

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DEPARTMENT OF BUSINESS AND  
PROFESSIONAL REGULATION,

Petitioner,

v.

Case No. 2019-036648  
CILB

MODESTO HERNANDEZ,

Respondent.

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FINAL ORDER ON WAIVER

The Department of Business and Professional Regulation (hereinafter “Petitioner”) issues this Final Order against Modesto Hernandez (hereinafter “Respondent”) as follows:

1. An Administrative Complaint was filed in this case on or about December 17, 2019 alleging that Respondent violated certain provisions of chapters 455 and 489, Florida Statutes. A copy of the Administrative Complaint is attached hereto as Exhibit A.
2. The Administrative Complaint, Election of Rights form, an Explanation of Rights, and a cover letter were mailed to Respondent via Certified and regular U.S. Mail on January 21, 2020. Proof of mailing by Certified and regular U.S. Mail is attached hereto as Exhibit B.
3. The Election of Rights form, Explanation of Rights, and cover letter informed Respondent that a written response to the Administrative Complaint, including the right to request a hearing, was due within 21 days of actual service of the Administrative Complaint. See section 120.569(1), Florida Statutes, and rule 28-106.111, Florida Administrative Code.
4. Petitioner made all reasonable efforts to provide actual notice to Respondent.
5. Petitioner informed Respondent that the failure to file a timely response to the Administrative Complaint shall be deemed a waiver of the right to a hearing.

6. Respondent has not filed a timely response to the Administrative Complaint. Respondent has not submitted any evidence or made any allegations that would support the application of the doctrine of equitable tolling.

7. Verification of Waiver is attached hereto as Exhibit C.

Having considered the Administrative Complaint, the evidence of Petitioner's reasonable attempts to provide actual notice to Respondent, and being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED:

8. The allegations of fact and the conclusions of law in the Administrative Complaint are adopted in their entirety herein.

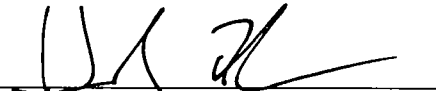
9. Respondent must pay a total administrative fine of \$1,500.00 pursuant to the penalty/disciplinary guidelines of rule 61-5.007, Florida Administrative Code.

10. Pursuant to section 455.227(3)(a), Florida Statutes, which provides that "the department... may assess costs related to the investigation and prosecution of the case excluding costs associated with an attorney's time." Respondent must pay costs of \$130.68.

11. Payment of the fine and costs by check or money order issued to the Department of Business and Professional Regulation must be received by the Department of Business and Professional Regulation, Revenue Unit, 2601 Blair Stone Road, Tallahassee, Florida 32399-2202 within 30 calendar days of the effective date of this Final Order. **Your case number(s) must be clearly referenced when making payment.**

12. This Final Order is effective on the date it is filed with the Agency Clerk of the Department of Business and Professional Regulation as indicated on the first page of this Final Order.

DONE AND ORDERED this 15 day of June, 2020.

  
Halsey Beshears, Secretary  
Department of Business and  
Professional Regulation  
2601 Blair Stone Road  
Tallahassee, Florida 32399-2202

NOTICE OF RIGHT TO APPEAL

Unless expressly waived, any party adversely affected by this Final Order may seek judicial review by filing an original Notice of Appeal with the Clerk of the Department of Business and Professional Regulation, and a copy of the notice, accompanied by the filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal within 30 days of the effective date of this order, in accordance with Florida Rule of Appellate Procedure 9.110, and section 120.68, Florida Statutes.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Final Order on Waiver was provided to Modesto Hernandez, 660 W 7<sup>th</sup> Street, Apt 3, Pompano Beach, FL 33060 by regular U.S. Mail this 19<sup>th</sup> day of June, 2020.

