

## EXHIBIT [E15]

CONVERSATION BETWEEN ADAM BEREKI (PLAINTIFF/PETITIONER) AND CLAIRE  
CONLON OF CAL. ASSEMBLYWOMAN COTTIE PETRIE-NORRIS' OFFICE<sup>1</sup>

SEPTEMBER 17, 2020

[(0:06)] Plaintiff: Hello, this is Adam.

[(0:10)] Claire Conlon: Hi.

[(0:11)] Plaintiff: Hello.

[(0:13)] Claire Conlon: Hi. Can you hear me?

[(0:15)] Plaintiff: Yeah. I can barely hear you.

[(0:15)] Claire Conlon: [inaudible].

[(0:18)] Plaintiff: Hi there. Thank you for calling.

[(0:21)] Claire Conlon: Of course. So, tell me, what's going on?

[(0:29)] Plaintiff: Well, what do you know already? Without going into a dissertation, do you have my petition or the letter from Adam Silver that I wrote him?

[(0:44)] Claire Conlon: Let me look back. I didn't see a petition and I'm really not sure. I actually don't know too much about what you're asking for.

[(0:57)] Plaintiff: Okay.

[(0:57)] Claire Conlon: But I think it would be best for you to give me as much information as possible.

[(1:01)] Plaintiff: Okay. So, I was fined about \$930,000 for allegedly not having a construction license. And this was done under Business and Profession's Code 7031A and 7031B. Basically, the majority of the fine came from 7031B and it basically reads that "If a person utilizes the services of an unlicensed contractor, they can bring an action in court to recover all compensation paid."

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<sup>1</sup> NOTE: All efforts have been made to ensure the accuracy of this transcript. It was created by a third-party transcription company and is *not* a verbatim transcript in that 'words' such as "um" and "uh", stuttering, and other 'abnormalities' inconsistent with written speech have been excluded. Because neither the transcriber nor Adam Bereki's assistant (who reviewed the transcript for accuracy) were present during the call, there may be slight discrepancies. The actual audio recording should be relied upon for best evidence.

Let me give an example of this. Let's say that you hire me to build your home and you say "Adam, I want you to build me a 5-million dollar mansion on the coast of Newport beach." And so I build you the mansion and at the end of it, you say, "Oh, wonderful, beautiful job. But I found out you aren't licensed so I'm suing you and I want my \$5 million back and I get to keep the house".

And so we go to court. I don't have a license. You get the \$5 million from your house, and I have to pay you \$5 million more. That's the law.

[(2:17)] Claire Conlon: And so, are you an unlicensed contractor then?

[(2:19)] Plaintiff: Well, that depends on how you put it. Here's another problem with this statute. I went and took the licensing exam and all of that and became a qualifying individual for my company's contractor's license. My company was named Spartan Construction or The Spartan Associates, it's who the license was under.

So, when my company did work for these people and we had a disagreement, they went to court and said we never contracted with this company, we contracted with him. And because he's unlicensed, he has to pay us all the money back.

Well, of the 848,000 that they paid, 758,000 was paid to my company. But the court made me return that money that was paid to my company anyway. So, here's my contention with this party in addition to the fine aspect that I told you about earlier. Is that if a person goes and is a qualifying individual for their license, I mean, they say that the intent of the licensing laws is to protect the public from incompetent and dishonest contractors.

So, if you go through the test, you pass the licensing exam, you provide the work experience, and all of a sudden if the license is under your company name, now you're not licensed. Do you get what I'm saying?

[(3:50)] Claire Conlon: Not really.

[(3:52)] Plaintiff: Let me put it in a different way.

[(3:53)] Claire Conlon: I think what you're saying is that the license is being downed with that. You're saying [inaudible] but then you're saying that [inaudible]. I don't know.

[(4:02)] Plaintiff: Yes. You have it right. Let's take an attorney for example. An attorney takes the bar exam and he goes and works for Company A. Company A gets sued, the attorney has a license. But now, let's say he goes to Company B, he's still licensed. That's not the way it works in construction. The way that the law is written is that even if you take the licensing exam, if the license isn't in your name, you're unlicensed.

[(4:37)] Claire Conlon: Why wouldn't it be in your name if you took the exam?

