would
17 have been -- I don't know.

18 Q How many months ago?

19 A Eight months.

20 Q You made one call eight months ago and left a message.
21 Anymore other effort to contact Ms. Mitchell?

22 A No.

23 Q And why didn't you ever speak to Mr. Leon?

24 A I didn't think -- I didn't need to speak to Mr. Leon.
25 I was just researching databases to see if I could



1 find hours for -- to be an electrician.

2 Q So, if you were trying to figure out whether Mr. Leon
3 actually worked hours that he claimed he worked, you
4 didn't think talking to Mr. Leon would be a good idea
5 to start?

6 A No, I really didn't.

7 Q You wouldn't have asked him like who did he work for,
8 do you have their number, can I call them to confirm,
9 that didn't cross your mind as an investigator?

10 A Well, I had that information through the MIRR is the
11 only thing I had.

12 Q Oh, you did --

13 A Other than that, no.

14 Q And you didn't even call that guy, did you?

15 A Huh-uh.

16 Q Why not?

17 A Because he was -- He's out of business. He's not even
18 a contractor.

19 Q He's still alive. We called him. Why didn't you call
20 him?

21 A Because I didn't feel I needed to.

22 Q So, really in your investigation all you did was go on
23 the Colorado website and see whether MIRR was listed
24 as an electrical contractor?

25 A No. I looked to see if Mark Leon was ever a trainee



1 or an electrician in Colorado and --

2 Q Okay, so --

3 A And companies that he worked for or had as an
4 electrical contractor.

5 Q Anything else you did?

6 A Not really. I went through this information, yeah,
7 no.

8 Q Do you feel like you did a thorough investigation to
9 find out whether Mr. Leon's hours could have been
10 confirmed or not?

11 A I thought I did, yeah.

12 Q You can't think of anything more you could have done?

13 A Well, not during -- You know, I could have had it, you
14 know, been my full time project probably, but --

15 Q Do you know why you were chosen to investigate this
16 case?

17 A I think probably because I didn't know -- even know
18 who Mark Leon was, so...

19 Q Did anybody ever tell you why they thought it was
20 important to tap somebody who had nothing to do with
21 the office that Mark Leon was in?

22 A I never was asked that question, no.

23 Q Nobody ever brought up the retaliation complaints that
24 he was making?

25 A Never knew a thing about it, no.



1 Q Wasn't the original investigator on this case Philip
2 Jordan, who was Mr. Leon's supervisor?

3 A I don't know. I know that he was the supervisor,
4 but --

5 Q As part of your investigation did you see any of the
6 letters that Mr. Leon's counsel wrote to him or that
7 he wrote to Colorado?

8 A No.

9 Q So, just the internet search?

10 A Just that, yes, plus the website.

11 MR. JOHNSON: Those are all the questions I
12 have for Mr. Johnson.

13 JUDGE MARTIN: Redirect, Mr. Barnes?

14 MR. BARNES: I don't have any redirect.

15 JUDGE MARTIN: All right. Do I have any
16 questions from the Electrical Board members? Mr.
17 Johnson first.

18

19 EXAMINATION

20 BY BOARD MEMBER JOHNSON:

21 Q Yeah, I was wondering, going back through records,
22 have you seen it's typical for a customer service rep
23 to actually approve applications?

24 A For me, I -- I don't. I don't really deal with that.
25 So, no. I would say no.



1 Q Are you aware of ever having a customer service rep
2 approve an application?

3 A I don't because I'm not in that department. So, I've
4 been just an inspector or supervisor; so, I can't
5 really answer to that.

6 Q Then regarding the records log, is there any audit on
7 who accesses the records and when they access the
8 record log?

9 A Not that I know of, no. So, to access the record log?

10 Q So, when you want to look up on their license, so
11 Exhibit C, I believe, and then also the Exhibit 15
12 that's brought on record --

13 A Right.

14 Q Any time someone accesses that or reads it, is there
15 any -- is there any record of who accesses it and
16 when?

17 A No, not that I know of, no.

18 Q So, is there any way for the Department to ascertain
19 when someone would access this record? So, like if
20 someone were to pull up his -- the notarized letters
21 that were submitted, there's no way to audit when
22 people access those records?

23 A No, not I know of, no.

24 Q And, then, you mentioned there was an anonymous tip.
25 Is there any way to determine who put in that tip?



1 A Yeah. I would say they should be answered.

2 Q Okay. The other thing then I would ask is, and this
3 sort of raised a question, that the person, I guess
4 Ms. Mitchell, doesn't have the authority to approve
5 the application and yet down at the bottom it's marked
6 and that's only initials that I see here. So, would
7 that be standard procedure that it would be signed by
8 somebody you said was a customer service person?

9 A And, again, I've never worked in the audit department
10 or anything; so, I wouldn't know the standard
11 procedure on it. I don't want to talk out of place.
12 So, I don't know that.

13 BOARD MEMBER GRAY: Thank you.

14 JUDGE MARTIN: Any other Board member
15 questions? Hearing none, Mr. Barnes, any follow-up
16 questioning based solely on the questions that were
17 asked by the Electrical Board Members?

18 MR. BARNES: Just one question.

19

20 REDIRECT EXAMINATION

21 BY MR. BARNES:

22 Q Mr. Johnson, the comment section on these licensure
23 documents on Exhibit C and Exhibit 15, you mentioned
24 that if somebody looked at them or was to look them up
25 that there would be no record of them signing in,

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1 correct?

2 A Correct.

3 Q But is it then safe to say that only if they actually
4 update the record would their initials then appear on
5 the record?

6 A Yep.

7 Q So, if an auditor was to make an update to any of Mr.
8 Leon's licenses, that update would then appear in the
9 comment section?

10 A It should, yeah, at least their -- like their log-on
11 ID, you know, in the statement.

12 MR. BARNES: Thank you. That's the only
13 questions I have.

14 JUDGE MARTIN: Mr. Johnson, cross-
15 examination within the scope of the Board Member
16 questions or within Mr. Barnes' questions just now?

17 MR. JOHNSON: Sure. I have a question on
18 this -- this exhibit, I think, 16, Your Honor, that we
19 just admitted, is that right?

20 MR. BARNES: 15.

21 MR. JOHNSON: 15. My apologies.

22

23 RE CROSS EXAMINATION

24 BY MR. JOHNSON:

25 Q And it says under 3/17/2009, received additional



1 information attesting to an additional 4,000 hours.
2 Were you able to determine what that additional
3 information was?

4 A For me it says that it was a sole proprietor in
5 Colorado and I did not see any electrical contractor,
6 so...

7 Q The question was: Did you ever find out what this
8 additional information that it says it received was?

9 A No, no.

10 MR. JOHNSON: Thank you. That was my only
11 question, Your Honor.

12 JUDGE MARTIN: All right. Mr. Barnes,
13 redirect within the scope of that question?

14 MR. BARNES: Yes.

15

16 REDIRECT EXAMINATION

17 BY MR. BARNES:

18 Q I want to -- I want to direct you to Electrical Board
19 packet page 38, and that's Exhibit 6 of the
20 Department. Can you identify what that document is?

21 A It's "Sole proprietor starting January 2000 with the
22 proper supervision. I have performed 4,000 hours of
23 new commercial installation."

24 Q And what's the date of that?

25 A It is March 17, 2009.



1 Q Okay Now, referencing you back to Exhibit 15, in the
2 last question you WERE asked about you were asked
3 about the approved for the -- No, where it indicates
4 the 4,000 new hours is there a date on that one, as
5 well?

