

STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
CONTRACTORS' REGISTRATION AND LICENSING BOARD
560 JEFFERSON BOULEVARD
WARWICK, RI 02886

IN THE MATTER OF:

JOSEPH MORIN,
J. MORIN & SONS, INC.,
RESPONDENT

VIOLATION # 11181
GC #5649

STIPULATION AND CONSENT ORDER

PROCEDURAL BACKGROUND AND TRAVEL

On or about March 1, 2023, Respondent was issued a Notice of Hearing ("NOH") by the Department of Business Regulation ("Department") for and on behalf of the Contractors' Registration and Licensing Board ("CRLB")¹. The NOH provided Respondent with written notice of the appointment of a Hearing Officer to conduct an Administrative Hearing to determine whether Respondent has violated Chapter 5-65 of the Rhode Island General Laws ("Chapter 5-65") and whether fines and/or other relief should be ordered.

The Respondent and the CRLB (the "Parties") attended the pre-hearing conference ("PCH") held on April 4, 2023. After the PHC but prior to a full hearing being conducted, the Parties reached an agreement to settle the matter without the need for a hearing. This Stipulation and Consent Order confirms the stipulated facts in this matter and the agreed upon terms of said agreement, which are as follows.

FACTS

1. Respondent has represented to the CRLB that he operates a pool installation company by the name of J. Morin & Sons, Inc.

¹ See R.I. Gen. Laws § 5-84-3.1.

Respondent acknowledges that the services provided by him individually as a pool installation technician and as the owner of J. Morin & Sons, Inc. are the types of contractor services that require registration with the CRLB in accordance with R.I. Gen. Laws Chapter 5-65.

3. R.I. Gen. Laws § 5-65-1(7) defines a Contractor as follows:

[A] person who, in the pursuit of an independent business, undertakes or offers to undertake or submits a bid, or for compensation and with or without the intent to sell the structure constructs, alters, repairs, improves, moves over public highways, roads or streets, or demolishes a structure or to perform any work in connection with the construction, alteration, repair, improvement, moving over public highways, roads, or streets, or demolition of a structure, and the appurtenances thereto. For the purposes of this chapter, "appurtenances" includes, but is not limited to, the installation, alteration, or repair of wells connected to a structure consistent with chapter 13.2 of title 46, garage, carport, porch, patio, decks, docks, sheds, tents, gazebos, walkways, fencing, driveways, retaining walls, swimming pools, sidewalks, stone/masonry walls, and parking lots.

4. R.I. Gen. Laws § 5-65-1(14) defines a person as "any natural person, joint venture, partnership, corporation, or other business or legal entity who or that enters into a contract for construction."
5. R.I. Gen. Laws § 5-65-3(a) provides:

A person shall not undertake, offer to undertake, or submit a bid to do work as a contractor on a structure unless that person has a current, valid certificate of registration for all construction work issued by the [CRLB]. A partnership, corporation, limited liability company, or joint venture may do the work . . . only if that partnership, corporation, limited liability company or joint venture is registered for the work and in the case of registration by a corporation, limited liability company, joint venture, or partnership, an individual shall be designated to be responsible for the corporation's, company's, joint venture's, or partnership's work.

6. Pursuant to R.I. Gen. Laws § 5-65-10(e), a fine may be imposed for each violation of Chapter 5-65 including, without limitation, breach of a contract for construction in violation of R.I. Gen. Laws § 5-65-10(a)(11), failure to complete a project for construction in violation of R.I. Gen. Laws § 5-65-10(a)(14), and failure to provide a mechanic's lien notice in accordance with R.I. Gen. Laws § 5-65-18.
7. R.I. Gen. Laws §§ 5-65-19(1) provides:

Any person who fails to register as a contractor as adjudged in a final order issued by the board, upon proper written notification, is deemed guilty of a misdemeanor and, upon conviction, shall be imprisoned for a term not

exceeding one year, fined not more than one thousand dollars (\$1,000), or both, for a first or second offense.

8. Prior to March 30, 2022, Respondent held a contractor registration (GC-5649), within the State of Rhode Island. The Board suspended Respondent's registration on March 30, 2022, in connection with a prior disciplinary proceeding. Since that date and as of this date, Respondent has not held and does not currently hold a valid registration to perform work as a contractor in accordance with R.I. Gen. Laws Chapter 5-65.
9. Additionally, the records of the Board reflect that Respondent has a disciplinary history with the Board that includes:
 - a. On November 11, 2022, the Board issued a decision (Ref. CI 1045) finding that Respondent violated Chapter 5-65 when he failed to perform any work or return a deposit to a consumer for a pool installation project, and ordered return of the deposit and imposition of a \$10,000 administrative penalty; and
 - b. On September 28, 2022, the Board issued a decision (Ref. V6398) finding that Respondent violated Chapter 5-65 when he performed negligent and improper work, breached a contract, failed to complete a pool installation project, and failed to provide a required mechanic's lien notice and ordered imposition of a \$10,000 administrative penalty.²
10. The CRLB is in possession of evidence of the following:
 - a. On December 11, 2022, the Board received Claim/Complaint #11181 alleging that on or about January 26, 2022, Respondent was hired to install an in-ground pool [REDACTED]
 - b. The parties entered into a written contract on January 26, 2022.
 - c. The said contract failed to provide a mechanic's lien notice as required by R.I. Gen. Laws R.I. Gen. Laws § 5-65-18.
 - d. The total contracted price of the project was \$44,525.30 that included the cost of materials as well as all the site work, excavation, installation of galvanized steel frame, plumbing, drains, liner, and mesh pool cover.
 - e. The complaint alleges that the Respondent was paid by the homeowner a total of \$29,000.00 via check #2159 in the amount of \$5,000 on February 1, 2022, and check #390 in the amount of \$25,000 on July 18, 2022.

