

CONSUMER PROTECTION COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Consumer Protection Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Thursday, March 15, 2007.

MEMBERS PRESENT:

Legislator Cameron Alden - Chairman
Legislator Jack Eddington - Vice-Chair
Legislator Elie Mystal

MEMBER NOT PRESENT:

Legislator Wayne Horsley - Excused Absence
Legislator John Kennedy

ALSO PRESENT:

George Nolan - Counsel to the Legislature
Warren Greene - Aide to Legislator Alden
Charles Gardner - Director of Consumer Affairs
Richard Baker - Deputy Clerk of the Legislature
Joe Muncey - Budget Review Office
Kevin Rooney - Oil Heat Institute

MINUTES TAKEN BY:

Donna Catalano - Court Stenographer

(*THE MEETING WAS CALLED TO ORDER AT 1:14 PM.*)

CHAIRMAN ALDEN:

Good afternoon. Welcome to the Consumer Protection Meeting. We will have a Pledge led by Legislator Eddington.

SALUTATION

CHAIRMAN ALDEN:

I would also like you to just remain standing for a moment of silence for those that have given their lives to this country and those that are in harm's way still.

MOMENT OF SILENCE

CHAIRMAN ALDEN:

Legislator Horsley is not going to make it. He's up in Albany on some kind of hearing, so he's asked for an excused absence. And Legislator Mystal is just actually standing outside the front door. He'll be in in a minute. And Jack Kennedy is usually a couple minutes late. So I think we'll get started without them. We have public portion, two cards. Albert, you put in two cards?

MR. COLAO:

No. My dad is here, but he is going to go second, because I think that maybe we can get this --

CHAIRMAN ALDEN:

I'm sorry. Come on up. Your dad's card was in first, but if you want to go first, go ahead. And I apologize if I slaughter your last name. Albert Colao.

MR. COLAO:

Albert Colao representing Homestyle Remodeling. I did a lot of thinking since the other day when I left the Department of Consumer Affairs that there was a time misunderstanding between 2:30 and one o'clock. When that happened -- I'm not putting this in here to cause any type of conflict or anything, but I was attacked again in the Department of Consumer Affairs. But I don't want to make that an issue. I think we can come to maybe some type of resolve today.

This is what I'm thinking. I don't think that anybody can really understand what this company went through. I mean, this company was completely destroyed before my eyes. I'm laying off employees. My dream of five years of my life just falling apart in front of me. I go to work every day, I haven't received a pay check in ten weeks, me or my assistant Stephanie. We're the only two left out of the whole company trying to turn this thing around. The evidence is clear all the way down the line to us that there was some things done here that should not have been done. And I'm sure we can all agree on that, because this appointment mix up would never have happened if that wasn't the case.

Obviously the situation's being evaded. So this is what I'm thinking. Mr. Dragonette said to me yesterday -- Tuesday, he thought I was coming down there for a license. I thought I was being mandated to go there for I don't know what. And I'm not saying I don't want license. I don't even know if I'll ever be back in that end of industry any more or not. But he got me to thinking, what do I want. Well, one of things I wanted for Mr. Frank Van Dyke Mr. Baessler to be held accountable for their behavior and what they did here.

I'm not someone that's wants to destroy someone's life, but I don't want mine destroyed either. And that's exactly what happened to me here. So how do you resolve that, and what's the medium here? I have clients that got hurt, badly. All of my finances, my family's finances, we're out on the street when this company got closed down. We lost everything. I don't get a paycheck, I have no money, but everybody else here still gets paid. So this is what I'm thinking. I don't know, maybe

there's County things in place that can resolve one of my clients that I cannot resolve. I can't fix this problem. I fixed all the other problems that I had. I'm owning up to responsibility with the vendors for all the cash flow that's been taken from my company. And I'm doing the best I can in that area. And I will recover from that situation, it's only a matter of time.