  
OFFICE OF THE AGENCY CLERK

Copy(s) Furnished to:

Daniel A. David, Assistant General Counsel - ULA

Respondent

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

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v

Case No 2019-036648  
CILB

MODESTO HERNANDEZ,

Respondent

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation (“Petitioner”) files this Administrative Complaint against Modesto Hernandez (“Respondent”) and alleges

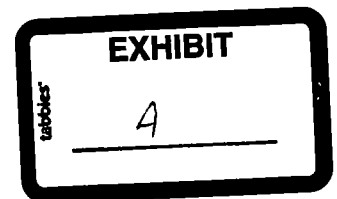
1 Petitioner is the state agency charged with regulating the practice of construction contracting pursuant to section 20 165, Florida Statutes, and chapters 455 and 489, Florida Statutes

2 Petitioner has jurisdiction over the unlicensed practice of construction contracting pursuant to sections 455 227, 455 228, 489 13, 489 531 and 489 127(1)(f) Florida Statutes

3 At no time material hereto was Respondent duly registered or certified to engage in the practice of construction contracting pursuant to chapter 489, Florida Statutes

4 At no time material hereto was Modesto Hernandez Handyman an entity properly qualified under the provisions of chapter 489, Florida Statutes

5 Respondent’s last known address is 1501 NE 24<sup>th</sup> Court, Apt 6, Oakland Park, FL 33334



6 On or about July 15, 2019, an investigation revealed Respondent, D/B/A Modesto Hernandez Handyman, offered via advertisement on a vehicle regulated construction contracting services, including but not limited to plumbing, windows, and doors

7 Respondent offered, contracted, or performed the regulated services at issue for compensation

8 Section 489 127(1)(f), Florida Statutes, provides that “no person shall advertise himself or herself or a business organization as available to engage in the business or act in the capacity of a contractor without being duly registered or certified ”

9 Based upon the foregoing, Respondent violated section 455 227(1)(q), Florida Statutes, by advertising himself or his business organization as a licensee in violation of section 489 127(1)(f), Florida Statutes

WHEREFORE, Petitioner requests that a Final Order be entered imposing one or more of the following an administrative fine, assessment of costs related to the investigation, and/or any other relief the Department is authorized to impose pursuant to chapters 455 and 489, Florida Statutes, and the rules promulgated thereunder

(SIGNATURE PAGE FOLLOWS)

Signed this 19th day of November, 2019

HALSHEY BESHEARS, Secretary  
Department of Business and  
Professional Regulation

By /s/ Daniel A. David  
Daniel David  
Florida Bar No 0650412  
Assistant General Counsel  
Office of the General Counsel  
Unlicensed Activity  
Department of Business and  
Professional Regulation  
2601 Blair Stone Road  
Tallahassee, FL 32399-2202  
Ph (850) 488-0062

PC Found 11/19/19  
By DBPR

### NOTICE OF RIGHTS

Please be advised that mediation under section 120 573, Florida Statutes, is not available for administrative disputes involving this type of agency action

Please be advised that Respondent has the right to request a hearing to be conducted in accordance with sections 120 569 and 120 57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoenas and subpoenas duces tecum issued on his or her behalf if a hearing is requested Any request for an administrative proceeding to challenge or contest the charges contained in the administrative complaint must conform to Rule 28-106 2015, *Florida Administrative Code*. Rule 28-106 111, *Florida Administrative Code*, provides in part that if Respondent fails to request a hearing within 21 days of receipt of an agency pleading, Respondent waives the right to request a hearing on the facts alleged

### NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter Pursuant to section 455 227(3)(a), Florida Statutes, the Board, or the Department when there is no Board, may assess costs related to the investigation and prosecution of the case excluding costs associated with an attorney's time, against Respondent in addition to any other discipline imposed



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<input type="checkbox"/> Return Receipt (electronic)	\$
<input type="checkbox"/> Certified Mail Restricted Delivery	\$
<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total	\$

Postmark  
Here

JAN 21 2020

Total	\$	R
Modesto Anibal Hernandez Cabrera		
2019-036648 CON UL		
660 SW 7th Street, APT 3,		
Pompano Beach, FL 33060		
See Reverse for Instructions		

EXHIBIT  
B

Office of the General Counsel  
2601 Bluff Stone Road  
Tallahassee, Florida 32399  
www.MyFloridaLicense.com

# Administrative Complaint

JAN 21 2020

R

Modesto Anibal Hernandez Cabrera  
2019-036648 CON UL  
660 SW 7th Street, APT 3,  
Pompano Beach, FL 33060

Halsey Beshears, Secretary

Ron DeSantis, Governor

**MEMORANDUM**

**TO:** File  
**FROM:** Service of Process Unit  
**SUBJECT:** Verification of Waiver  
**DATE:** February 20, 2020

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Please be advised as of this day no response has been received in the SOP Unit regarding the following case(s) The file(s) is being returned to Legal today

Name  
HERNANDEZ CABRERA, MODESTO ANIBAL

Case No  
2019036648