² On March 30, 2022, Respondent's registration GC-5649 was suspended by the Board on account of this matter.

- f. Complainant alleges that the second payment on July 18, 2022, was to serve as the payment to secure the commencement of the project within two weeks of said payment.
 - g. Following receipt of the December 11, 2022 complaint, a CRLB investigator reviewed and investigated the allegations set forth in the complaint.
 - h. Upon speaking with the Complainant on January 11, 2023, the CRLB investigator confirmed that no work had commenced nor had any materials to date been delivered to the project site.
 - i. Additionally, the CRLB investigator also confirmed that the Complainant was not issued any refund or return of any funds as of January 11, 2023.
 - j. The investigation conducted by the CRLB investigator during January 2023 further confirmed that Respondent held contractor registration GC-5649 in January 2022, but that Respondent's registration was suspended by the Board on March 30, 2022, and that from and after that date Respondent did not hold a valid contractor registration.
11. At the April 4, 2023 Pre-Conference Hearing, Respondent represented that he was close to completing the pool installation that was the subject of the Board's November 11, 2022 decision (Ref. C11045) and that Respondent has the materials and is willing to complete the pool construction that is the subject of the December 11, 2022 complaint (Ref. C11181).
12. On April 11, 2023, a CRLB investigator confirmed with the Homeowner directly that the Respondent was ninety (90%) percent finished with the pool project that was the subject of Complaint #11045. Homeowner also informed the same CRLB investigator that he/she agreed and was satisfied with this remedy in lieu of receiving a refund of his monetary payments.
13. On April 10, 2023, Respondent provided the Board with written documentation which confirmed that the homeowner who submitted Complaint C11181 is amenable to Respondent returning to complete the pool project.

TERMS

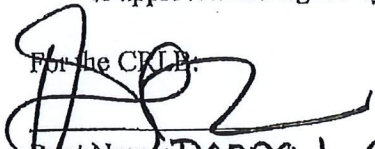
14. While the Respondent neither admits or denies committing the violations alleged herein, in order to amicably resolve this matter without an administrative hearing, the CRLB and the Respondent enter into this Consent Order solely for the purpose of avoiding the burdens and expenses of litigation. The Respondent and the CRLB agree to resolve the matter based upon the satisfaction of the following terms and conditions:
- a. The Board will lift Respondent's registration suspension and issue a provisional registration to Respondent, which will be valid from the date of issuance through July 7, 2023, subject to the condition that Respondent must deliver to the Board no later than May 10, 2023:

- i. a valid and reliable certificate of liability insurance showing the existence of a liability insurance policy of at least \$500,000 which shall indicate that the CRLB is the certificate holder;
 - ii. a valid and reliable certificate of worker's compensation insurance, which shall indicate the CRLB as the certificate holder;
 - iii. copies of any and all current and pending client contracts and contact information for such clients, including current telephone numbers and addresses for CRLB review; and
 - iv. The registration fee in the amount of \$150.00 due upon renewal.
 - b. Respondent agrees that his work as a pool installation technician requires registration as a contractor in accordance with R.I. Gen. Laws Chapter 5-65.
 - c. Respondent hereby agrees that any and all contracts provided to CRLB and to potential homeowners will include the mechanic's lien language as required by R.I. Gen. Laws § 5-65-18.
 - d. Respondent hereby agrees to provide to CRLB copies of any newly signed contracts within 3 business days of entering into said contracts.
 - e. Respondent hereby agrees to provide CRLB all contact information for any and all new clients, including current telephone numbers and addresses within 3 business days.
 - f. Respondent hereby agrees that a CRLB investigator will have contact with any and all current and/or newly solicited or contracted clients to ensure that proper work is being conducted and there is adherence to CRLB regulations.
 - g. Respondent hereby agrees that if a new complaint against Respondent is hereafter filed or received by CRLB that the Department may request a hearing to suspend the Respondent's provisional registration.
 - h. Respondent acknowledges that if the above terms are not fully satisfied, by the agreed upon timeframe, and without Respondent affirmatively providing mitigating reasons and/or factors to the CRLB for why satisfaction of the above terms could not be met within the agreed upon timeframe, then the CRLB reserves the right to initiate further administrative enforcement actions and/or refer the Respondent to the Office of the Attorney General for prosecution under R.I. Gen. Laws § 5-65-19.
 - i. Respondent agrees that a status conference with the Hearing Officer in this matter will be scheduled for July 11, 2023 at 9:30 a.m. to confirm whether the above terms have been met and to further discuss an extension of the Respondent's provisional registration.
15. If the above terms and conditions are fully satisfied by Respondent, the CRLB shall waive any administrative fines in connection with this matter, and Respondent agrees that the

CRLB shall post this Stipulation and Consent Order on the Department's website under "Enforcement Actions."