6 A Yeah, for the -- there's March 17th for the trainee --

7 Q And so --

8 A -- the same.

9 Q Do you have any doubt in your mind that the -- what
10 that is referencing is the 4,000 hours is Mr. Leon's
11 self-attestation of hours?

12 A I would -- Yeah, that's what that is, it looks like to
13 me.

14 MR. BARNES: I have no further questions.

15 JUDGE MARTIN: Mr. Johnson, Recross?

16 MR. JOHNSON: No thank you, Your Honor.

17 JUDGE MARTIN: Any follow-up, Board
18 Members, based solely on those questions that were
19 just asked? Mr. Baker.

20 UNIDENTIFIED SPEAKER: Here we go.

21 JUDGE MARTIN: We can open it up, but I
22 want to try to limit it to what was just discussed,
23 but go ahead.

24 BOARD MEMBER BAKER: I think it's relevant.

25 ///



1 EXAMINATION

2 BY BOARD MEMBER BAKER:

3 Q I'm on the page 35, it's the application that was
4 approved, and paying attention to the stamps that are
5 on here, and I'll give you a second to get there, page
6 35, and there are these stamps here and all there that
7 says, and all in kind of the center left, it says
8 approved for the exam, and then to the right of that
9 it says Received Labor and Industries March 17, 2009,
10 which is the same date that it was signed at the
11 bottom, Region 4 Tumwater, data entry, then there's a
12 signature TM, March 17th. What does that mean?

13 A I don't know what that means. I don't know what that
14 is.

15 Q Does the Department, the TM, enter that data into some
16 type of a drive, a storage, or is there other data
17 that went with this, what is that saying? What is
18 that communicating?

19 A And, like I said, not being a part of the application
20 process or the audit process, I -- I wouldn't know
21 what that would be, Mr. Baker.

22 Q Do you know if the Department has a process for the
23 data entry that somebody reviews that data to confirm
24 that's it all there and accurate?

25 A Again, not being a part of that, I don't know. Mr.



1 Campbell is probably -- would be better at that.

2 Q But is it fair to look at this application and say
3 that the applicant was approved to take the exam?

4 A Well, that's what it -- It is an approval on the
5 application for the exam.

6 Q Did the Department approve the applicant to take the
7 exam?

8 A Yep.

9 Q Okay.

10 A That's what it -- That's what it's checked, yeah.

11 BOARD MEMBER BAKER: Okay.

12 JUDGE MARTIN: All right. Any other Board
13 questions? All right. Mr. Baker, my apologies to
14 you. You gentlemen are all the triers of fact in
15 this, and so it is your duty and responsibility to get
16 to the bottom of this case; so, you are more than
17 welcome to ask whatever questions you deem appropriate
18 to get down to the bedrock of this case. My
19 apologies, Mr. Baker.

20 BOARD MEMBER BAKER: It's all good.

21 JUDGE MARTIN: Mr. Barnes, follow-up based
22 on the questions just asked?

23 MR. BARNES: I don't have any follow-up.

24 JUDGE MARTIN: Mr. Johnson?

25 MR. JOHNSON: No follow-up, Your Honor.



1 JUDGE MARTIN: Well, with that, thank you
2 very much for your testimony today. Mr. Johnson, you
3 are excused. You are welcome to leave this fact
4 finding evidentiary hearing if you'd like or you're
5 welcome to remain here and observe, if you're so
6 inclined.

7 SHAWN JOHNSON: Thank you.

8 JUDGE MARTIN: Thank you very much for your
9 testimony today.

10 THE COURT REPORTER: And I had one
11 question. Your first name is Shawn. Can you spell
12 it?

13 SHAWN JOHNSON: S-h-a-w-n.

14 THE COURT REPORTER: Thank you. I just
15 wanted to make sure how you spell it.

16 JUDGE MARTIN: Mr. Barnes, does the
17 Department wish to call any additional witnesses or is
18 it resting its case, subject to providing a closing
19 statement?

20 MR. BARNES: Yes, the Department is
21 resting.

22 JUDGE MARTIN: Okay. With the Department
23 now resting its case, Mr. Johnson, representing Mr.
24 Leon, do you wish to present a rebuttal case or
25 discuss closing?



1 MR. JOHNSON: You're Honor, I'd like to
2 present some rebuttal testimony, if you would allow me
3 to describe it first. I want to make sure I have a
4 ruling from you on whether it's appropriate or not.

5 JUDGE MARTIN: Okay. Go ahead.

6 MR. JOHNSON: Some of the Board Members
7 have asked about a triggering event, the Jerry
8 Springer question, and we've brought up that there was
9 a complaint that was made. I would like to offer
10 rebuttal testimony to provide just a description of
11 the complaint and enter a letter from Mr. Leon's
12 attorney that was written to his supervisor about it.

13 JUDGE MARTIN: Mr. Barnes, your response?

14 MR. BARNES: Well, I think certainly that
15 the anonymous tip has come up, and he can clear a line
16 on that. I'm not so sure about the attorney letter,
17 though.

18 JUDGE MARTIN: Okay. Mr. Johnson, your
19 response?

20 MR. JOHNSON: I think it's relevant to the
21 questions that the Board was asking, and there's
22 really been no testimony on it to date. So, I was
23 hoping to at least answer some of those questions by
24 offering testimony. That's why I think it's relevant.
25 And like I said, its been brought up a couple of times



1 and sort of left hanging there. I feel like they'd
2 want to hear it, and, if that's true, then I'd be
3 happy to provide it.

4 JUDGE MARTIN: Mr. Barnes?

5 MR. BARNES: Well, if it's attorney
6 testimony, then they need to be sworn-in, but
7 otherwise if it's from his previous attorney it's just
8 going to be hearsay.

9 JUDGE MARTIN: All right. Here's what I'm
10 going to rule on this. I believe that the door has
11 been opened in regard to this very issue. If, Mr.
12 Johnson, your client, Mr. Leon, wishes to be called as
13 a rebuttal witness and essentially walk this
14 Electrical Board through the basis, reason, and
15 foundation for what has occurred, he's more than
16 welcome to. The door has been opened. As for the
17 document itself, was that one that was crafted by you,
18 Mr. Johnson, or by other counsel?

19 MR. JOHNSON: No, Your Honor, it was by
20 other counsel and directed to Philip Jordan who was
21 the initial investigator in this case.

22 JUDGE MARTIN: Is this information that Mr.
23 Leon could testify to knowing the contents of that or
24 of any complaints he may have filed? I understand
25 that that -- you know, there's relaxed rules of



1 evidence in the APA that would allow that, but if it's
2 not subject to cross-examination then it brings up the
3 best evidence rule, and I'm wondering if maybe your
4 client may be in a better position to testify, to walk
5 the Board through what had occurred?

6 MR. JOHNSON: Absolutely, Your Honor, and I
7 agree. The plan that I had was to have him testify as
8 to what complaints he made and how that affected the
9 office, and the attorney letter would only be provided
10 to show that it was around the same time period that
11 this revocation period -- hearing was started because
12 that's what the letter addresses. Just for the time
13 period, it won't add anything factually to the
14 testimony.

15 JUDGE MARTIN: Okay. My suggestion is
16 maybe recalling your witness, Mr. Leon, to testify
17 regarding the facts, and, if he knows the contents of
18 the letter, he's welcome to outline that and walk the
19 Board through what had happened in regard to the time
20 frame, and then that way not only would he be subject
21 to cross-examination from Barnes, but more importantly
22 he would be able to answer questions from the
23 Electrical Hearings Board itself. Does that sound
24 fair?

25 MR. JOHNSON: Yes, Your Honor, I think



1 that's fair.