So what I'm thinking here is maybe we can sit down. It's been 75 days since Steve Levy's office requested information from the Department of Consumer Affairs. It's been 45 days since this office has asked for information from the Department of Consumer Affairs, and nothing still has come to the table. So I think what we need to do is to do what I asked Mr. Dragonette, we communicated months ago, is I just wanted to get to the table and be understood that my company was being damaged here. I'm afraid right now. I don't know the direction of my life or where it's going. I'm doing the best I can every day.

So maybe there's some things in place that we can look at this client and say maybe we can fix that situation. I'm taking lumps financially, and I'll deal with that issue on my end. The only other thing I'm going to ask for is that I get a sit-down with Mr. Frank VanDyke -- I know Mr. Baessler is retired -- and explain to him what he did to a beautiful organization. And one more thing I'm going to ask is that Mr. Gardner and Mr. Dragonette visit my business, come see my company and we were building here. It was a company of integrity. We cared about it. We had our problems, I'll own up to that, but those problems would eventually have been superceded.

You know, I've been in business a long time, and my goal was to build and put integrity back into the construction industry in Suffolk County. That's where this company was headed. I've had some problems with it, like I said, I own up. And I think this is maybe a place we can come to to resolve this.

I'm asking please for this body of government to grant me that. Give that opportunity to sit down with the Commissioner and let them come look and see what we were doing, because that's my dream that I worked hard for many years. When I was a salesman -- if my record is checked, I was a salesman for two other companies, what I found was there's no integrity in this construction industry. That's what I found. And I was building my whole organizations on that.

So that's all I have to say today. And all this to me doesn't means nothing. I don't want to see Mr. Frank VanDyke lose his job, I don't want to see any of that happen. Alls I want is some type of resolve here. And let's cut through all the other stuff of appointments and all that, because that's not going to resolve this. Thank you.

CHAIRMAN ALDEN:

Albert, Sr. Did want to address this, because you're next on the list? If sitting down is more comfortable for you.

MR. COLAO, SR.:

No, I'll stand. I'm up here for two reasons. Good afternoon, everybody. And the one reason is I wanted to clear the air on what happened on Tuesday, because when left this last meeting here at Consumer Affairs, the second meeting, we all went outside, Albert went straight to car. I says, "What are you doing?" He says, "I've got to make phone call, I've got to call Consumer Affairs?" "What's the issue?" "I've got to get a date and time." In which he did. And when he got off the phone I asked him what the date and what the time was. And the reason I asked him is because I wanted to be at that hearing. And it was very unfortunate when gave me date and the time, I said to him, "I cannot make that hearing, I have a hospital appointment that day." I want you all to know that he was telling the truth, that it was a 2:30 date -- time that was given to him on the 13th. It's not something he made up. So, again, Consumer Affairs played a game with this.

And the other thing I wanted to ask was at the first hearing, I recall a Legislator, somebody, saying to Mr. Gardner at the end of the hearing -- I might stand to be corrected, if I do, do so -- something to effect, when you come to second hearing, I would like you to be able to answer the questions that

I'm going to give to you on the charges that Homestyle Remodeling made against Consumer Affairs.

MR. COLAO, JR.:

I could correct that for you, Pop. What it was is that you were requesting that they bring information to -- responding to what happened at that first hearing, and instead we got turned back to the Department of Consumer Affairs. I think at this point, because a lot of what I was thinking happened today on the way here, Pop, that I think we can get passed this. I think there's maybe a way if we all sit down, we can figure this out.

MR. COLAO, SR.:

I would like to know honestly.

CHAIRMAN ALDEN:

I just have to say, one of you can speak at a time, because it's going to be confusing for Donna and also for us. If you could just pull that over, the microphone over to you a little bit.

MR. COLAO, SR.:

I would like to know why these allegations weren't answered at the second hearing.

CHAIRMAN ALDEN:

You want me to answer that right now?

MR. COLAO, SR.:

That's it.

CHAIRMAN ALDEN:

Okay. Because we were waiting for the results of the meeting that was to take place between your son and the Department of Consumer Affairs. It was very simple, we need background information, because we didn't have enough information to do anything on to decide one way or the other. So we needed to fill out the record, and that would be including a report from the Department of Consumer Affairs of what went on, what their recommendations would be, what the parties are involved -- that are even involved in it. Because as I told you at that meeting, it was a matter of that was the first time we were exposed to any of that controversy or that issue. So it takes time to develop that record.