16. Respondent understands that once Respondent is properly registered with the CRLB, the registration must be renewed annually, and it is Respondent's responsibility going forward to maintain an updated and valid registration with the CRLB so long as he continues to provide pool installation services, either individually, or as the owner of J. Morin and Sons, Inc.
17. The CRLB and Respondent agree that the terms and conditions of this Stipulation and Consent Order represent the final determination of this matter.
18. *Waiver of Hearing and Appeal.* By agreeing to enter into this Stipulation and Consent Order, Respondent knowingly and voluntarily waives any right to an administrative hearing and waives any right to any further appeals to the CRLB and the Superior Court under Chapter 5-65 and the Rhode Island Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.
19. *Opportunity to Obtain Counsel.* Respondent agrees that he has had an opportunity to retain legal counsel to represent him in connection with this matter, and that he fully understands and acknowledges all the terms contained within this Stipulation and Consent Order, and that he has signed this Stipulation and Consent Order knowingly and voluntarily.
20. *Public Record.* Once executed, this Stipulation and Consent Order shall be a public record under the Access to Public Records Act, R.I. Gen. Laws Chapter 38-2, and § 1.5(C) of 440-RICR-10-00-1.
21. *Enforcement.* If Respondent fails to comply with any terms or conditions of this Stipulation and Consent Order within any applicable time period set forth herein, Respondent will be in violation hereunder and, upon ten (10) days written notice to Respondent, the CRLB shall be entitled to take enforcement or other action in accordance with applicable law.
22. *Compliance.* Compliance with the terms of this Stipulation and Consent Order does not relieve Respondent of any obligation to comply with other applicable laws or regulations administered by or through the CRLB, the Department or any other governmental agency.
23. *Effective Date.* The effective date of this Stipulation and Consent Order shall be the date it is approved and signed by the CRLB and the Hearing Officer.

For the CRLB:


Print Name: Donna L. Costantino
Title: Associate Director

May 15, 2023

Date

For the Respondent:

Joseph E. [Signature]
Print Name:

5/17/23
Date

If represented by counsel,
Respondent's counsel:

[Signature]
Print Name: Patrick Dowling, Jr.
Date:

So Ordered:

[Signature]
Catherine R. Warren, Esq.
Hearing Officer
Date: 5/15/23

NOTICE PURSUANT TO R.I. GEN. LAWS § 42-35-12

THIS ORDER CONSTITUTES FINAL AGENCY ACTION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. FINAL BOARD ACTIONS ARE GENERALLY APPEALABLE TO THE BOARD WITH A SUBSEQUENT RIGHT OF APPEAL TO THE SUPERIOR COURT WITHIN THIRTY (30) DAYS OF THE DATE OF THE ACTION BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, THE RESPONDENT IS HEREBY NOTIFIED THAT BY WAIVING ITS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS STIPULATION AND CONSENT ORDER, ANY SUCH RIGHT OF APPEAL HAS BEEN WAIVED.

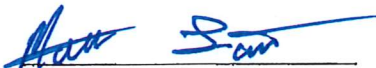
CERTIFICATION

In accordance with R.I. Gen. Laws § 5-65-6, I hereby certify on this 15 day of May, 2023, that a true copy of the within Stipulation and Consent Order was sent by first class mail and certified mail, return receipt requested to:

<p>Joseph Morin J Morin & Sons, Inc. 21 Homestead Road Woonsocket, RI 02895</p> <p>Joseph Morin J Morin & Sons, Inc. 1537 Chalkstone Avenue 1 Providence, RI 02909</p>	<p>By email to: via attorney pfd@dblawn.com</p>
<p>Attorney Patrick Dowling, Jr. - #6863 536 Atwells Avenue Providence, RI 02909</p>	

And by e-mail to:

1. Catherine Warren, Esq., Hearing Officer (catherine.warren@doa.ri.gov);
2. Ania Zielinski, Esq., Deputy Chief Legal Counsel (ania.zielinski@dbr.ri.gov);
3. Matthew Lambert, Principal Investigator, Contractors' Registration and Licensing Board, DBR (matthew.lambert@dbr.ri.gov);
4. Donna Costantino, DBR Associate Director (donna.costantino@dbr.ri.gov);
5. Pamela J. Toro, Esq., DBR Legal Services Administrator (pamela.toro@dbr.ri.gov); and
6. Patrick Dowling, Jr., Esq., Attorney for Respondent, (pfd@dblawn.com).