2 JUDGE MARTIN: And, Mr. Barnes, does that
3 sound fair, as well?

4 MR. BARNES: Yes, it does.

5 JUDGE MARTIN: Okay. All right, Mr. Leon,
6 you were called under oath previously this morning.
7 You're still under oath; so, rather than swearing you
8 in and repeating the same process, we'll go ahead.
9 Just assume and infer that you have continued to be
10 under oath. At this point, Mr. Johnson, you can go
11 ahead and present rebuttal testimony from your
12 testimony of Mr. Leon.

13 MR. JOHNSON: Thank you, Your Honor.

14

15

16 REBUTTAL TESTIMONY OF MARK LEON

17

18 DIRECT EXAMINATION

19 BY MR. JOHNSON:

20 Q Mr. Leon, we heard Mr. Campbell testify that he was a
21 co-worker of yours. What -- What position did you
22 hold while you worked near Mr. Campbell?

23 A I was the same position, same title as Mr. Campbell.
24 I was an electrical inspector and lead performing
25 audits.



1 Q So, were you an auditor?

2 A I was. I had been an auditor since roughly 2016.

3 Q And, so, during the time you were an auditor, the last
4 phase before you left L & I, you resigned, didn't you?

5 A I did resign.

6 Q So, before you resigned, who was your last supervisor?

7 A It was Philip Jordan was my supervisor.

8 Q And who is Mr. Jordan's supervisor?

9 A It was, I believe, Wayne, Wayne Molesworth.

10 Q And before you were notified that there was an
11 anonymous complaint and a revocation investigation,
12 had you made any complaints about your division?

13 A I had.

14 Q Can you tell us, and here's how I'd like you to lay it
15 out to be clear, to whom did you complain and what was
16 the complaint?

17 A I initially started at the beginning of the year.
18 This would have been January, February, something like
19 that.

20 Q Of what year?

21 A Of 2023.

22 Q To whom did you complain?

23 A To my direct supervisor, Philip Jordan.

24 Q What was the complaint?

25 A That Audit needed a standardized practice for



1 approving hours, that they -- specifically that Chris
2 was approving hours without performing a thorough
3 audit. I complained that audit, many different
4 auditors were coming and going. I, as the senior most
5 auditor at the time, had noticed that people were
6 almost approving ad hoc. I witnessed individuals not
7 leaving approval notes. I noticed the notes, in fact,
8 in Quick Cards were not complete and thorough. I was
9 then --

10 Q The Chris that you just mentioned was Chris Campbell,
11 who just testified here?

12 A Chris Campbell, that is correct.

13 Q And so you made that complaint to Mr. Jordan?

14 A I did.

15 Q And --

16 A Many times.

17 Q How did Mr. Jordan respond?

18 A Mr. Jordan asked me to quit critiquing my colleagues'
19 work. He asked me to refrain from speaking with the
20 other auditors, that I needed to focus on my own
21 workload.

22 Q And then did you bring that complaint to another
23 entity after you didn't get satisfaction speaking to
24 Mr. Jordan?

25 A Later on I had.



1 Q Who did you go to next?

2 A I made the complaint to -- There was two complaints,
3 but one of the complaints, that complaint was given to
4 the -- I reported it to the Whistle Board,
5 Whistleblowers. I reported it as a whistleblower.

6 Q And to whom did you make the other complaint?

7 A The other complaint was an ethics violation that I had
8 witnessed regarding some of our teammates that --

9 Q Can you explain concisely what you reported was the
10 ethics violation? What did you say you observed?

11 A Mr. Simshauser was in Everett at training and they
12 were -- I had overheard that they were going to attend
13 a game in downtown Seattle. I was asked about going.
14 A colleague of mine, Tyler Kent, called me, he was new
15 at the Department at the time, and he asked me if that
16 was appropriate. I told him that it sounded like an
17 ethics violation and that he should not go. I had
18 spoken with Mr. Jordan regarding it and he had said
19 that I made the right call to advise my co-workers not
20 to go because he would hate to do the paperwork behind
21 that.

22 Q So, these two complaints that you made, do you know
23 did they result in any further investigation that you
24 know of?

25 A I did -- I did submit something. I believe I



1 submitted something internal for an internal
2 investigation performed by Labor and Industries for
3 the ethics violation, and then also submitted the
4 ethics violation to I think it's the Washington State
5 Board of Ethics. I don't remember.

6 Q And during this process from the time you first
7 complained to Mr. Jordan to the time you're submitting
8 information to the investigatory boards, what's this
9 general time period, how many months does that entail?

10 A It started in January or February of '23 all the way
11 through my resignation.

12 Q And, then, when did you -- Well, first how did you
13 find out that they were going to be investigating you
14 to revoke your license?

15 A I was given a calendar invite by I believe Phil Jordan
16 and Brian, I don't remember his last name, but it was
17 Brian --

18 MR. JOHNSON: You're Honor, I'm going to
19 offer the witness an exhibit to refresh his memory.

20 JUDGE MARTIN: Okay, go ahead.

21 A Brian Hornback.

22 Q And tell me about the meeting with a Mr. Jordan and
23 Mr. Hornback?

24 A The meeting was August 3, 2023. It was -- The
25 calendar invite said that it was a meeting to discuss



1 this anonymous allegation and how they were going to
2 respond to it.

3 Q Were you told at that time that an investigation had
4 begun?

5 A I was told that it was only a conversation and that it
6 was not an investigation yet; however, during that
7 conversation, Phil Jordan had offered the name of the
8 auditor that I may have spoken with.

9 Q Did that indicate to you that he had already looked at
10 your record?

11 A It did, and based on my Labor and Industries training,
12 I was unsure that he was in a position to be
13 investigating me at that time and so I did provide an
14 e-mail.

15 Q And, so, as you -- You reviewed the full record from
16 the Department, haven't you?

17 A Yes.

18 Q And was Mr. Jordan the main investigator in this case?

19 A Mr. Jordan is the only individual that I've seen with
20 e-mails. I did not see any e-mails from Shawn
21 Johnson, or Chris Campbell, or really anybody else.

22 Q And did you consider the meeting that you had with Mr.
23 Jordan and Mr. Hornback to be retaliatory for your
24 having complained about auditors not doing a thorough
25 job investigating?



1 A I did, especially after I looked at the Department
2 record that was presented seeing that the e-mails from
3 Philip Jordan were in July, and the conversation, the
4 meeting that I was having with Mr. Hornback and Mr.
5 Jordan was in August.

6 Q And did you retain an attorney to write a letter to
7 the Department about your concerns about retaliation?

8 A I absolutely did.

9 Q And how soon after this meeting did you choose to
10 resign?

11 A At the end of the year. I was under tremendous stress
12 from my supervisor, from individuals that I worked
13 with, from the L & I investigator. I needed to
14 resign.

15 Q Did you ever bring any of your concerns about
16 retaliation to Mr. Molesworth?

17 A No, I did not.

18 MR. JOHNSON: Your Honor, at this point
19 I'll offer the letter from the attorney into evidence
20 to see if there's any (inaudible)

21 THE COURT REPORTER: "to see if there's"
22 what?

23 MR. JOHNSON: To see if there's any
24 objection.

25 THE COURT REPORTER: Thank you.



1 JUDGE MARTIN: Mr. Barnes.

2 MR. BARNES: I haven't even seen the
3 letter; so, I'm going to object.

4 MR. JOHNSON: Oh, sorry. It is at page 57
5 of the Department record.

6 JUDGE MARTIN: Mr. Barnes, do you want to
7 have an opportunity to review that and then let me
8 know?

9 MR. BARNES: Yes. Your Honor, I'm just
10 going to object to it in that it contains -- it
11 appears to contain testimony of non-testifying
12 individuals today; so, that's all going to be hearsay.
13 It also brings in additional actions of individuals
14 that didn't testify.

