

FILED
Department of Business and Professional Regulation
Senior Deputy Agency Clerk
CLERK Brandon Nichols
Date 2/6/2020
File # 2020-01126

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION ,**

Petitioner,

v.

JAMES STODDARD

Respondent,

**CASE NO. 2019-010333
2019-010339
CILB**

FINAL ORDER

The Department of Business and Professional Regulation (Department) hereby enters this Final Order for the above styled matter. On December 17, 2019, Alison Parker, the designated Hearing Officer for the Department presiding over the Informal Hearing, issued the Recommended Order in this matter. That Recommended Order is attached to this Final Order and incorporated herein by reference.

FINDINGS OF FACT

The Findings of Fact contained in the Recommended Order are hereby adopted as the Findings of Fact of the Department.

CONCLUSIONS OF LAW

The Conclusions of Law contained in the Recommended Order are hereby adopted as the Conclusions of Law of the Department.


ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law adopted from the Recommended Order of the Department's Informal Hearing, it is hereby **ORDERED** that the:

1 Respondent shall pay an administrative penalty in the amount of \$8,000.00 and investigative costs in the amount of \$243.09 for a total amount of \$8,243.09. Total payment shall be made payable to the Department of Business and Professional Regulation, Revenue Unit, 2601 Blair Stone Road, Tallahassee, Florida 32399-2202 within 180 calendar days of the effective date of this Final Order. Case numbers **2019-010333** and **2019-010339** must be referenced when making your payment.

2 This order shall become effective on the date of filing with the Department's Agency Clerk.

DONE AND ORDERED this 3 day of February 2020.



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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided via Regular U.S. Mail to: Respondent's attorney, Mr. Michael Amico, Esq., at 435 1st Street South, Winter Haven, Florida 33880, on this 6th day of February, 2020.

Brandon M. Nichols

AGENCY CLERK' S OFFICE

cc:

Alison Parker, Hearing Officer
Maureen White, ULA Chief Attorney
Robert Sears, Assistant General Counsel

NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review Proceedings are governed by Rules 9.110 and 9.190, Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Department of Business and Professional Regulation, Attn: Ronda L. Bryan, Agency Clerk, 2601 Blair Stone Road, Tallahassee, Florida 32399-2202 and a Second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Florida Appellate District where the Party Resides. The Notice of Appeal must be filed within thirty (30) Days of Rendition of the Order to be reviewed.

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Evette Lawson-Proctor
Date	12/19/2019
File #	

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

v.

Case Nos. 2019-010333
2019-010339
CILB

JAMES STODDARD,

Respondent.

HEARING OFFICER'S RECOMMENDED ORDER

THIS MATTER came before Alison A. Parker, designated Hearing Officer for the Department of Business and Professional Regulation ("Department") on December 3, 2019, in Tallahassee, Florida, in accordance with the provisions of Section 120.57(2), Florida Statutes, for consideration of the Department's Administrative Complaints filed August 19, 2019. Robert Sears, under the supervision of Maureen White, Chief Attorney, represented Petitioner. Michael Amico, Esq. represented Respondent and appeared at the hearing telephonically. Both sides were allowed to call witnesses, proffer items into evidence, present sworn testimony, and otherwise fully participate in the hearing. Additionally, both sides elected to file post-hearing submittals, which have been wholly considered in this matter.

FINDINGS OF FACT

1. 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.
2. At no time material hereto was Theodore 717, LLC, properly qualified to engage in the practice of construction contracting pursuant to chapter 489, Florida Statutes.

3. On or about March 1, 2019, Respondent, D/B/A Theodore 717, LLC, offered, contracted, or performed regulated construction contracting services including, but was not limited to, a roof replacement, at 302 Bob White Ct., Lake Wales, Florida 33859.
4. On or about March 1, 2019, Respondent, D/B/A Theodore 717, LLC, offered, contracted, or performed regulated construction contracting services including, but was not limited to, a roof replacement, at 1945 Tower Lake Blvd., Lake Wales, Florida 33859.
5. Respondent offered, contracted, or performed the regulated services at issue for compensation.
6. On August 19, 2019, the Department filed Administrative Complaints charging Respondent with “violating section 489.13(1), Florida Statutes, by ‘performing an activity requiring licensure under [chapter 489, part I, Florida Statutes] as a construction contractor’ without the requisite license”.
7. On or about September 27, 2019, the Department received Respondent’s Election of Rights in both cases. Respondent had selected option 1, indicating he does not dispute the material facts set forth in the Administrative Complaint, and wishes to submit evidence in mitigation at a hearing pursuant to section 120.57(2), Florida Statutes.
8. On or about November 13, 2019, Respondent was notified of his right to attend an informal hearing, scheduled for December 3, 2019.
9. On December 3, 2019, an informal hearing was conducted pursuant to section 120.57(2), Florida Statutes. Michael Amico, Esq. represented Respondent and appeared at the hearing telephonically.

CONCLUSIONS OF LAW

10. Petitioner is the state agency charged with regulating the practice of construction contracting pursuant to section 20.165, Florida Statutes, and chapter 489, part I, Florida Statutes.

11. Petitioner has jurisdiction over the unlicensed practice of construction contracting pursuant to sections 489.13 and 455.227, Florida Statutes.