[(4:41)] Plaintiff: Because that's the way that they do it. I had a company called Spartan Construction, I took the licensing exam because obviously, a corporation can't take a licensing exam. And so the application was made in my company's name, Spartan. And Spartan is the one that got the license even though I was the one that took the test and have the qualifying experience. This is unlike this in any other licensing scheme in California.

[(5:13)] Claire Conlon: So, you took the application in your company's name, and then your client is suing the company but the company is saying you're not with them even though that is your company?

[(5:27)] Plaintiff: No. No. No. Let me reiterate. I'm alleging that my company is the one that contracted with them and did the work and they're disgruntled and they said, "No, we didn't contract with your company, we contracted with you." And so, we already went to court and the court found that they contracted with me individually, not my company. And because they said I was unlicensed, I got fined \$930,000.

[(5:59)] Claire Conlon: Mm-hm. And now you're appealing now.

[(6:02)] Plaintiff: No. I've been through the appeal. This is the law. What I'm telling you is California law. This is the public policy. Let's say that the example with you that I did earlier with the 5-million-dollar house. It doesn't matter how much the contract amount is, it doesn't matter what kind of work was done. If the contract was \$20 million, the penalty would be 20 million.

The judicial council actually went after a company that was maintaining its court buildings because their license lapsed and they went after them for \$27 million. For a simple 300-dollar licensing fee. This is California's public policy and it's been challenged many times. I think it's been put into the Supreme Court of California over 3 or 4 different times. Since this part of it was enacted in 2001.

[(7:11)] Claire Conlon: Mm-hmm.

[(7:11)] Plaintiff: And I know of one-- [crosstalk]

[(7:14)] Claire Conlon: [inaudible] in person.

[(7:16)] Plaintiff: Yes. I have it all. I submitted it all to you with the petition for redress and grievance that I filed back in January.

[(7:24)] Claire Conlon: Yeah. I don't have that.

[(7:26)] Plaintiff: So, does Jess Wayne still work for you?

[(7:30)] Claire Conlon: Yes.

[(7:31)] Plaintiff: Okay. So, Jess and I, back in January, I called Jess, we spoke on the phone, and

she said, "Send me an email with all this information." So, I did and she replied to my email saying that she had received it and to reach out to her again in a week to see what the status was. Well, I did that and she's never responded. I've made phone calls, I've sent multiple emails, and I've got no response.

Then what I started doing was sending letters to Cottie's office, the district office in Sacramento. I sent another copy of the complaint and I sent follow-up complaints to her. I've never received a response.

[(8:16)] Claire Conlon: Okay. Well, that's why I'm calling you. Because I found out about that. I want to make sure that and see what we can do.

[(8:24)] Plaintiff: Right. So, I'm aware of another man. He got fined-, [crosstalk] I'm sorry?

[(8:32)] Claire Conlon: Oh, I'm just saying usually, I'm not the person but I just wanted to make sure [inaudible] that I got back to you because when I found out that you haven't been responded to, I thought it was very serious that I should get in touch with you.

[(8:46)] Plaintiff: I appreciate that. Thank you. So, there are a couple of issues. One, I've exhausted all of my remedies in California court. Like this is California law. They are not changing it. What the courts are enforcing is unconstitutional because it's an excessive fine. And they're not taking in the constitutional requirements for imposing an excessive fine. That's one issue.

So, I can't do anything else in California in the courts because that's the law and that's what the Supreme Court has said the law is. Even though it's unconstitutional. So, I've been trying since at least January to go the route of petitioning the legislature, and obviously, I just shared with you my results had been since that.

Now, I've also gone to the executive branch, meaning the Police Department because it's their duty to enforce the law and somebody's got to take action here because this is financially destroying people. And I don't know how many other cases there are. I know of several others offhand, of people that end up having to file bankruptcy over this.

Look, the criminal penalty for the same violation is \$5,000, a maximum of \$5,000. How do you go into a civil case and get fined almost a million?

[(10:18)] Claire Conlon: Right.

[(10:19)] Plaintiff: I mean, look, it's one thing if you damaged someone's house and they come into court and say, "Hey, look, you ruined our property. It costs us \$500,000 to repair. Here's the repair bills. Here's the damage pictures." That's not what we're talking about here. There's none of that evidence even presented.

What goes on here is basically, if you use the services of an unlicensed contractor, you go into court. It doesn't matter what kind of job they did. It doesn't matter the amount of the contract.