15 JUDGE MARTIN: Mr. Johnson, your response?

16 MR. JOHNSON: Your Honor, I've given you
17 the best argument I can for why the letter should come
18 in. If you deny it, I'll simply have Mr. Leon testify
19 as to the date the letter was sent.

20 JUDGE MARTIN: I'm going to sustain the
21 objection by Mr. Barnes just because he didn't have a
22 chance to review that fully. In addition, it kind of
23 opens up a whole other bunch of gamuts that may not be
24 associated with this case or reference parties that
25 are not presently involved, and for the sake of



1 simplifying the issues and judicial economy you're
2 welcome to have your witness testify regarding the
3 time frame and possibly the nature of the letter, but
4 not the letter itself, okay.

5 MR. JOHNSON: Will do. Thank you, Your
6 Honor. And just one brief correction, it came from
7 the Department's records; so, it hasn't been sprung on
8 opposing counsel.

9 JUDGE MARTIN: Okay. Duly noted. Go ahead.

10 Q (By Mr. Johnson, continuing) Mr. Leon, did you
11 actually hire an attorney to write a letter?

12 A I did. I hired Jessica Creager.

13 THE COURT REPORTER: I'm sorry, can you
14 repeat the name?

15 MARK LEON: Jessica Creager.

16 THE COURT REPORTER: Thank you.

17 MARK LEON: C-r-e-a-g-e-r.

18 Q What was the date that the letter was sent to the
19 Department?

20 A August 18, 2023, from Seattle Litigation.

21 Q And to whom was the letter sent?

22 A It was sent to Darcy Worms, Chief Human Resource
23 Officer, Lisa Kahn, Human Resource, Philip Jordan,
24 Compliance and Audit Supervisor, Brian Hornback,
25 Deputy Assistant Director of Guild Services, and Clint



1 Bryson, my union representative.

2 Q After this letter was sent is that when this went from
3 being a conversation to an investigation?

4 A I do believe so.

5 MR. JOHNSON: Thank you, Your Honor. Those
6 are all the questions I have on that topic.

7 JUDGE MARTIN: All right. Cross-
8 Examination, Mr. Barnes?

9 MR. BARNES: Yes.

10

11

CROSS-EXAMINATION

12

BY MR. BARNES:

13

Q Mr. Leon, you never saw the anonymous tip against you
14 did you?

14

15

A I did not see it until it was submitted recently,
16 until I looked at it during -- in the Electrical Board
17 packet. I had requested it and Darcy Worms had let me
18 know that she was -- she was -- did not -- she did not
19 know if it could be provided to me.

19

20

Q But you did not know anything about the allegations
21 until after you filed your ethics violation and your
22 Whistleblower complaint?

22

23

A Restate that, please.

24

Q I said you did not know what the allegation contained
25 or had not seen the allegation at the time that you

25



1 filed your whistleblower and ethics violation?

2 A It was told to me that it was an anonymous complaint.

3 Q Did they indicate what the substance of the complaint
4 was?

5 A Yes. They -- they read it.

6 Q So, you know that at the time that the complaint
7 involved hours, is that correct?

8 A Correct.

9 Q Now, what was the exact ethics violation, I might have
10 missed that, that Mr. Simshauser may have committed?
11 What exactly was that ethics violation?

12 A He was staying in Everett and he was commuting from
13 Everett to downtown Seattle to a baseball game in a
14 company vehicle.

15 Q I see. So --

16 A And based on ethics training, that would be an ethics
17 violation.

18 Q That would be outside the mileage that he could use
19 for a -- while he has a state car; is that correct?

20 A The primary purpose was to go to a baseball game, I
21 believe, yes, it would be.

22 Q Do you know whether or not anybody went to that
23 baseball game then?

24 A I do know for a fact that Cory Simshauser and Tyler
25 Kent were at the ballgame together.



1 Q Was your Whistleblower complaint along similar lines
2 about the ethics violation?

3 A I made the Whistleblower complaint because of my
4 repeated e-mails and conversations with Philip Jordan,
5 and Christopher Campbell, and audit staff regarding --
6 and without seeing any changes I believe it was my
7 responsibility to make the complaint.

8 Q And did you provide any of those e-mails and
9 communications in your defense of the action today?

10 A No, I did not.

11 Q So, do you have any record that the Whistleblower or
12 even the ethics violation was ever received by the
13 Department?

14 A I don't have a record here, but I was told that an
15 investigation was underway.

16 Q In that investigation you were told by who?

17 A I believe actually it was during -- it might have been
18 during a team meeting that that comment had come out
19 while I still worked with the Department.

20 Q And your resignation, was that at the end of 2023?

21 A It was -- Around there. Around that time.

22 Q And that was a voluntary resignation?

23 A Yes.

24 Q And the other comment, had your Whistleblower
25 complaint ever gone to investigation or hearing?



1 A They kept asking questions, but I was burned out at
2 the time and just didn't pursue it, and, once you quit
3 state service I was no longer eligible to keep
4 submitting for that Whistleblower complaint.

5 Q So, nothing ever became of the Whistleblower
6 complaint?

7 A No. I resigned.

8 Q Now, you did say that you mentioned that you had a
9 complaint to Philip Jordan about the auditors not
10 verifying hours; is that correct?

11 A I had a complaint to Philip Jordan that since Philip
12 Jordan became the supervisor from Faith Jeffrey that I
13 had noticed approvals by the auditors to be not
14 complete, that I noticed that hours were just being
15 approved without investigation. I knew this because
16 the questions that I would ask them about their audits
17 and what they were performing they did not have the
18 answers to.

19 Q Did you know a Treasure Mitchell when you were working
20 at the office?

21 A I did not, no.

22 Q And do you know whether or not Treasure Mitchell
23 approved the hours going outside of the work of the
24 auditor?

25 A I spoke to the auditor. I know that he told her that



1 I could be approved. I don't know who approved what.
2 I was standing there, but I didn't watch the key
3 strokes.

4 Q As far as the -- Did you file a complaint against any
5 other auditor besides Chris Campbell?

6 A The complaint was -- the Whistleblower complaint was a
7 general allegation against the audit group. It was
8 not specifically targeting Chris Campbell. My
9 complaint with Philip Jordan started as a reasonable
10 conversation, I thought, to inform my supervisor that
11 auditors were not performing their job, and I didn't
12 feel supported in terms of --

13 Q When you made your complaint to --

14 A I'm sorry.

15 Q Did you finish your answer?

16 A No, I did not.

17 Q Please continue.

18 A Please restate the question.

19 Q So, when you filed your complaint with Mr. Jordan, you
20 did not name any specific individual; is that correct?

21 A That is correct. It was -- it was just Audit as a
22 whole for things that I had noticed.

23 Q So, it was a complaint against how Mr. Jordan ran the
24 audit department?

25 A Faith Jeffrey abruptly retired as the manager, as the



1 supervisor for Audit. She had been working for the
2 Department for quite a number of years and oversaw
3 that-- oversaw that department. Philip Jordan took
4 over, I think, I think in '22. I don't -- I don't
5 believe it was in '23.

6 Q So, your complaint was essentially that Mr. Jordan was
7 not supervising the audit unit as Faith Jeffrey had
8 done in the past, is that a fair summation?