MR. COLAO, SR.:

But then again, sir, isn't it true that you're sending him back to them again to try to resolve the problem, okay? One thing doesn't have to do the with other. The allegations weren't answered. And I feel that at that second hearing, Mr. Gardner should have been able to answer all allegations.

CHAIRMAN ALDEN:

Well, actually, he couldn't, because that meeting never took place between your son and Mr. Gardner, and that's what we needed, the result of that dialog and the outlining of the issues and the who was involved in it. We need that before us before we can decide even whether we are involved in the controversy or we're not. And then we're going to turn to our Legal Counsel and we're going to see if there's a remedy that we can come up with or if there's no remedy we can come up with, if it has to go to the courts or it doesn't have to go to the courts.

So we need that flushing out so to speak of all the issues, all the parties involved before we can even take any action at all. And again, we're going to need the meeting between -- if you're a principle in the company, then you should be there too -- but at least between your son and the Department of Consumer Affairs. And we're going to put something on the record in just a minute where all of us are going to be apprised of what time, what date that meeting will be, and then I'm going to want it confirm to everybody in writing. Do you have anything else that you'd like to add?

MR. COLAO, JR.:

Yeah, I do.

CHAIRMAN ALDEN:

Wait a minute. I want to give your father, you know, the respect due. So he's got his time if he wants to finish. You're all set?

MR. COLAO, SR.:

Okay, sir. Thank you. Thank you, everybody.

CHAIRMAN ALDEN:

So we're now we're going back to Albert -- are you a Junior?

MR. COLAO, JR.:

Yes.

CHAIRMAN ALDEN:

Okay. We're going back to Albert, Jr. My brother is a junior, so it was always -- and they had the same name, Frederick Alden. So go ahead.

MR. COLAO, JR.:

I also want it understood that when I went there and Bruce had said to me, "Albert, the Department of Consumer Affairs, you know you're here" -- it was obvious that we were going to be talking about licensing. And I am not in any way saying that I don't want that, I just don't believe I'm going to be in that end of the business any more, but I would like to have the license for Homestyle Custom Builders.

But what I really want understood is that what I wanted from day one was that Frank VanDyke and Mr. Baessler be held accountable, and that -- that's really it. I mean, I really think we can come to the table with this. I don't think we should take much more time with it. Hopefully we'll be able to correct it, Okay? I do have a meeting on the 26th, is that meeting still going, or we're going to reset --

CHAIRMAN ALDEN:

Wait one second. I'm going to bring the Commission up, and we're going to put that on the record. You all set?

MR. COLAO, JR.:

Yes. Thank you.

CHAIRMAN ALDEN:

Thank you. Charlie, if you would be so kind as to come on up. We'll go through this first, and there's questions on gasoline and heating oil that I want get to. But as far as the meeting with Albert, is that set?

DIRECTOR GARDNER:

Yes. It's now set for March 26th at 1:00 p.m. with John {Megus} the Director of Licensing.

CHAIRMAN ALDEN:

In your office.

DIRECTOR GARDNER:

That's correct.

CHAIRMAN ALDEN:

Okay. And you're going to coordinate what issues and -- are still remaining, what has to be examined?

DIRECTOR GARDNER:

Correct.

CHAIRMAN ALDEN:

You're going to lay it all out?

DIRECTOR GARDNER:

Until we have the meeting -- yeah. There are two issues, which is the pending application for a license and the resolution of open complaints. Until we have a meeting, we can't address anything. This case went before the Home Improvement Board on Tuesday, they also made no decision, they just reserved decision, again, based on the outcome of the meeting.

CHAIRMAN ALDEN:

Okay. Could I also ask you to get some kind of, you know, like executive summary over to us, and if you want to send it to the Presiding Officer's Office or if you want to send it to the Clerk's Office and have it disseminated amongst all, at least the members of this committee, but I would suggest probably all members of the Legislature so that the next time we have a Consumer Protection Committee Meeting we might be able to figure out, you know, what the issues are and where we have to go on this.