Signature Matthew Lambert

STATE OF RHODE ISLAND
DEPARTMENT OF BUSINESS REGULATION
CONTRACTORS' REGISTRATION AND LICENSING BOARD
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9. Additionally, the records of the Board reflect that Respondent has a disciplinary history with the Board that includes:
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 - b. On September 28, 2022, the Board issued a decision (Ref. V6398) finding that Respondent violated Chapter 5-65 when he performed negligent and improper work, breached a contract, failed to complete a pool installation project, and failed to provide a required mechanic's lien notice and ordered imposition of a \$10,000 administrative penalty.²
10. The CRLB is in possession of evidence of the following:
 - a. On December 11, 2022, the Board received Claim/Complaint #11181 alleging that on or about January 26, 2022, Respondent was hired to install an in-ground pool at 291 Stillwater Road, Smithfield, Rhode Island.
 - b. The parties entered into a written contract on January 26, 2022.
 - c. The said contract failed to provide a mechanic's lien notice as required by R.I. Gen. Laws R.I. Gen. Laws § 5-65-18.
 - d. The total contracted price of the project was \$44,525.30 that included the cost of materials as well as all the site work, excavation, installation of galvanized steel frame, plumbing, drains, liner, and mesh pool cover.
 - e. The complaint alleges that the Respondent was paid by the homeowner a total of \$29,000.00 via check #2159 in the amount of \$5,000 on February 1, 2022, and check #390 in the amount of \$25,000 on July 18, 2022.

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- f. Complainant alleges that the second payment on July 18, 2022, was to serve as the payment to secure the commencement of the project within two weeks of said payment.
 - g. Following receipt of the December 11, 2022 complaint, a CRLB investigator reviewed and investigated the allegations set forth in the complaint.
 - h. Upon speaking with the Complainant on January 11, 2023, the CRLB investigator confirmed that no work had commenced nor had any materials to date been delivered to the project site.
 - i. Additionally, the CRLB investigator also confirmed that the Complainant was not issued any refund or return of any funds as of January 11, 2023.
 - j. The investigation conducted by the CRLB investigator during January 2023 further confirmed that Respondent held contractor registration GC-5649 in January 2022, but that Respondent's registration was suspended by the Board on March 30, 2022, and that from and after that date Respondent did not hold a valid contractor registration.
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12. On April 11, 2023, a CRLB investigator confirmed with the Homeowner directly that the Respondent was ninety (90%) percent finished with the pool project that was the subject of Complaint #11045. Homeowner also informed the same CRLB investigator that he/she agreed and was satisfied with this remedy in lieu of receiving a refund of his monetary payments.
13. On April 10, 2023, Respondent provided the Board with written documentation which confirmed that the homeowner who submitted Complaint C11181 is amenable to Respondent returning to complete the pool project.

TERMS

14. While the Respondent neither admits or denies committing the violations alleged herein, in order to amicably resolve this matter without an administrative hearing, the CRLB and the Respondent enter into this Consent Order solely for the purpose of avoiding the burdens and expenses of litigation. The Respondent and the CRLB agree to resolve the matter based upon the satisfaction of the following terms and conditions:
- a. The Board will lift Respondent's registration suspension and issue a provisional registration to Respondent, which will be valid from the date of issuance through July 7, 2023, subject to the condition that Respondent must deliver to the Board no later than May 10, 2023:

- i. a valid and reliable certificate of liability insurance showing the existence of a liability insurance policy of at least \$500,000 which shall indicate that the CRLB is the certificate holder;
 - ii. a valid and reliable certificate of worker's compensation insurance, which shall indicate the CRLB as the certificate holder;
 - iii. copies of any and all current and pending client contracts and contact information for such clients, including current telephone numbers and addresses for CRLB review; and
 - iv. The registration fee in the amount of \$150.00 due upon renewal.
 - b. Respondent agrees that his work as a pool installation technician requires registration as a contractor in accordance with R.I. Gen. Laws Chapter 5-65.
 - c. Respondent hereby agrees that any and all contracts provided to CRLB and to potential homeowners will include the mechanic's lien language as required by R.I. Gen. Laws § 5-65-18.
 - d. Respondent hereby agrees to provide to CRLB copies of any newly signed contracts within 3 business days of entering into said contracts.
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 - g. Respondent hereby agrees that if a new complaint against Respondent is hereafter filed or received by CRLB that the Department may request a hearing to suspend the Respondent's provisional registration.
 - h. Respondent acknowledges that if the above terms are not fully satisfied, by the agreed upon timeframe, and without Respondent affirmatively providing mitigating reasons and/or factors to the CRLB for why satisfaction of the above terms could not be met within the agreed upon timeframe, then the CRLB reserves the right to initiate further administrative enforcement actions and/or refer the Respondent to the Office of the Attorney General for prosecution under R.I. Gen. Laws § 5-65-19.
 - i. Respondent agrees that a status conference with the Hearing Officer in this matter will be scheduled for July 11, 2023 at 9:30 a.m. to confirm whether the above terms have been met and to further discuss an extension of the Respondent's provisional registration.
15. If the above terms and conditions are fully satisfied by Respondent, the CRLB shall waive any administrative fines in connection with this matter, and Respondent agrees that the

CRLB shall post this Stipulation and Consent Order on the Department's website under "Enforcement Actions."