9 A Yes, that -- No. It's -- It's that Philip Jordan --
10 it is that Philip Jordan was not supervising the audit
11 group as Faith Jeffrey had done in the past. But it
12 was because I had noticed audits were just being
13 approved. It seemed like there was a press or find
14 reasons to approve, find reasons to approve, quit
15 denying. That was a common theme amongst our work
16 group. They said that -- I was told that -- Give me a
17 one second. There was pressure put on our group by
18 the Chief and by Philip Jordan to rush through the
19 audits to get the audit cue down instead of thorough
20 investigations. Prior to Mr. Jordan there was a
21 backlog. Once Mr. Jordan picked up, we were no longer
22 to go out into the field and perform compliance
23 investigations and were told the audit numbers needed
24 to come down whatever it takes.

25 Q Did Mr. Jordan ever tell you to not verify hours on an



1 exam application?

2 A Nobody would say that. No person, no -- My supervisor
3 never said that, but what my supervisor did say is,
4 "When the audit cue gets down to a certain number we
5 will let you out in the field to perform compliance
6 investigations. Until that time you need to be in the
7 office working." It is seen as enjoyable to get out
8 of the office as many of us electrician don't like to
9 be tied to a desk. So, it was seen as almost a perk
10 to be able to go out and do compliance investigations
11 instead of being at the desk performing audits.

12 Q So, you were mad at Mr. Jordan because he took you off
13 of field inspections and put you on the audit desk
14 full time until the backlog was complete?

15 A No. I was not mad at Mr. Jordan. I was disappointed
16 that the audits were just being less than thorough.
17 The audits appeared -- Once Faith Jeffrey retired and
18 Phil Jordan became supervisor, it appeared that there
19 was this rush to get audits approved instead of
20 investigated. That is why the ethics complaint was or
21 that's why the whistleblower complaint, that's why I
22 had submitted e-mails trying to initially have just a
23 conversation about it and instead I was reprimanded
24 for it.

25 Q So, Mr. Jordan put you on the audit committee full



1 time or to do that work full time to catch up, is that
2 the correct?

3 A Yes. We were told that until the audit cue came down
4 that no more job site visits would be performed.

5 Q But Mr. Jordan or nobody that you can name told you to
6 not verify these hours in order to catch up in a
7 hurry?

8 A Sometimes people don't need to tell you something to
9 understand what they're telling you, and that's common
10 sense.

11 MR. BARNES: I have no further questions.

12 JUDGE MARTIN: Redirect, Mr. Johnson?

13 MR. JOHNSON: No redirect, Your Honor.

14 Thank you so much judge.

15 JUDGE MARTIN: Board Members, any
16 questions? Mr. Molesworth.

17
18 EXAMINATION

19 BY SECRETARY MOLESWORTH:

20 Q So, Mr. Leon, since we're talking about hours and how
21 you verify hours, I'm curious about as an ex-auditor
22 how you would view the hours that you submitted and
23 would you have approved those hours with as little
24 information as what you gave us?

25 A I offered the documentation based on the disk to the



1 auditor that I had spoken with. He made the call not
2 to have me print it out and provide that
3 documentation. At that time as an auditor I would
4 have required that information on that disk to be
5 printed and I would have submitted documentation. I
6 also would have left approval notes and not just
7 approved for EL01. That's what I would have done.

8 Quite often in my time as an auditor for Labor
9 and Industries since 2016 until my resignation quite
10 often there were approvals done by phone and it wasn't
11 just me, it was other auditors making phone calls to
12 make determinations and that was because your former
13 technical specialist Rod Mutch had said RCW 19.28.181
14 gave the auditor its -- it lists in there the
15 Department, and the auditor represented the
16 Department, and so the auditor could make those
17 decisions. It said something of -- He said something
18 to the matter of, "That's why you get paid for your
19 experience. You need to make those decisions."

20 JUDGE MARTIN: Other Board questions? Mr.
21 Knottingham.

22 SECRETARY MOLESWORTH: I --

23 JUDGE MARTIN: Oh, go ahead.

24 SECRETARY MOLESWORTH: I just have a couple
25 more, right?



1 Q (By Secretary Molesworth, continuing) So, as we sit
2 here and talk about the supervisor's responsibilities
3 and what you figure your responsibility was to make
4 him aware that these audits were being done, was
5 the -- Did Phil give you direction to review audits
6 other than your own?

7 A He did not, but I had received a phone call from an
8 individual who questioned the determination. He
9 questioned the determination that Chris had made. The
10 individual on the phone had stated that their friend
11 had been approved and I asked for the name of the
12 friend. I looked up the friend who had been approved
13 and it was an individual who was a plant electrician
14 in Oregon and Chris had approved him for his
15 journeyman exam. I let -- I called Chris and -- I
16 first called Chris asking for, you know, the plant
17 electrician who has been early maintenance. You know,
18 we had conversations about it. At that point after
19 that I had received a telephone call from Philip
20 Jordan asking me not to critique colleagues' audits.

21 Q So, in my experience in L & I and my training it tells
22 me that you were acting as a supervisor because the
23 proper thing to do, maybe you agree, maybe you don't,
24 that's what I'm looking for, is that you should have
25 taken that name of the individuals that called you and



1 referred him to Phil Jordan because Phil Jordan had
2 the authority to talk to his staff, not another staff
3 member, is that probably the process you should have
4 followed?

5 A No. The direction I was given by Faith Jeffrey was --

6 Q She no longer works here.

7 A I'm sorry, you're interrupting. The direction I was
8 given by Faith Jeffrey was to have a conversation with
9 the auditor, a friendly conversation. When Philip
10 Jordan had taken over Audit, he did not provide
11 direction, other than keep doing what Faith Jeffrey
12 had asked you to do. That is why I had a conversation
13 with Chris Campbell.

14 Q Do you know what the results of the complaints were
15 that you filed?

16 A I do not.

17 Q Because there was no result, no findings?

18 A I --

19 MR. JOHNSON: Your Honor, I'm going to
20 object to the Board Member testifying, because that's
21 what this is.

22 SECRETARY MOLESWORTH: No, that was a
23 question. Was there?

24 JUDGE MARTIN: Do you know the answer to
25 the question, Mr. Leon, that was asked?



1 A I don't know the outcome of any of the investigations.

2 JUDGE MARTIN: Mr. Baker.

3 BOARD MEMBER BAKER: I don't know the
4 answer, but I feel like the result of the complaint he
5 filed is this. This is the results, in my opinion, of
6 the complaint that he filed.

7

8 EXAMINATION

9 BY BOARD MEMBER BAKER:

10 Q You mentioned earlier you were reprimanded. How were
11 you reprimanded, do you recall that? Earlier you
12 said you were reprimanded.

13 A I don't recall.

14 Q Do you find it ironic just a little bit that the
15 complaint that you filed was auditors were not
16 capturing or placing the documents for their audits in
17 their job, they weren't doing their job properly, and
18 yet here we are discussing you over a situation where
19 an auditor didn't file records properly, because I
20 believe there was a disk. I believe an auditor looked
21 at that disk. But it's not on file. We don't have
22 records of that. I just find -- Do you find that
23 ironic?

24 A I do.

25 SECRETARY MOLESWORTH: I think we're making



1 that it was thorough. This would have been my worst
2 nightmare for somebody.

3 JUDGE MARTIN: Other Board Members
4 questions?

5 BOARD MEMBER ENTREKIN: Yeah. Board Member
6 Entrekin.

7

8 EXAMINATION

9 BY BOARD MEMBER ENTREKIN:

10 Q I've got a couple questions. The first one, you had
11 mentioned there was two different complaints that you
12 put in. One was the ethics. But you were talking
13 about the initial complaints you were doing to Jordan.
14 It sounded like you were doing it audibly. Was any of
15 that documented like in an e-mail or anything else
16 like that? Along with that, it sounds like you were
17 doing it audibly. I didn't hear whether that was
18 documented also.