DIRECTOR GARDNER:

I'll just make an addendum, now there has been a previously submitted summary that was given to all members of the committee as well as the County Attorney and Legislative Counsel, so addendum -- I mean, there hasn't been much that has happened, except that since --

CHAIRMAN ALDEN:

No. I'm talking about after you have that meeting.

DIRECTOR GARDNER:

Oh, after the meeting, sure.

CHAIRMAN ALDEN:

Right. After the meeting, then we need the update. Is that okay?

DIRECTOR GARDNER:

Absolutely. Absolutely. Yes.

MR. COLAO, JR.:

Excuse me?

CHAIRMAN ALDEN:

Hang on just one second.

MR. COLAO, JR.:

Okay.

CHAIRMAN ALDEN:

And we have a representative -- Lynne is here from the County -- we actually have the Chief Deputy County Attorney with us. We'll all be brought up to date.

DIRECTOR GARDNER:

Sure. Whenever that resolution occurs, just as soon as it is possible to write up the executive summary of the entire matter, that will be done and distributed.

CHAIRMAN ALDEN:

Great. Now, Charlie, could you just bring us up to date on fuel stocks, and heating oil stocks? We're all noticing the price of gasoline climbing right back to the three dollar range.

DIRECTOR GARDNER:

You can't hardly not notice it. There's good news and bad news. The good news is that at least home heating oil has taken a slight dip, four or five cents per gallon, but at the same time, gas is still skyrocketing. We're back to where we were six months ago. The numbers are such that in the last six weeks the average price -- just in the last six weeks -- has gone up approximately 42 cents a gallon. So that's been pretty much of a price shock there. And just in the last two weeks, it went up 20 cents a gallon. So, again, we are at the levels we were at back in mid September.

CHAIRMAN ALDEN:

The stocks of heating oil are okay, because now we should be going out of season, right?

DIRECTOR GARDNER:

Well, as you know, we're not in the business of interpreting, we're just in the business of reporting, but basically the media stories today, first of all, matched our -- what we find with the prices very, very closely. And again, as we have heard so many times, refineries down for maintenance and repairs, a warmer than average winter, lack of snow fall caused us all, I guess is what they're saying, to drive more, and that's what drove up -- is driving up gasoline. And at the same time, since it was so mild, that's what's dropping down the price of heating oil. The stocks -- the reports that we got this morning as far as inventory, that's fine. It's just that supposedly there are refineries -- they also brought in Europe now, a couple of refineries that are down for maintenance and repairs, which affects the distribution.

CHAIRMAN ALDEN:

But heating oil at this time, we should be good enough to get out of this, you know, this winter season, you know, for lack of a better term.

DIRECTOR GARDNER:

Yes. Correct.

CHAIRMAN ALDEN:

Good. All right. Any questions from the committee? Legislator Mystal.

LEG. MYSTAL:

Good afternoon, Commissioner. A report came out today that the Governor of the State of Connecticut is asking the Federal Government to provide some answers to as to why gasoline prices are going up, because according to all reports, she could not find anything that would warrant the spike, that will, you know, warrant the increasing price on a steady basis except profitability, to increase the profit oil companies, because we didn't have a bad winter season, we didn't have -- you know, the refinery that is supposedly down is a regular process, that they go down for cleaning and for repair. It happens, I know, on a regular basis. It does not increase anything.

From our end, you know, being the County or the State, have you found reason whatsoever why we should be paying 42 cents more a gallon in Suffolk County? Are there any possible -- I mean, I know the industry will always give you reasons, like, you know refinery here in Europe, or refinery there, but we don't have anything that we can put our finger on.

DIRECTOR GARDNER:

Other than profitability for big oil, a free market place and supply and demand. It's certainly not on the retailers end. You know, we've said this many times before at committee. The retailers do not make -- you know, gasoline could go up 75 cents at the pump, and they -- in fact, not only do they not make any more than they were making at \$2 a gallon, sometimes they make less, because the do -- the retailers, not the big oil companies, the retailers just don't pass on the increases as quickly as they can in a proportionate manner.

