

Instr #2023017509 BK: 4280 PG: 766, Filed & Recorded: 3/29/2023 4:09 PM CS Deputy Clk, #Pgs:4  
Doug Chorvat, Jr., Clerk of the Circuit Court Hernando CO FL Rec Fees: \$35.50

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BEFORE THE SPECIAL MASTER  
IN AND FOR HERNANDO COUNTY, FLORIDA

HERNANDO COUNTY  
DEVELOPMENT DEPARTMENT,  
Plaintiff,

vs.

Case No. 342876

DAVID S. RUTTER, d/b/a PERFECTLY CLEAR POOLS,  
Defendant.

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SPECIAL MASTER'S ORDER

THIS MATTER came before the Special Master for hearing on January 25, 2023, after notice to the Defendant, on Citations #BD-6769, BD-6770, and BD-6771 issued by the Plaintiff, HERNANDO COUNTY DEVELOPMENT DEPARTMENT, CONTRACTOR CERTIFICATION DIVISION, 789 Providence Blvd., Brooksville, Florida 34601, to the Defendant, DAVID S. RUTTER, d/b/a PERFECTLY CLEAR POOLS, 19633 Equestrian Way, Dade City, FL 33523. The citation was mailed to the Defendant by certified mail, return receipt requested, and by regular U.S. mail which was not returned, and was subsequently posted on the property of each violation and at the Hernando County Courthouse. The Defendant, being duly informed and advised, failed to appear for the hearing. The Plaintiff was represented by KYLE J. BENDA, ESQ., Assistant County Attorney. Proceedings were had in the absence of the Defendant.

The Special Master heard the testimony of Hernando County Field Investigator, THOMAS PETERS.

Upon **CONSIDERATION**, the Special Master finds as follows:

A. Upon testimony and evidence presented by the testimony of Hernando County Building Department Field Investigator, Thomas Peters, the Department received a complaint from the homeowner at 35055 Primrose Lane, Webster, Hernando County, Florida regarding the building permit for a swimming pool at that address never having a final inspection. Investigator Peters testified that as he searched the County records he found more permits which the Defendant had failed to call for a final inspection. Investigator Peters contacted those homeowners and verified that the work was completed. However, the final inspections were missing from the County records. Investigator Peters testified he has had no contact with the Defendant who has been very elusive since beginning this process in 2021. Investigator Peters testified that Lake County, Florida is having the same problem with this Defendant. Investigator Peters testified that the Defendant is a State certified pool contractor who is registered in Hernando County. Investigator Peters stated these violations exist at the following addresses, to wit: 35055 Primrose Ln., Webster, Hernando County, Florida (citation #BD6769), 4171 Edenrock Pl., Spring Hill, Hernando County, Florida (citation #BD6770 ), and 6160 Roble Ave., Spring Hill, Hernando County, Florida (citation

BK: 4280 PG: 767

BD6771). As of the date of this hearing there have been no final inspections called for at any of the above addresses.

**UPON THESE FINDINGS, it is therefore ORDERED:**

1. Regarding Citation #BD-6769 and the charge of failing to schedule the required final inspections within 10 days after completion of work and seven days to recall a red tag, on a permit issued at 35055 Primrose Ln., Webster, Hernando County, Florida, the Defendant, DAVID S. RUTTER, d/b/a PERFECTLY CLEAR POOLS, is found GUILTY of the cited violation, in violation of Chapter 8, Article II, Section 8-35(3)(a), Hernando County Code of Ordinances.

a) The Defendant shall pay a civil penalty in the amount of \$200.00 per day beginning on the day following the clerk's mailing date, plus \$113.90 administrative fee payable to the Hernando County Development Department, 789 Providence Blvd., Brooksville, Florida 34601, pursuant to Chapter 8, Article 2, Section 8-48(15) of the Hernando County Code of Ordinances.

2. Regarding Citation #BD-6770 and the charge of failing to schedule the required final inspections within 10 days after completion of work and seven days to recall a red tag, on a permit issued at 4171 Edenrock Pl., Spring Hill, Hernando County, Florida, the Defendant, DAVID S. RUTTER, d/b/a PERFECTLY CLEAR POOLS, is found GUILTY of the cited violation, in violation of Chapter 8, Article II, Section 8-35(3)(a), Hernando County Code of Ordinances.

a) The Defendant shall pay a civil penalty in the amount of \$200.00 per day beginning on the day following the clerk's mailing date, plus \$113.90 administrative fee payable to the Hernando County Development Department, 789 Providence Blvd., Brooksville, Florida 34601, pursuant to Chapter 8, Article 2, Section 8-48(15) of the Hernando County Code of Ordinances.

3. Regarding Citation #BD-6771 and the charge of failing to schedule the required final inspections within 10 days after completion of work and seven days to recall a red tag, on a permit issued at 6160 Roble Ave., Spring Hill, Hernando County, Florida, the Defendant, DAVID S. RUTTER, d/b/a PERFECTLY CLEAR POOLS, is found GUILTY of the cited violation, in violation of Chapter 8, Article II, Section 8-35(3)(a), Hernando County Code of Ordinances.

a) The Defendant shall pay a civil penalty in the amount of \$200.00 per day beginning on the day following the clerk's mailing date, plus \$113.90 administrative fee payable to the Hernando County Development Department, 789 Providence Blvd., Brooksville, Florida 34601, pursuant to Chapter 8, Article 2, Section 8-48(15) of the Hernando County Code of Ordinances.