12. Section 489.13(1), Florida Statutes, provides that “Any person performing an activity requiring licensure under [chapter 489, part I, Florida Statutes] as a construction contractor is guilty of unlicensed contracting if he or she does not hold a valid active certificate or registration authorizing him or her to perform such activity...”

13. Respondent violated section 489.13(1), Florida Statutes, by performing an activity requiring licensure under chapter 489, part I, Florida Statutes, as a construction contractor without the requisite license.

14. Respondent has a prior violation of chapter 489, Florida Statutes, resulting in a Final Order in Case number 2005-058903.

15. Rule 61-5.007, Florida Administrative Code, provides disciplinary guidelines for unlicensed activity. The rule provides that:

“(6) For practicing a profession without holding the requisite license to do so, the following penalties shall apply:

- (a) First violation - \$3,000 administrative fine;
- (b) Second violation - \$4,000 administrative fine; and
- (c) Third and subsequent violations - \$5,000 administrative fine.”

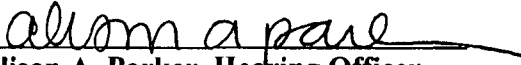
16. Section 455.227(3)(a), Florida Statutes, provides that “In addition to any other discipline imposed pursuant to this section or discipline imposed for a violation of any practice act, the board, or the department when there is no board, may assess costs related to the investigation and prosecution of the case excluding costs associated with an attorney’s time.”

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is: **RECOMMENDED**
that the Department of Business and Professional Regulation enter a Final Order:

Requiring Respondent pay an administrative fine in the amount of \$8,000.00 and pay
investigative costs in the amount of \$243.09, for a total amount of **\$8,243.09** within 180 days
of the date of the applicable Final Order in this matter.

Respectfully submitted this 17th day of December 2019.


Alison A. Parker, Hearing Officer
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order was provided to
Respondent's attorney, Mr. Michael Amico, Esq., at 435 1st Street South, Winter Haven, Florida 33880,
on this 19 day of December 2019, by regular U.S. Mail.


AGENCY CLERK'S OFFICE

Copies Furnished to:

Alison Parker, Hearing Officer
Maureen White, Chief Attorney
Robert Sears, Assistant General Counsel

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to the Recommended Order should be filed with the Department.

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK **Evette Lawson-Proctor**
Date 8/19/2019
File #

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

v.

Case No. 2019-010333
CILB

JAMES STODDARD,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation (“Petitioner”) files this Administrative Complaint against James Stoddard (“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, and 489.13, 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 Theodore 717, LLC an entity properly qualified under the provisions of chapter 489, Florida Statutes.
5. Respondent’s last known address is 220 Gull Lane, Lake Wales, Florida 33859.
6. On or about March 1, 2019, Respondent, D/B/A Theodore 717, LLC, offered, contracted, or performed regulated construction contracting services, including but not limited to, a roof replacement, at 302 Bob White Ct., Lake Wales, Florida 33859.

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

8. Section 489.13(1), Florida Statutes, provides “any person performing an activity requiring licensure under [chapter 489, part I, Florida Statutes] as a construction contractor is guilty of unlicensed contracting if he or she does not hold a valid active certificate or registration authorizing him or her to perform such activity...”

9. Based upon the foregoing, Respondent violated section 489.13(1), Florida Statutes, by performing an activity requiring licensure under chapter 489, part I, Florida Statutes, as a construction contractor without the requisite license.

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 31st day of July, 2019.

HALSEY BESHEAR, Secretary
Department of Business and
Professional Regulation

By: /s/ Maureen White

Maureen Yvonne White
Florida Bar No. 0106794
Chief Attorney-Unlicensed Activity
Office of the General Counsel
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202
Ph: (850) 717-1234

Contact Information: Please call Robert Sears (850) 717-1205 for more information

PC Found: July 31st, 2019

By: DBPR

JRF

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.

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Evette Lawson-Proctor
Date	8/19/2019
File #	

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

v.

Case No. 2019-010339
CILB

JAMES STODDARD,

Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation ("Petitioner") files this Administrative Complaint against James Stoddard ("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, and 489.13, 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 Theodore 717, LLC an entity properly qualified under the provisions of chapter 489, Florida Statutes.

5. Respondent's last known address is 220 Gull Lane, Lake Wales, Florida 33859.

6. On or about March 1, 2019, Respondent, D/B/A Theodore 717, LLC, offered, contracted, or performed regulated construction contracting services, including but not limited to, a roof replacement, at 1945 Tower Lake Blvd., Lake Wales, Florida 33859.

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

8. Section 489.13(1), Florida Statutes, provides “any person performing an activity requiring licensure under [chapter 489, part I, Florida Statutes] as a construction contractor is guilty of unlicensed contracting if he or she does not hold a valid active certificate or registration authorizing him or her to perform such activity...”

9. Based upon the foregoing, Respondent violated section 489.13(1), Florida Statutes, by performing an activity requiring licensure under chapter 489, part I, Florida Statutes, as a construction contractor without the requisite license.

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 24th day of July, 2019.

HALSEY BESHEAR, Secretary
Department of Business and
Professional Regulation

By: /s/ Maureen White

Maureen Yvonne White
Florida Bar No. 0106794
Chief Attorney-Unlicensed Activity
Office of the General Counsel
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202
Ph: (850) 717-1234

Contact Information: Please call Robert Sears (850) 717-1205 for more information

PC Found: July 24th, 2019

By: DBPR

JRF

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.