19 A There are e-mails to Philip Jordan making him aware of
20 a possible situation in audit, yes, there was.

21 Q Okay. My other question is the time you were an
22 auditor and I want to ask you the same question I
23 asked Mr. Campbell. As an auditor or any employee,
24 once data is put into the database about what your
25 findings are can you take that information out or add



1 to -- probably add to because you're an auditor, but
2 can -- once you put it in the database, can you pull
3 that out?

4 A You cannot pull it out, but information often came up
5 missing.

6 Q Can you explain that a little bit?

7 A There were conversations with Wayne, with Faith
8 Jeffrey, with Chris Campbell was involved. There was
9 an internal individual named Boyd Betts, he was
10 involved in the location of lost documentation in IDM.
11 We had found that occasionally documentation was
12 coming up missing, and there is e-mails on that.
13 There would be -- Somebody would find e-mails on that
14 if they did a search.

15 JUDGE MARTIN: Other Board questions? Mr.
16 Johnson.

17 BOARD MEMBER JOHNSON: Yeah.

18
19 EXAMINATION

20 BY BOARD MEMBER JOHNSON:

21 Q I was -- asked this question earlier of another
22 witness and just wondering are you aware of any way to
23 ascertain who accessed those records? Was there any
24 audit log, to your knowledge?

25 A Which records?



1 Q When you're auditing something and you're pulling up
2 under your license were you aware of any audit logs on
3 who accessed it?

4 A No. As an auditor or really any staff given
5 permission to Quick Cards, any staff with permission
6 to Quick Cards could review information. Any staff
7 with permissions to look at IDM would have the ability
8 to look at an individual's records, and to the best of
9 my knowledge there is no tracking method for that.

10 JUDGE MARTIN: Other Board questions? Mr.
11 Cox.

12 BOARD MEMBER COX: Yes.

13

14 EXAMINATION

15 BY BOARD MEMBER COX:

16 Q Board Member Cox. You said in your testimony when
17 being questioned that, and I don't remember which
18 supervisor you said, but I put it in quotes, so I
19 think I got it right, the audit numbers need to come
20 down, whatever it takes. Could you explain to me what
21 "whatever it takes" means?

22 A I don't know. It was -- It was implied by my
23 supervisor that we needed to get the numbers down,
24 that the numbers are too high, that it was Wayne's
25 priority to get the audit numbers down.



1 Q And how would the audit team get the numbers down?

2 A By doing a very, very quick review, approval/denial.

3 We were encouraged to approve over denial.

4 Q What was the repercussions for having a high audit
5 cue?

6 A There were a lot of -- With a high audit cue the
7 electrical licensing staff, who also had a large
8 backlog, would receive a lot of phone calls asking for
9 their position and line of audit. People would be
10 upset. That's most of it, a lot of upset individuals
11 because their audit was taking time.

12 Q Would those upset individuals, to your knowledge, have
13 a way of scoring or communicating that level, what's
14 the best way to put this, against the Department, some
15 way of rating or otherwise publicly recognizing that
16 they were frustrated with -- with the lack of
17 expediency or a review, like a Google review or so I
18 guess is what I'm looking for, something that in the
19 state website or otherwise that an individual could
20 rate?

21 A I don't know. I mean if I was an individual in review
22 and we called licensing and still couldn't get my
23 review completed, I might call the Chief multiple
24 times being upset. I might call whoever I could get
25 ahold of to complain.



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BOARD MEMBER COX: Thank you.

JUDGE MARTIN: Mr. Molesworth.

EXAMINATION

BY SECRETARY MOLESWORTH:

Q So, I want to know if you would agree with me that the reason that we needed to get the audit cue down is because these individuals are trainees that are waiting to take an exam. Their livelihood and their families depend on being able to take an exam and they should not be waiting; therefore, we gave you have guys a direction that, "Please get those audits done quickly. We need to stay in and get those done until we get them caught up", not because we were subject to ridicule?

A You don't deny that individuals waiting in a cue don't -- I don't deny that they would be frustrated in their inability to make a living, but the most important thing at hand is to do a quality audit. That is why we were there, to ensure their hours, to ensure their in-class education, to do a thorough audit. I was under the impression with Faith Jeffrey that that is what needed to take place over a speedy audit.

JUDGE MARTIN: Go ahead, Mr. Molesworth.



1 Q So, here's another -- here's another thing I heard you
2 say earlier that I want you to elaborate on a little
3 bit. The denial rate was an issue for you or for us
4 evidently. What was the research done for denial
5 rate? Why was there -- Why was there an issue with
6 the denial rate? What were we denying that caused a
7 problem?

8 A I don't recall.

9 Q Would you --

10 A I don't recall. I just remember that that was -- that
11 was a complaint.

12 SECRETARY MOLESWORTH: Can I refresh a
13 little bit or ask a question.

14 JUDGE MARTIN: You're welcome to ask a
15 question, but not to testify. So, if you have any --

16 SECRETARY MOLESWORTH: I won't testify.

17 JUDGE MARTIN: -- questions, you're welcome
18 to ask.

19 Q (By Secretary Molesworth, continuing) Would auditor's
20 approve -- do an evaluation on somebody let's say that
21 submitted 16,000 hours and they needed 8,000 hours to
22 be able to take an exam, as we know, right, was it
23 common practice for the auditors to deny the remaining
24 8,000 hours over and above the 8,000 that they
25 approved for them to take an exam?



1 A An auditor's job would have been to review the entire
2 16,000 hours. So, all of 16,000 hours needed to be
3 entered into the system; therefore, they were
4 categorized on the Excel spreadsheet.

5 Q So, our direction then, as you remember, I'm asking
6 the question, was our direction then as you remember
7 maybe was that when you hit 8,000 hours you didn't
8 need to verify any remaining hours because those were
9 denial hours or those hours didn't make a hill of
10 beans because it was already approved that they could
11 take the exam?

12 A The focus was not as much on the denied hours as it
13 was the back-up in the audit cue. It was requested
14 that we get the numbers down.

15 JUDGE MARTIN: Other Board questions? Mr.
16 Knottingham.

17
18 EXAMINATION

19 BY BOARD MEMBER KNOTTINGHAM:

20 Q If an individual auditor is reviewing hours, 16,000
21 hours was brought up, does that take time to
22 investigate those hours?

23 A Yes, it does, and when an individual is looking at
24 hours you're not looking at 8,000. You look at as
25 many as you need to qualify or deny. As a general



1 rule you're going to look at all the information
2 that's provided to you to make a determination. It
3 doesn't just stop at 8,000 hours because it's
4 generally an entire packet.

5 Q Does it take additional time to look at the additional
6 8,000 hours?

7 A It can.

8 Q Let me -- Okay. And if somebody did not review those
9 8,000 hours above and beyond what they needed, they
10 couldn't move on to another file and reduce the cue,
11 have an impact on the cue?

12 A I don't believe the time frame was a factor. The
13 factor was the amount of audits that were sitting in
14 the cue, and since 2016 until Faith Jeffrey left that
15 was the lowest the cue had been in a long time. When
16 I joined audit in 2016 it was -- it was quite lengthy.
17 It was a long -- it was a long line.