Nothing. \$10 million, \$5 million, \$100 million. You walk right into court, you say I used an unlicensed contractor, and the court refunds the money.

Now, that is entirely... Again, I told you, it was unconstitutional because it's a fine earlier but on June 22nd of this year, the U.S. Supreme Court came down with a case that dealt with an issue very similar to this. That case is called LIU v SEC, L-I-U-v S-E-C.

[(11:23)] Claire Conlon: L-E-U, sorry, what was it?

[(11:25)] Plaintiff: L-I-U-v-S-E-C. So, what the courts here are doing in California is they're calling this action disgorgement. And this is going to complicate things even more but I'll do my best to explain it. Disgorgement basically means that someone who breaks the law and profits has to give up their profits.

Let's say a bank robber robs a bank and he gets 20 grand. He was unjustly enriched 20 grand, he has to give the 20 grand back. Everyone gets that. That makes perfect sense. So, when it comes to disgorgement in civil cases, the only thing that can be taken, like let's say in an unlicensed contractor case, is the profit that the contractor makes. Not the whole contract.

But what the courts are doing is they're not taking into account the profit that the contractor makes. They're refunding the whole contract. And that's totally illegal. Because it turns into a fine and then it's subject to the excessive fines clause.

Now, the other issue that I have, I'm sorry to keep complicating things, is that because this law is purely penal, the legislature has no authority to give a private party a right of action to enforce a penal law. I mean, that would be like-, that's why the District Attorney is there.

[(13:06)] Claire Conlon: Sorry. I'm not sure what you mean about the legislature's role in that.

[(13:09)] Plaintiff: Okay. So, the legislature created the cause of action which is Business and Professions Code 7031B. And it imposes--

[(13:17)] Claire Conlon: [inaudible]

[(13:18)] Plaintiff: Okay. It imposes a penalty.

[(13:21)] Claire Conlon: Mm-hm.

[(13:22)] Plaintiff: A strict penalty. Okay? That's what the penal code is for. So, when you have a penal code case, like let's say, someone commits robbery, that's a penal violation. So, the person gets arrested by the police and then the police give the case to the District attorney and the District Attorney has to file the case on behalf of the people to punish the person for breaking the law.

Same thing here. They can't grant under my understanding, they can't grant that power to a private party because that duty has been vested in the governor, in the Executive Branch to

ensure that the law is faithfully executed. It's Article 5 Section 1.

So, a private party can't go into the court and prosecute someone for robbery just like they can't prosecute someone for violating a license. It's a regulatory law under California's police powers.

[(14:31)] Claire Conlon: Okay. I will have to take look into this because generally, the lawyers are the ones looking at the laws and I haven't talked to the council so I can dive into it a little bit more but I'm not sure it's 100% that way.

[(14:57)] Plaintiff: I get it. I understand that. You have, I'm sure, many duties, and one of them is not studying the Business and Professions Code and Criminal Law and all that stuff so I had no doubt you need help in all that stuff and resources but I'm reaching out to you because something needs to change.

And I don't have anywhere else to go. I mean, I'm pursuing every avenue that I have and I feel that the legislature has a duty to fix, to respond to my petition. Number one, a duty to investigate what I'm saying and if it's determined to be true, then to take corrective action and potentially even remedy the many of us that have been subject to this unlawfully.

[(15:50)] Claire Conlon: And so, you know, when I take a look at the license division of the government, I mean, that procedure system about fear of punishment or a [inaudible] like there's not an official cross up to that that I'm aware of.

[(16:10)] Plaintiff: Well, I haven't been able to find one either but when I do research on the right to petition for redraft perseverance[?], it's also in the Constitution for the United States under Article 1. And when you research the history of this, people would petition their legislature, the legislature would do an investigation, and then take remedial action.

So, I'm not sure what you're supposed to do. I would think that the fair and responsible thing to do if a constituent reported a major unconstitutional public policy being enforced that's financially destroying people unlawfully, and it's the public policy of the State and the courts are not responding to challenges to it, that a legislature would have a duty to investigate and do something about it.

[(17:14)] Claire Conlon: Yeah. I know our Office talks to the Attorney Generals office but I don't think they [inaudible] or something which is already [inaudible] into a council. So, I can do that. What did Adam Silver say to you?

[(17:29)] Plaintiff: I'm sorry?