16. Respondent understands that once Respondent is properly registered with the CRLB, the registration must be renewed annually, and it is Respondent's responsibility going forward to maintain an updated and valid registration with the CRLB so long as he continues to provide pool installation services, either individually, or as the owner of J. Morin and Sons, Inc.
17. The CRLB and Respondent agree that the terms and conditions of this Stipulation and Consent Order represent the final determination of this matter.
18. *Waiver of Hearing and Appeal.* By agreeing to enter into this Stipulation and Consent Order, Respondent knowingly and voluntarily waives any right to an administrative hearing and waives any right to any further appeals to the CRLB and the Superior Court under Chapter 5-65 and the Rhode Island Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.
19. *Opportunity to Obtain Counsel.* Respondent agrees that he has had an opportunity to retain legal counsel to represent him in connection with this matter, and that he fully understands and acknowledges all the terms contained within this Stipulation and Consent Order, and that he has signed this Stipulation and Consent Order knowingly and voluntarily.
20. *Public Record.* Once executed, this Stipulation and Consent Order shall be a public record under the Access to Public Records Act, R.I. Gen. Laws Chapter 38-2, and § 1.5(C) of 440-RICR-10-00-1.
21. *Enforcement.* If Respondent fails to comply with any terms or conditions of this Stipulation and Consent Order within any applicable time period set forth herein, Respondent will be in violation hereunder and, upon ten (10) days written notice to Respondent, the CRLB shall be entitled to take enforcement or other action in accordance with applicable law.
22. *Compliance.* Compliance with the terms of this Stipulation and Consent Order does not relieve Respondent of any obligation to comply with other applicable laws or regulations administered by or through the CRLB, the Department or any other governmental agency.
23. *Effective Date.* The effective date of this Stipulation and Consent Order shall be the date it is approved and signed by the CRLB and the Hearing Officer.

For the CRLB:

Print Name: Donna L. Costantino

Title: Associate Director

May 15, 2023

Date

For the Respondent:

Joseph E. [Signature]
Print Name:

5/17/23
Date

If represented by counsel,
Respondent's counsel:

[Signature]
Print Name: Patrick Dowling, Jr.
Date:

So Ordered:

[Signature]
Catherine R. Warren, Esq.
Hearing Officer
Date: 5/15/23

NOTICE PURSUANT TO R.I. GEN. LAWS § 42-35-12

THIS ORDER CONSTITUTES FINAL AGENCY ACTION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. FINAL BOARD ACTIONS ARE GENERALLY APPEALABLE TO THE BOARD WITH A SUBSEQUENT RIGHT OF APPEAL TO THE SUPERIOR COURT WITHIN THIRTY (30) DAYS OF THE DATE OF THE ACTION BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, THE RESPONDENT IS HEREBY NOTIFIED THAT BY WAIVING ITS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS STIPULATION AND CONSENT ORDER, ANY SUCH RIGHT OF APPEAL HAS BEEN WAIVED.


CERTIFICATION

In accordance with R.I. Gen. Laws § 5-65-6, I hereby certify on this 15 day of May, 2023, that a true copy of the within Stipulation and Consent Order was sent by first class mail and certified mail, return receipt requested to:

<p>Joseph Morin J Morin & Sons, Inc. 21 Homestead Road Woonsocket, RI 02895</p> <p>Joseph Morin J Morin & Sons, Inc. 1537 Chalkstone Avenue 1 Providence, RI 02909</p>	<p>By email to: via attorney pfd@dblawri.com</p>
<p>Attorney Patrick Dowling, Jr. - #6863 536 Atwells Avenue Providence, RI 02909</p>	

And by e-mail to:

1. Catherine Warren, Esq., Hearing Officer (catherine.warren@doa.ri.gov);
2. Ania Zielinski, Esq., Deputy Chief Legal Counsel (ania.zielinski@dbr.ri.gov);
3. Matthew Lambert, Principal Investigator, Contractors' Registration and Licensing Board, DBR (matthew.lambert@dbr.ri.gov);
4. Donna Costantino, DBR Associate Director (donna.costantino@dbr.ri.gov);
5. Pamela J. Toro, Esq., DBR Legal Services Administrator (pamela.toro@dbr.ri.gov); and
6. Patrick Dowling, Jr., Esq., Attorney for Respondent, (pfd@dblawri.com).