So the retailers aren't making any more money. It's big oil who's making the money, profitability and big oil. And -- which is beyond our jurisdiction. And as you mentioned, maintenance and repair, that's what I said, the same old story. You can go back on these surveys that we have, you can go back 20 years if you want, and it's the same old story, every time it spikes, it's -- you know, there's five or six key works, stock phrases that they use just use over and over and over again. It is what it is.

LEG. MYSTAL:

Could this be classified simply as gauging the customers by the big oil? I'm not saying you should say that.

DIRECTOR GARDNER:

Every time the prices spike as rapidly as they have, just in the past few weeks, they have been State Legislatures that have conducted hearings as well as the Feds. And, again, go back as many years as you want, and they always come out -- you know, there's never an answer, there's always a lot of --

LEG. MYSTAL:

Smoke.

DIRECTOR GARDNER:

Correct, but there's never an answer.

LEG. MYSTAL:

Thank you.

CHAIRMAN ALDEN:

Not to butt in on it, but just to add in on it, it's interesting to watch the Futures Contracts, and that would be maybe Wall Street or investors getting involved in it too, because the amount of trading in the Futures Contracts for refined gasoline and some aircraft fuel and things like that has gone through the roof.

DIRECTOR GARDNER:

The Chairman makes a very good point, and I should have added that to the -- it's not only the profitability of the oil companies, those people in the business of drilling, refining and distributing, it's also in the financial markets, those people make one heck of a lot of money on our gasoline and home heating oil.

CHAIRMAN ALDEN:

Any other questions for the -- Charlie, could you stay there for one minute? Because, Albert, Jr, you wanted to add --

MR. COLAO, JR.:

Yes.

CHAIRMAN ALDEN:

And I apologize for making that distinction, but, you know, like, you're behind Donna, so it's a little easier for her to, you know, like -- she's got to put down in the record exactly who is speaking. So now it's you again.

MR. COLAO, JR.:

Okay. Thank you. I just wanted to ask Mr. Gardner a question. I'm not really clear on what you are saying is going to happen on the 26th, I don't understand.

DIRECTOR GARDNER:

The meeting on the 26th is to discuss Homestyle Remodeling. There are still three outstanding complaints and the pending application for a license, which has not -- that application has not officially been rescinded. That's what the meeting is about.

MR. COLAO, JR.:

Mr. Gardner, I don't mean to be rude --

CHAIRMAN ALDEN:

Then I'm going to stop you right now. If it can be interpreted as being rude --

MR. COLAO, JR.:

I will retract that.

CHAIRMAN ALDEN:

Thank you.

MR. COLAO, JR.:

I'd like say something else then. Okay. The complaints that are on the table, you know, it's obvious. Then this obvious, we're still in the same place we were before I even walked in the room. So this is what I think needs to be done now. Now I'm requesting an audit of Mr. Frank VanDyke, the cases of Ms. Johnson and all the things that Mr. Gardner is putting on the table right now.

And I didn't open this door. And the next place that I'm going is public, that's it. I'm not going to sit there and talk about a license. The complaints this man is talking about are the same complaints that are in our files stating that these men dragged my company to the ground and acted like a private advocate instead of a public advocate, and I'm not standing for it any more. I need an answer here today. I'm not leaving without one today. I need something that's going to tell me there's an investigation done on this case.

My life, my family's life is on the line. And please, again, I apologize in advance, but I have had enough. I'm not -- listen, again, I'm not sitting down with someone that's going to tell me they're going to give me my license back. It ain't going to happen. I'm not going to explain myself when I've already explained myself and given Mr. Gardner and Mr. Bruce Dragonette and the Executive's Office -- excuse me, please. And the Executive's Office --

CHAIRMAN ALDEN:

No. No. It's not excuse me, please. I gave you the courtesy. You wanted to make a statement, you want to argue, sit down now.

MR. COLAO, JR.:

I don't want to argue.