[(17:32)] Claire Conlon: Adam Silver is our advocate[?] council but he's separate from our legislative council. I'm curious what he said to you.

[(17:40)] Plaintiff: Adam doesn't say much or at least from what I remember because he's doing his job as a legislative council. Do you mean like is he commenting on the constitutionality of the law or what I should do?

[(17:59)] Claire Conlon: I'm just curious what he said. I don't know [crosstalk].

[(18:01)] Plaintiff: Okay. Yeah. He has not talked about the constitutionality of the law. He got me in touch with you. And he said, "You should make every attempt to petition, follow every avenue that you have available to you."

[(18:21)] Claire Conlon: Okay. All right. So, I will get your original request from Jess and I will have our legislative council get a hold of [inaudible] with our regional council who came in that GA.

[(18:38)] Plaintiff: Okay. Can I do something really quick? Let me do this while I got you on the phone. I'm going to send you some key legal documents that they could look at and see very clearly what's going on very fast. Let's see here.

And then I will forward you the email from Jess so you'll have that too. [pause] I'm just looking for the other document. [pause] It's going to take me a minute. It's not in the place where I thought it was going to be. But I will forward them to you so that these two things, if they take a look at it right away and they're attorneys, they'll know exactly what's going on. And then I'll forward you this string of emails from Jess.

[(20:49)] Claire Conlon: Okay. I have to talk to the council. They usually, I don't know how long they investigate but they'll tell me and then I can tell you.

[(21:02)] Plaintiff: Okay. That would be great.

[(21:11)] Claire Conlon: How are you doing with all these issues?

[(21:14)] Plaintiff: Thank you for empathizing. I'm trying to, I'm on the verge of being forced into bankruptcy right now. This has been going on since 2017. I've been trying to get help. So, any help you could give would be very much appreciated and I'm happy to speak to anyone in the legislative council department if they have questions.

I have all the case law and research done. I have all the legislative history records. I have everything. All the documents involved with it. And I'm trying to avoid filing a lawsuit and suing the State and doing government tort claims on people and all of that.

[(22:05)] Claire Conlon: So, hang in there. I know times are tough right now but other than [inaudible]. So send me whatever you have and I'm going to help on [inaudible]. I will let you know tomorrow how long they [inaudible] timeline.

[(22:22)] Plaintiff: Okay. The other thing I just want to tell you really quickly, Claire, is that there's another statute involved. It's 7071.17.

[(22:33)] Claire Conlon: Okay.

[(22:34)] Plaintiff: And because of that, because of this judgment, and the fact that I can't pay it and it's unlawful, they suspended my license. So, I haven't been able to work for 3 years now in construction.

[(22:52)] Claire Conlon: Yeah. I can see how that further exacerbates all these issues.

[(22:59)] Plaintiff: Yeah.

[(23:02)] Claire Conlon: Okay. I know it's going to help too if you consult to the B&P Committee just to understand these issues as well.

[(23:10)] Plaintiff: Okay. Would you want me to send you any real-quick downloads of the law or do you have all the things there? You have it already.

[(23:20)] Claire Conlon: I do have access to all that and I think legal counsel is going to be the expert in looking at that but whatever you can send me, if you can send it, you know, it's a lot of stuff, but in one email, that's ideal, but if it's in multiple I can handle that too.

[(23:42)] Plaintiff: Okay. All right. It's going to be a couple of email

[(23:48)] Claire Conlon: Okay.

[(23:49)] Plaintiff: And be on the lookout for the one, I will make it stand out. This had the most important documents in there that have all the case law and everything in it.

[(24:02)] Claire Conlon: Okay.

[(24:03)] Plaintiff: Before delving into the whole morass of documents, if you read these two things, it's pretty clear.

[(24:13)] Claire Conlon: Okay.

[(24:14)] Plaintiff: Thank you so much for your time. I appreciate your kindness and empathy and reaching out to me very much. Thank you.

[(24:22)] Claire Conlon: Thank you for your patience to talk with me, I know you're frustrated.

[(24:28)] Plaintiff: Yeah. It's not you. You didn't do it. You're offering to help so I'm grateful. Thank you very much and I'll look forward to hearing from you.

[(24:42)] Claire Conlon: Thank you. Bye-bye.

[(24:42)] Plaintiff: Okay. Bye-bye.

[END]