Signature Matthew Lambert

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STIPULATION AND CONSENT ORDER
PROCEDURAL BACKGROUND AND TRAVEL

On or about March 1, 2023, Respondent was issued a Notice of Hearing ("NOH") by the Department of Business Regulation ("Department") for and on behalf of the Contractors' Registration and Licensing Board ("CRLB")¹. The NOH provided Respondent with written notice of the appointment of a Hearing Officer to conduct an Administrative Hearing to determine whether Respondent has violated Chapter 5-65 of the Rhode Island General Laws ("Chapter 5-65") and whether fines and/or other relief should be ordered.

The Respondent and the CRLB (the "Parties") attended the pre-hearing conference ("PCH") held on April 4, 2023. After the PHC but prior to a full hearing being conducted, the Parties reached an agreement to settle the matter without the need for a hearing. This Stipulation and Consent Order confirms the stipulated facts in this matter and the agreed upon terms of said agreement, which are as follows.

FACTS

1. Respondent has represented to the CRLB that he operates a pool installation company by the name of J. Morin & Sons, Inc.

¹ See R.I. Gen. Laws § 5-84-3.1.

Respondent acknowledges that the services provided by him individually as a pool installation technician and as the owner of J. Morin & Sons, Inc. are the types of contractor services that require registration with the CRLB in accordance with R.I. Gen. Laws Chapter 5-65.

3. R.I. Gen. Laws § 5-65-1(7) defines a Contractor as follows:

[A] person who, in the pursuit of an independent business, undertakes or offers to undertake or submits a bid, or for compensation and with or without the intent to sell the structure constructs, alters, repairs, improves, moves over public highways, roads or streets, or demolishes a structure or to perform any work in connection with the construction, alteration, repair, improvement, moving over public highways, roads, or streets, or demolition of a structure, and the appurtenances thereto. For the purposes of this chapter, "appurtenances" includes, but is not limited to, the installation, alteration, or repair of wells connected to a structure consistent with chapter 13.2 of title 46, garage, carport, porch, patio, decks, docks, sheds, tents, gazebos, walkways, fencing, driveways, retaining walls, swimming pools, sidewalks, stone/masonry walls, and parking lots.

4. R.I. Gen. Laws § 5-65-1(14) defines a person as "any natural person, joint venture, partnership, corporation, or other business or legal entity who or that enters into a contract for construction."
5. R.I. Gen. Laws § 5-65-3(a) provides:

A person shall not undertake, offer to undertake, or submit a bid to do work as a contractor on a structure unless that person has a current, valid certificate of registration for all construction work issued by the [CRLB]. A partnership, corporation, limited liability company, or joint venture may do the work . . . only if that partnership, corporation, limited liability company or joint venture is registered for the work and in the case of registration by a corporation, limited liability company, joint venture, or partnership, an individual shall be designated to be responsible for the corporation's, company's, joint venture's, or partnership's work.

6. Pursuant to R.I. Gen. Laws § 5-65-10(c), a fine may be imposed for each violation of Chapter 5-65 including, without limitation, breach of a contract for construction in violation of R.I. Gen. Laws § 5-65-10(a)(11), failure to complete a project for construction in violation of R.I. Gen. Laws § 5-65-10(a)(14), and failure to provide a mechanic's lien notice in accordance with R.I. Gen. Laws § 5-65-18.
7. R.I. Gen. Laws §§ 5-65-19(1) provides:

Any person who fails to register as a contractor as adjudged in a final order issued by the board, upon proper written notification, is deemed guilty of a misdemeanor and, upon conviction, shall be imprisoned for a term not

exceeding one year, fined not more than one thousand dollars (\$1,000), or both, for a first or second offense.

8. Prior to March 30, 2022, Respondent held a contractor registration (GC-5649), within the State of Rhode Island. The Board suspended Respondent's registration on March 30, 2022, in connection with a prior disciplinary proceeding. Since that date and as of this date, Respondent has not held and does not currently hold a valid registration to perform work as a contractor in accordance with R.I. Gen. Laws Chapter 5-65.
9. Additionally, the records of the Board reflect that Respondent has a disciplinary history with the Board that includes:
 - a. On November 11, 2022, the Board issued a decision (Ref. C11045) finding that Respondent violated Chapter 5-65 when he failed to perform any work or return a deposit to a consumer for a pool installation project, and ordered return of the deposit and imposition of a \$10,000 administrative penalty; and
 - b. On September 28, 2022, the Board issued a decision (Ref. V6398) finding that Respondent violated Chapter 5-65 when he performed negligent and improper work, breached a contract, failed to complete a pool installation project, and failed to provide a required mechanic's lien notice and ordered imposition of a \$10,000 administrative penalty.²
10. The CRLB is in possession of evidence of the following:
 - a. On December 11, 2022, the Board received Claim/Complaint #11181 alleging that on or about January 26, 2022, Respondent was hired to install an in-ground pool at 291 Stillwater Road, Smithfield, Rhode Island.
 - b. The parties entered into a written contract on January 26, 2022.
 - c. The said contract failed to provide a mechanic's lien notice as required by R.I. Gen. Laws R.I. Gen. Laws § 5-65-18.
 - d. The total contracted price of the project was \$44,525.30 that included the cost of materials as well as all the site work, excavation, installation of galvanized steel frame, plumbing, drains, liner, and mesh pool cover.
 - e. The complaint alleges that the Respondent was paid by the homeowner a total of \$29,000.00 via check #2159 in the amount of \$5,000 on February 1, 2022, and check #390 in the amount of \$25,000 on July 18, 2022.

