

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

v.

Case No 2019-045774
MRSPLP

RAFAEL MICHAEL MENDEZ,

Respondent.

_____ /

FINAL ORDER ON WAIVER

The Department of Business and Professional Regulation (hereinafter "Petitioner") issues this Final Order against Rafael Michael Mendez (hereinafter "Respondent") as follows:

1. An Administrative Complaint was filed in this case on December 27, 2019, alleging that Respondent violated certain provisions of chapter(s) 455 and 468, part XVI, 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 December 27, 2019. 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.

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:

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


8. Respondent must pay a total administrative fine of \$2,500.00 pursuant to the penalty/disciplinary guidelines of rule 61-5.007, Florida Administrative Code.

9. 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 \$148.62

10 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.**

11. 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 1 day of May, 2020.



Halsey Beghears, 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

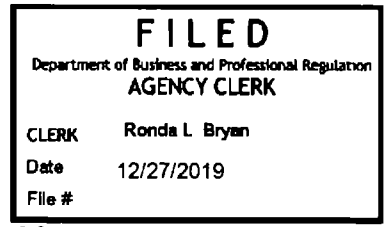
I HEREBY CERTIFY that a true and correct copy of this Final Order on Waiver was provided to Respondent at 295 Fernandina St. N.W, Palm Bay, Florida 32907, by regular U.S.

Mail this 8th day of May, 2020.


Brandon M. Nichols
OFFICE OF THE AGENCY CLERK

Copy(s) Furnished to:

Maureen White, Chief Attorney - ULA



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

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Case No. 2019-045774
MRS LP

RAFAEL MICHAEL MENDEZ,

Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

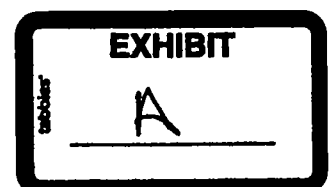
The Department of Business and Professional Regulation ("Petitioner") files this Administrative Complaint against Rafael Michael Mendez ("Respondent") and alleges:

1. Petitioner is the state agency charged with regulating the practices of mold assessment and mold remediation pursuant to section 20.165, Florida Statutes and chapters 455 and 468, part XVI, Florida Statutes

2. Petitioner has jurisdiction over the unlicensed practices of mold assessment and mold remediation pursuant to sections 455.227, 455.228, 468.8419, and 468.842, Florida Statutes.

3. At no time material hereto was Respondent duly registered or certified to engage in the practices of mold assessment and/or mold remediation pursuant to Chapter 468, part XVI, Florida Statutes.

4. Respondent's last known address is 295 Fernandina Street North West, Palm Bay, Florida 32907.



5. Respondent, D/B/A Advanced Cleaning of Brevard County, offered, contracted, or performed regulated mold-related services, including but not limited to, mold remediation restoration on the internet, at Facebook com.

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

7. Respondent presented MRSR2217, a null and void State of Florida mold remediator license at the time regulated services were offered, contracted or performed.

COUNT I

8. Petitioner realleges and incorporates by reference the allegations set forth in paragraphs one through six, as though fully set forth herein

9. Section 468.8419(1)(b), (2)(b), Florida Statutes, provides that a person may not perform or offer to perform any mold assessment or mold remediation unless that person has complied with the provisions of chapter 468, part XVI, Florida Statutes.

10 Section 455.227(1)(q), Florida Statutes, provides that “violating... the applicable professional practice act .” shall constitute grounds for which disciplinary actions may be taken

11. Based upon the foregoing, Respondent violated section 455.227(1)(q), Florida Statutes, by having violated section(s) 468.8419(1)(b) and/or 468.8419(2)(b), Florida Statutes, by performing or offering to perform mold assessment and/or mold remediation, an activity requiring licensure under chapter 468, part XVI, Florida Statutes

COUNT II

12 Petitioner realleges and incorporates by reference the allegations set forth in paragraphs one through four, six and seven as though fully set forth herein.

13. Section 468.842(1)(i), Florida Statutes, provides that “ Practicing on a revoked, suspended, inactive, or delinquent license.”

14. Section 455 227(1)(q), Florida Statutes, provides “violating. . the applicable professional practice act...” shall constitute grounds for which disciplinary actions may be taken.

15. Based upon the foregoing, Respondent violated section 455.227(1)(q), Florida Statutes, by presenting a null and void license in violation of section 468.842(1)(i), 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 prosecution of the case (excluding costs associated with an attorney’s time), and/or any other relief the Department is authorized to impose pursuant to chapters 455 and 468, part XVI, Florida Statutes, and the rules promulgated thereunder.

(SIGNATURE PAGE FOLLOWS)

Signed this 25th day of November, 2019.

HAISEY BESHEARS, Secretary
Department of Business and
Professional Regulation

By: /s/ Maureen Y. White
Maureen Y. White
Chief Attorney-Unlicensed Activity Unit
Florida Bar No. 0106794
Office of the General Counsel
Unlicensed Activity
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202
Maureen.white@myfloridalicense.com

Contact Information: Please call Eugenia Rodriguez (850) 717-1251 for more information

PC Found. November 25, 2019
By. DBPR

ER

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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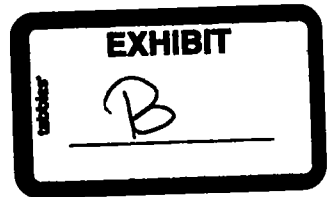
Total

Sent to: **Rafael M Mendez**
2019-045774 MOLD

Street or PO: **295 Fernandina St. N.w.**

City, State, ZIP: **Palm Bay, FL 32907**

PS Form 3800, June 2002 See Reverse for Instructions



Administrative Complaint

DEC 27 2019

Rafael M Mendez
2019-045774 MOLD
295 Fernandina St. N.w.
Palm Bay, FL 32907