2. That pursuant to authority granted by Chapter 2, Article III, Section 2-54(k) of the Hernando County Code of Ordinances and Section 162.09(2)(d), Florida Statutes, further administrative costs shall be determined at the next hearing.

**3. The total of penalties and costs due at this time, without considering the daily fine and payable to the Plaintiff, Hernando County Development Department, 789 Providence Blvd., Brooksville, Florida 34601 is \$341.70. This order shall bear interest at the legal rate established pursuant to Section 55.01, Florida Statutes, beginning 30 days after the clerk signs this order, FOR WHICH LET EXECUTION NOW ISSUE. In the event that this Special Master's Order is recorded in the public records pursuant to paragraph 7, herein, Hernando County shall be entitled to collect for their actual costs of recording this Order and a Satisfaction, which additional costs shall be added to the total of penalties and costs stated herein.**

4. This matter shall return before the Special Master on March 22, 2023 for a status hearing.

5. That the Defendant's permit pulling privileges in Hernando County are hereby suspended. The Defendant must apply to the Special Master for reinstatement after all inspections are completed, permits are finalized, and all fines are paid.

6. The Special Master makes further **RECOMMENDATION** that this matter be turned over to the Florida Construction Industry Licensing Board to impose on the State registration the following penalties pursuant to Chapter 489.131(7)(c):

a. Suspend state registration with reinstatement of registration contingent upon payment of any fines, investigative costs, restitution, or education requirements imposed by the Special Master.

b. Conduct its own investigation into the operations and business practices of the Defendant for his willful failure to call for final inspections and to properly supervise the field operations and business operations of the Defendant's business identified as Perfectly Clear Pools, and impose such further and additional fines, costs, and penalties as the Construction Industry Licensing Board may deem necessary and reasonable.

In accordance with Florida Statutes, Chapter 489.131(7)(d) and (e), the disciplined contractor, the complainant, or the Department of Business and Professional Regulation may challenge the local jurisdiction enforcement body's recommended penalty for Special Master or Board action to the State Construction Industry Licensing Board. A challenge shall be filed within sixty (60) days of the issuance of the recommended penalty to the following: Executive Director, Florida Construction Industry Licensing Board, 7960 Arlington Expressway, Suite 300, Jacksonville, FL 32211-07467. If challenged, there is a presumptive finding of probable cause and the case may proceed before the State Board without the need for a probable cause hearing.

Failure of the disciplined contractor, the complainant, or the Department of Business and Professional Regulation to challenge the local jurisdiction's recommended penalty within the time period set forth in this subsection shall constitute a waiver of the right to a hearing before the State Construction

Industry Licensing Board.

A waiver of the right to a hearing before the State Board shall be deemed an admission of the violation, and the penalty recommended shall become a final order according to procedures developed by the State Board Rule without further State Board action.

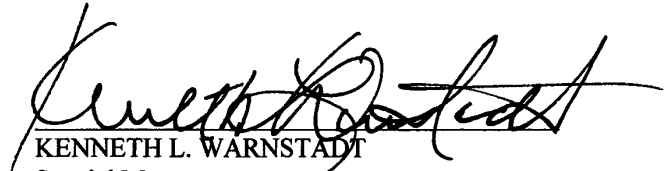
7. If the Defendant fails to comply with this Order within 30 days, pursuant to Chapter 8, Article 2, Section 8-49(1)(a) of the Hernando County Code of Ordinances, this Order shall be recorded in the public records of Hernando County, Florida, and wherever else the Defendant may live or own property and thereafter shall constitute a lien against real and personal property owned by the Defendant.

**REQUESTS FOR FURTHER REVIEW** shall be addressed as follows:

An aggrieved party, including the local governing body, may appeal a decision of the Special Master to the Circuit Court. Such appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Special Master. An appeal shall be filed within thirty (30) days of the execution of the Order to be appealed.

**YOU ARE FURTHER** advised that if you decide to seek further review of any decision made by the Special Master with respect to any matter considered at such hearing, you will need a record of the proceedings, and that, for such purpose, you may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the further review is to be based. Production of verbatim transcripts shall be the responsibility and at the personal expense of the party seeking review of the Special Master's Order.

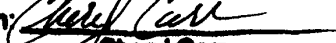
DONE AND ORDERED at Brooksville, Hernando County, Florida this 29<sup>th</sup> day of January, 2023.

  
KENNETH L. WARNSTADT  
Special Master

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Special Master's Order has been sent by Regular U.S. Mail and certified mail, return receipt requested to DAVID S. RUTTER, d/b/a PERFECTLY CLEAR POOLS, 19633 Equestrian Way, Dade City, FL 33523 and by Courthouse Mail to Hernando County Development Dept., Contractor Certification Division, 789 Providence Blvd., Brooksville, Florida 34601 on January February 9, 2023.

Pursuant to Section 119.07, Florida Statutes as amended from time to time, as Record Custodian for this document, I hereby certify that this is a true and correct copy of the original document on file.

Record Custodian:   
Print Name: Cheryl Carr  
Date: March 9, 2023  
Hernando County Government, Brooksville, FL  
Department/Office: County Attorney's Office

  
Clerk to Special Master