² On March 30, 2022, Respondent's registration GC-5649 was suspended by the Board on account of this matter.

- f. Complainant alleges that the second payment on July 18, 2022, was to serve as the payment to secure the commencement of the project within two weeks of said payment.
 - g. Following receipt of the December 11, 2022 complaint, a CRLB investigator reviewed and investigated the allegations set forth in the complaint.
 - h. Upon speaking with the Complainant on January 11, 2023, the CRLB investigator confirmed that no work had commenced nor had any materials to date been delivered to the project site.
 - i. Additionally, the CRLB investigator also confirmed that the Complainant was not issued any refund or return of any funds as of January 11, 2023.
 - j. The investigation conducted by the CRLB investigator during January 2023 further confirmed that Respondent held contractor registration GC-5649 in January 2022, but that Respondent's registration was suspended by the Board on March 30, 2022, and that from and after that date Respondent did not hold a valid contractor registration.
11. At the April 4, 2023 Pre-Conference Hearing, Respondent represented that he was close to completing the pool installation that was the subject of the Board's November 11, 2022 decision (Ref. C11045) and that Respondent has the materials and is willing to complete the pool construction that is the subject of the December 11, 2022 complaint (Ref. C11181).
12. On April 11, 2023, a CRLB investigator confirmed with the Homeowner directly that the Respondent was ninety (90%) percent finished with the pool project that was the subject of Complaint #11045. Homeowner also informed the same CRLB investigator that he/she agreed and was satisfied with this remedy in lieu of receiving a refund of his monetary payments.
13. On April 10, 2023, Respondent provided the Board with written documentation which confirmed that the homeowner who submitted Complaint C11181 is amenable to Respondent returning to complete the pool project.

TERMS

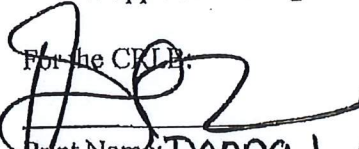
14. While the Respondent neither admits or denies committing the violations alleged herein, in order to amicably resolve this matter without an administrative hearing, the CRLB and the Respondent enter into this Consent Order solely for the purpose of avoiding the burdens and expenses of litigation. The Respondent and the CRLB agree to resolve the matter based upon the satisfaction of the following terms and conditions:
- a. The Board will lift Respondent's registration suspension and issue a provisional registration to Respondent, which will be valid from the date of issuance through July 7, 2023, subject to the condition that Respondent must deliver to the Board no later than May 10, 2023:

- i. a valid and reliable certificate of liability insurance showing the existence of a liability insurance policy of at least \$500,000 which shall indicate that the CRLB is the certificate holder;
 - ii. a valid and reliable certificate of worker's compensation insurance, which shall indicate the CRLB as the certificate holder;
 - iii. copies of any and all current and pending client contracts and contact information for such clients, including current telephone numbers and addresses for CRLB review; and
 - iv. The registration fee in the amount of \$150.00 due upon renewal.
 - b. Respondent agrees that his work as a pool installation technician requires registration as a contractor in accordance with R.I. Gen. Laws Chapter 5-65.
 - c. Respondent hereby agrees that any and all contracts provided to CRLB and to potential homeowners will include the mechanic's lien language as required by R.I. Gen. Laws § 5-65-18.
 - d. Respondent hereby agrees to provide to CRLB copies of any newly signed contracts within 3 business days of entering into said contracts.
 - e. Respondent hereby agrees to provide CRLB all contact information for any and all new clients, including current telephone numbers and addresses within 3 business days.
 - f. Respondent hereby agrees that a CRLB investigator will have contact with any and all current and/or newly solicited or contracted clients to ensure that proper work is being conducted and there is adherence to CRLB regulations.
 - g. Respondent hereby agrees that if a new complaint against Respondent is hereafter filed or received by CRLB that the Department may request a hearing to suspend the Respondent's provisional registration.
 - h. Respondent acknowledges that if the above terms are not fully satisfied, by the agreed upon timeframe, and without Respondent affirmatively providing mitigating reasons and/or factors to the CRLB for why satisfaction of the above terms could not be met within the agreed upon timeframe, then the CRLB reserves the right to initiate further administrative enforcement actions and/or refer the Respondent to the Office of the Attorney General for prosecution under R.I. Gen. Laws § 5-65-19.
 - i. Respondent agrees that a status conference with the Hearing Officer in this matter will be scheduled for July 11, 2023 at 9:30 a.m. to confirm whether the above terms have been met and to further discuss an extension of the Respondent's provisional registration.
15. If the above terms and conditions are fully satisfied by Respondent, the CRLB shall waive any administrative fines in connection with this matter, and Respondent agrees that the

CRLB shall post this Stipulation and Consent Order on the Department's website under "Enforcement Actions."