CHAIRMAN ALDEN:

Now, we're cut off.

MR. COLAO, JR.:

Oh, no. I'm not cut off.

CHAIRMAN ALDEN:

yeah. That's the end of this.

MR. COLAO, JR.:

I have a right in this country. I'm going to continue speaking. Excuse me.

CHAIRMAN ALDEN:

No. No.

MR. COLAO, JR.:

No. Excuse me.

CHAIRMAN ALDEN:

This is ended. You were given your right and an extension.

MR. COLAO, JR.:

It is not ended. I'm sorry. It is not ended.

CHAIRMAN ALDEN:

As far as this committee is concerned --

MR. COLAO, JR.:

You don't have the right to do that. I have a right to speak. I have the right to freedom of speech. I want to say what I have to say.

CHAIRMAN ALDEN:

And now this committee is ended as far as you're concerned.

MR. COLAO, JR.:

All right. Can I have a copy of the transcripts here today, please?

CHAIRMAN ALDEN:

No. Go make a Freedom of Information request.

MR. COLAO, JR.:

Okay. I'll take care of that. Thank you. Let's all stick together guys.

CHAIRMAN ALDEN:

Yeah. Let's stick together.

MR. COLAO, JR.:

Now we're going to play Chess.

CHAIRMAN ALDEN:

No. We're going to play Chess. We're going to start showing a little bit of respect for people. Goodbye.

MR. COLAO, JR.:

How about respect for me?

CHAIRMAN ALDEN:

Goodbye.

MR. COLAO, JR.:

How about respect for me? No. No. That's not fair. You just insulted me. What about respect for me?

CHAIRMAN ALDEN:

Get out.

MR. COLAO, JR.:

I'm not getting out.

CHAIRMAN ALDEN:

This is done.

MR. COLAO, JR.:

Do me a favor, please? I want someone to dial 911 right now. Stephanie, dial 911.

CHAIRMAN ALDEN:

Dial 911.

MR. COLAO, JR.:

I'm not accepting this behavior. I am not going anywhere. I am not going anywhere. I want Channel 12 down here right now. Get on the phone. I'm not leaving this office. I refuse. I didn't bring it here. Stephanie, Channel 12 right now. Channel 5 and Channel 12.

LEG. MYSTAL:

Can I request a recess?

CHAIRMAN ALDEN:

Recess.

(*A FIVE MINUTE RECESS WAS HELD*)

CHAIRMAN ALDEN:

Let the record reflect that I've asked Donna for permission to continue, and I've been granted permission. So we're back from recess.

LEG. MYSTAL:

As long as Donna is fine we can talk.

CHAIRMAN ALDEN:

We're through with the public portion. We are into the resolutions. We have two tabled resolutions.

2336-2006. Adopting a Local Law to require posting of video game ratings at retail establishments.

LEG. MYSTAL:

Motion to table at the request of the sponsor.

CHAIRMAN ALDEN:

Motion to table by Legislator Mystal, seconded by Legislator Eddington. All those in favor? Opposed? 2336 is **TABLED (VOTE:3-0-0-2 - Not present - Legis. Horsley and Kennedy)**.

1056. Adopting a Local Law to enact a Suffolk County Homeowners Protection Act.

And I'm going to amend that to be a Legislator's Protection Act also. That's still in public hearing, that's been recessed. So that still has to remain tabled. Do we have to do a motion?

LEG. MYSTAL:

Motion to table.

CHAIRMAN ALDEN:

Motion to table by Legislator Eddington.

DIRECTOR GARDNER:

You don't need any comments?

CHAIRMAN ALDEN:

It's recessed. Seconded by Legislator Mystal. All in favor? Opposed? That's unanimous. That's **TABLED (VOTE:3-0-0-2 - Not present - Legis. Horsley and Kennedy).**

Anybody have anything else? I don't see anybody rushing at us. We are adjourned. Thank you very much.

(*THE MEETING WAS ADJOURNED AT 12:44 P.M.*)

{ } DENOTES BEING SPELLED PHONETICALLY