18 JUDGE MARTIN: Other Board questions? Mr.
19 Johnson.

20

21 EXAMINATION

22 BY BOARD MEMBER JOHNSON:

23 Q Would it be accurate to say that there was a
24 philosophical difference between how you viewed and
25 Philip Johnson [sic] viewed due diligence versus the

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1 speed balance and how that should have been
2 approached?

3 A Yes.

4 Q Did that cause friction, in your view, between you and
5 Philip Johnson [sic]?

6 A Philip Jordan admitted to me that he did not
7 understand audit completely and that he was asked to
8 supervise the group without having been a prior
9 auditor. My views tended to be a little different
10 because of that. I was an auditor since 2016 and had
11 been there quite a long time; so, my views, while they
12 were different, they had reasoning and much of that
13 reasoning was given to me either in what I witnessed
14 or as a direct -- my direct training with Faith
15 Jeffrey who had been with the Department since audit
16 was started in 1996.

17 Q So, another question on a different line. I'm just
18 wondering in your experience when you were an auditor
19 did you ever have an anonymous complaint to an
20 investigator, whoever made an anonymous complaint,
21 regarding someone's hours being accurate?

22 A No, never.

23 JUDGE MARTIN: Any other Board questions?
24 Mr. Knottingham.

25 BOARD MEMBER KNOTTINGHAM: A quick one.



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EXAMINATION

BY BOARD MEMBER KNOTTINGHAM:

Q So, you said that Mr. Jordan had not been an auditor.
What did he do prior to coming into audit?

A Mr. Jordan performed compliance with E-Core and supervised the E-CORE compliance team.

Q And the investigations are part of what E-CORE does, correct?

A Correct, yes, job site investigations.

JUDGE MARTIN: Any other questions?

CHAIR JENKINS: I had a question.

EXAMINATION

BY CHAIR JENKINS:

Q So, you were there when -- Who was the previous supervisor?

A Faith Jeffrey.

Q And you were there through the transition to Faith and Jordan, right?

A Yes, I was.

Q Did you apply for Jordan's position prior to Jordan getting the position?

A I had no interest. I was encouraged to apply. I had no desire to be a manager for Labor and Industries.

JUDGE MARTIN: Any other questions, Board



1 Members? Mr. Johnson.

2

3

EXAMINATION

4 BY BOARD MEMBER JOHNSON:

5 Q I'm wondering how often did complaints, anonymous
6 complaints get sent over to the auditor team?

7 A I had never seen one. Since 2016 I had never seen
8 one.

9 JUDGE MARTIN: Any over questions?

10 Follow-up, Mr. Johnson, based on -- based solely on
11 the question that were asked by the Board Members.

12 MR. JOHNSON: No, Your Honor, thank you
13 very much.

14 JUDGE MARTIN: Mr. Barnes, any follow-up
15 questions based solely on the Board Members questions?

16 MR. BARNES: Yes.

17

18

RE-CROSS EXAMINATION

19 BY MR. BARNES:

20 Q Mr. Leon, is it your contention that this is all
21 retaliation for the complaints that you filed, the
22 ethics complaint, the whistleblower complaint, and the
23 specific one to Mr. Jordan?

24 A I have no idea.

25 Q Yet you did not submit any of these complaints as



1 evidence in this proceeding?

2 A Again, I had no idea.

3 Q Now, you mentioned that there was a, I guess, a
4 backlog of hours that needed to be verified; is that
5 correct?

6 A That is correct.

7 Q And that you were taken off of your field inspections
8 to complete this audit; is that correct?

9 A No, that is not correct.

10 Q Why were you taken off field audits or field
11 inspections, excuse me?

12 A As an auditor I was primarily in the office most of
13 the week. I did under the -- while I was being
14 supervised by Faith Jeffrey I was able to go out into
15 the field and perform occasional job site visits in
16 compliance. Once Philip Jordan became my supervisor
17 we were told that were no longer allowed to go out in
18 the field until the audit numbers came down to a
19 certain number.

20 Q So, Mr. Jordan was concerned about the high level of
21 audits and wanted you to work full time on those to
22 reduce the backlog; is that correct?

23 MR. JOHNSON: I'm going to object as
24 speculation.

25 JUDGE MARTIN: Mr. Barnes, your response?



1 MR. BARNES: I don't think it calls for
2 speculation. It calls for what his thought pattern
3 was.

4 JUDGE MARTIN: Can you repeat your question
5 again, please.

6 MR. BARNES: Sure.

7 Q When Mr. Jordan asked you to work full time in the
8 audit division wasn't this to reduce the number of
9 audits and not to move them through quickly?

10 MR. JOHNSON: Re-raise my objection, Your
11 Honor. It calls for him to speculate on what Mr.
12 Jordan was thinking, which Mr. Leon doesn't know.

13 JUDGE MARTIN: And, Mr. Barnes, your
14 response?

15 MR. BARNES: I can rephrase it.

16 JUDGE MARTIN: Okay. All right.

17 Q Did you think when you were put on the audit team full
18 time and you were not doing anymore field inspections
19 that you were required to quickly go through these,
20 and this verification process?

21 A I found it odd that the focus was on the amount of
22 audits in the audit cue when one of the four auditors
23 had transferred to E-CORE to perform job site
24 compliance. There should have been an opening in
25 audit, and I was surprised if that didn't -- if our



1 backlog was so detrimental and such a problem, I was
2 surprised that one -- that one position that opened up
3 did not get filled and recruited for another auditor.

4 Q Now, that's a management decision that's outside our
5 pay grade; is that correct?

6 A It is.

7 Q All right. So, other than speculating as to why that
8 was never filled, again were you ever told that this
9 audit backlog needed to be reduced and you could do
10 whatever you needed to do to get it reduced?

11 A I was told the audit backlog needed to be reduced and
12 once it came down to a certain number we were allowed
13 to go out into the field.

14 Q So, you were never instructed to do a sloppy job on
15 the hour verification then; is that correct?

16 A We were never instructed to do a sloppy job. We were
17 asked to maybe expedite the process to get through
18 things.

19 Q Okay. But you would still follow through the same
20 procedures you had always done, correct?

21 A No.

22 Q All right. What was the difference?

23 A I don't have specifics with me, but these were the
24 reasons that I initially complained to Philip Jordan
25 because I noticed the hours had been approved, I



1 noticed documentation in the IDM would not support the
2 approval, and I noticed this actually on several
3 occasions when individuals would call in it was not
4 uncommon to have an individual call in say, "I didn't
5 get approved, my buddy did", and as an auditor you end
6 up reviewing the other individual and trying to
7 understand was there an audit that needed to be
8 revisited, is there a reason that the individual
9 calling was denied, was that individual was there
10 something different between the two of them? There's
11 a lot of reasons.

12 Q I understand that you had concerns with how others
13 were completing their audit, but you specifically, you
14 were never told by Mr. Jordan to do other than your
15 regular job as an auditor; is that correct?

16 A Please restate the question.

17 Q Yeah, that was badly phrased. All right. Mr. Jordan
18 or anybody from the Department never told you to hurry
19 up and get these audit numbers down; is that correct?

20 A We were told we needed to get audit numbers down so
21 that we could go out in the field. That's what we
22 were told.

23 Q All right. But you weren't told to do your job any
24 differently than you had before; is that correct?

25 A I don't recall.



1 MR. BARNES: That's all the questions I
2 have.

3 JUDGE MARTIN: Redirect?

4 MR. JOHNSON: Nothing further, Your Honor.

5 JUDGE MARTIN: Any Board questions based
6 solely on that line of questioning?

7 SECRETARY MOLESWORTH: I just have one.

8 JUDGE MARTIN: Yeah, Mr. Molesworth.

9

10 EXAMINATION

11 BY SECRETARY MOLESWORTH:

12 Q Mr. Leon, was there E-CORE inspectors that were
13 brought in at that same time so that we increased the
14 number of auditors in order to bring that number down?