16. Respondent understands that once Respondent is properly registered with the CRLB, the registration must be renewed annually, and it is Respondent's responsibility going forward to maintain an updated and valid registration with the CRLB so long as he continues to provide pool installation services, either individually, or as the owner of J. Morin and Sons, Inc.
17. The CRLB and Respondent agree that the terms and conditions of this Stipulation and Consent Order represent the final determination of this matter.
18. *Waiver of Hearing and Appeal.* By agreeing to enter into this Stipulation and Consent Order, Respondent knowingly and voluntarily waives any right to an administrative hearing and waives any right to any further appeals to the CRLB and the Superior Court under Chapter 5-65 and the Rhode Island Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.
19. *Opportunity to Obtain Counsel.* Respondent agrees that he has had an opportunity to retain legal counsel to represent him in connection with this matter, and that he fully understands and acknowledges all the terms contained within this Stipulation and Consent Order, and that he has signed this Stipulation and Consent Order knowingly and voluntarily.
20. *Public Record.* Once executed, this Stipulation and Consent Order shall be a public record under the Access to Public Records Act, R.I. Gen. Laws Chapter 38-2, and § 1.5(C) of 440-RICR-10-00-1.
21. *Enforcement.* If Respondent fails to comply with any terms or conditions of this Stipulation and Consent Order within any applicable time period set forth herein, Respondent will be in violation hereunder and, upon ten (10) days written notice to Respondent, the CRLB shall be entitled to take enforcement or other action in accordance with applicable law.
22. *Compliance.* Compliance with the terms of this Stipulation and Consent Order does not relieve Respondent of any obligation to comply with other applicable laws or regulations administered by or through the CRLB, the Department or any other governmental agency.
23. *Effective Date.* The effective date of this Stipulation and Consent Order shall be the date it is approved and signed by the CRLB and the Hearing Officer.

For the CRLB:


Print Name: Donna L. Costantino
Title: Associate Director

May 15, 2023

Date

For the Respondent:

Joseph E. [Signature]
Print Name:

5/17/23
Date

If represented by counsel,
Respondent's counsel:

[Signature]
Print Name: Patrick Dowling, Jr.
Date:

So Ordered:

[Signature]
Catherine R. Warren, Esq.
Hearing Officer
Date: 5/15/23

NOTICE PURSUANT TO R.I. GEN. LAWS § 42-35-12

THIS ORDER CONSTITUTES FINAL AGENCY ACTION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. FINAL BOARD ACTIONS ARE GENERALLY APPEALABLE TO THE BOARD WITH A SUBSEQUENT RIGHT OF APPEAL TO THE SUPERIOR COURT WITHIN THIRTY (30) DAYS OF THE DATE OF THE ACTION BY FILING A PETITION FOR REVIEW OF SAID COURT. HOWEVER, THE RESPONDENT IS HEREBY NOTIFIED THAT BY WAIVING ITS RIGHT TO A COMPLETE HEARING AND AGREEING TO THIS STIPULATION AND CONSENT ORDER, ANY SUCH RIGHT OF APPEAL HAS BEEN WAIVED.


CERTIFICATION

In accordance with R.I. Gen. Laws § 5-65-6, I hereby certify on this 15 day of May, 2023, that a true copy of the within Stipulation and Consent Order was sent by first class mail and certified mail, return receipt requested to:

<p>Joseph Morin J Morin & Sons, Inc. 21 Homestead Road Woonsocket, RI 02895</p> <p>Joseph Morin J Morin & Sons, Inc. 1537 Chalkstone Avenue 1 Providence, RI 02909</p>	<p>By email to: via attorney pfd@dblawri.com</p>
<p>Attorney Patrick Dowling, Jr. - #6863 536 Atwells Avenue Providence, RI 02909</p>	

And by e-mail to:

1. Catherine Warren, Esq., Hearing Officer (catherine.warren@doa.ri.gov);
2. Ania Zielinski, Esq., Deputy Chief Legal Counsel (ania.zielinski@dbr.ri.gov);
3. Matthew Lambert, Principal Investigator, Contractors' Registration and Licensing Board, DBR (matthew.lambert@dbr.ri.gov);
4. Donna Costantino, DBR Associate Director (donna.costantino@dbr.ri.gov);
5. Pamela J. Toro, Esq., DBR Legal Services Administrator (pamela.toro@dbr.ri.gov); and
6. Patrick Dowling, Jr., Esq., Attorney for Respondent, (pfd@dblawri.com).


Signature Matthew Lambert