15 A Yes, and Christopher Campbell and myself had
16 conversations because we were frustrated that the
17 hours -- that the investigations were not being
18 performed thoroughly. Those were verbal conversations
19 that were had during our team meeting. And that is
20 why the remaining auditors requested to Phil not --
21 please do not have the E-CORE team, compliance team,
22 assist us in performing audits because they were
23 rushing through and just trying to get things -- just
24 trying to get through the audit.

25 JUDGE MARTIN: Any Board Member other



1 Mr. Johnson, does your client have any additional
2 testimony in your case he wishes to present or do you
3 rest?

4 MR. JOHNSON: We do not, Your Honor. We
5 rest.

6 JUDGE MARTIN: Okay. All right. And, so,
7 it is now 4:47. I had briefly discussed, and I will
8 disclose this, discussed closing statements with Mr.
9 Johnson representing Mr. Leon, as well as with Mr.
10 Barnes representing the Department of Labor and
11 Industries. I understand due to the lateness of the
12 hour that we need to conclude by five o'clock; so, I
13 offered the parties the opportunity to provide a
14 closing statement in 30 seconds or less. They
15 declined. I suggested either doing closing arguments
16 tomorrow or doing them in writing, and, actually,
17 after talking with the both of them, both the
18 Department and the Appellant have agreed to waive
19 their closing statements and stand on the record
20 provided. Is that correct, Mr. Barnes?

21 MR. BARNES: That is correct, Your Honor.

22 JUDGE MARTIN: And is that correct, as
23 well, Mr. Johnson?

24 MR. JOHNSON: It is, Your Honor.

25 JUDGE MARTIN: All right. Very well. So,



1 with having waived closing statements, at this point I
2 am now going to close the record and by closing the
3 record that means that this Electrical Board will not
4 consider any additional evidence and testimony beyond
5 what has already been provided today during this
6 hearing, and so at this point with this fact finding
7 evidentiary hearing now concluded, I will now turn it
8 over to Chairperson Jenkins to proceed with the
9 remainder of this Electrical Board meeting, and the
10 Electrical Board now can begin its deliberation in
11 this matter and render an appropriate verdict.

12 With that, it has been a pleasure to work with
13 each and every one of you today to preside over this
14 matter, and I look forward and wish all of you the
15 best of luck as the triers of fact rendering an
16 appropriate decision in this matter. So, with that,
17 this fact finding evidentiary hearing is concluded and
18 I stand adjourned. So, thank you very much, everyone,
19 and have a good day.

20 BOARD MEMBERS: Thank you.

21 CHAIR JENKINS: So, at this point we're
22 looking at continuing on tomorrow morning for
23 deliberation. I highly doubt that we can deliberate
24 in the next 11 minutes and also have our secretary's
25 report and such.



1 UNIDENTIFIED SPEAKER: Is it possible to
2 conclude this tomorrow by Zoom?

3 CHAIR JENKINS: I now point my direction to
4 that question towards the Department.

5 SECRETARY MOLESWORTH: We'd have to
6 probably develop a Teams meeting and send out a link.

7 MS. DIETRICH: Sure. Well, I don't know.
8 I don't know if we can get a court reporter.

9 SECRETARY MOLESWORTH: Oh, that's true.

10 UNIDENTIFIED SPEAKER: Can we get this
11 court reporter tomorrow?

12 THE COURT REPORTER: I'm not available
13 tomorrow. It's possible somebody from my office may
14 be. I would have to check, but --

15 MR. JOHNSON: I can call a court reporter
16 right now and see if you can have one by tomorrow, if
17 you'd like.

18 CHAIR JENKINS: I guess we can take five
19 minutes to find out because if we don't have a court
20 reporter we won't have a meeting tomorrow.

21 MR. JOHNSON: With your permission, Mr.
22 Chairman, I'll step out and make a quick call. I have
23 a reporter who works with me exclusively on Zoom and
24 she's available most of the time.

25 MS. DIETRICH: We have a contract with



1 court reporters; so, I --

2 MR. BLOHOWIAK: The State probably has
3 requirements for court reporters, contracts. Thank
4 you, Mr. Johnson, though.

5 CHAIR JENKINS: Well, assuming that we can
6 get one for tomorrow, what I need is a show of hands
7 of who will possibly be here tomorrow. Seven, so,
8 okay. All right. So, at this point here I guess we
9 can take a short time until we can find out about the
10 reporter because that's our next hang up for tomorrow
11 morning.

12 MR. BLOHOWIAK: Chairperson Jenkins, can we
13 do a -- just because there's been so much evidence,
14 and I think this is a case all the Board Member would
15 probably like to weigh in on, do you think we can
16 maybe do a hybrid, you know, Zoom or in-person so that
17 those that cannot stay for tomorrow can still
18 participate in the deliberations, and I think that
19 would be the most equitable, too, so Mr. Johnson and
20 to the Department, to have all the people that heard
21 the evidence weigh in on the decision.

22 CHAIR JENKINS: I'll ask the Department the
23 same question. Do we have Zoom happening or a similar
24 room tomorrow?

25 MS. DIETRICH: We have the room.



1 BRIAN HORNBACK: I will answer for the
2 Department and the answer is, yes, we'll find a way to
3 do virtual tomorrow.

4 (People speaking at the same time)

5 THE COURT REPORTER: I'm sorry, can I get
6 your name -- Folks, I'm trying to get this down; so,
7 if you can speak one at a time.

8 MR. HORNBACK: Brian Hornback, Deputy AD
9 for Field Services, Public Safety, and we'll commit to
10 finding a way to do virtual on that Board tomorrow.

11 SECRETARY MOLESWORTH: So, some can be
12 virtual.

13 CHAIR JENKINS: So, tomorrow I'm going to
14 make an assumption that we're doing a hybrid meeting
15 tomorrow. Those that can make it here, please do. I
16 think it makes for a better meeting. If you can't
17 make it for whatever reason, there will be a link sent
18 tomorrow morning before 9:00 to get you into the Zoom
19 meeting here tomorrow.

20 UNIDENTIFIED SPEAKER: Nine o'clock?

21 CHAIR JENKINS: At nine o'clock. It looks
22 like, yes, nine o'clock. Questions? Oh, I'm sorry,
23 Teams system, not Zoom. Okay, given that, the Chair
24 would entertain a motion to recess the Board until
25 tomorrow morning 9:00 a.m.



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BOARD MEMBER NORD: Board Member Nord.

Motion.

CHAIR JENKINS: We've got a motion. Do we have a second?

SECRETARY MOLESWORTH: Second.

CHAIR JENKINS: We have a second. Any discussion? Hearing no discussion, all in favor say aye.

BOARD MEMBERS: Aye.

CHAIR JENKINS: Any opposed? The Electrical Board is recessed.

(Recessed at 4:54 p.m.)




C E R T I F I C A T E

I, Mary Jo Fratella, a Certified Court Reporter in
and for the State of Washington, do hereby certify:

That the foregoing transcript contains a full, true,
and accurate record of the Electrical Board Meeting
held on Thursday, January 30, 2025, at 9:00 a.m. in
Tumwater, Washington;

That the foregoing proceedings were reported by me
and thereafter transcribed by me by means of
computer-aided transcription;

IN WITNESS WHEREOF, I have hereunto set my hand this
14th day of February, 2025.


Mary Jo Fratella, CCR, RPR
Certified Court Reporter, CCR No. 2083



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