

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

v.

Case No. 2018-061410
CILB

LUIS GARCIA,

Respondent.

_____ /

FINAL ORDER ON WAIVER

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

1. An Administrative Complaint was filed in this case on August 1, 2019, alleging that Respondent violated certain provisions of chapter(s) 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 September 4, 2019. Proof of mailing by Certified and regular U.S. Mail is attached hereto as Exhibit B.

3. The Administrative Complaint, Election of Rights form, an Explanation of Rights, and cover letter were served on Respondent via Certified U.S. Mail on September 11, 2019. Proof of service by Certified U.S. Mail is attached hereto as Exhibit C.

4. 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.

5. Petitioner made all reasonable efforts to provide actual notice to Respondent.

6. 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.

7. 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:

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 \$10,000.00 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 \$199.38.

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 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 16 day of June, 2020.



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

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, P.O. Box 133068, Hialeah, Florida 33013, by regular U.S. Mail this

30th day of June, 2020.


OFFICE OF THE AGENCY CLERK

Copy(s) Furnished to:

Maureen Y. White, Assistant General Counsel - ULA

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

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Case No. 2018-061410
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LUIS GARCIA,

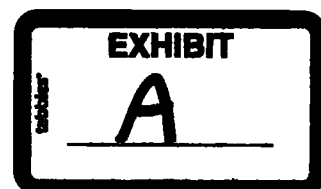
Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation (“Petitioner”) files this Administrative Complaint against Luis Garcia (“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 Articulate Painting Corp an entity properly qualified under the provisions of chapter 489, Florida Statutes.
- 5 Respondent’s last known address is 7375 Big Cypress Court, Miami Lakes, Florida 33014.



6. On or about March 12, 2018, Respondent, D/B/A Articulate Painting Corp., offered, contracted, or performed regulated construction contracting services, including but not limited to, a roof repair, at 502 NE 43rd Street, Oakland Park, Florida 33334.

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

8. Respondent presented as his own, CGC 1520925, a valid State of Florida contracting license belonging to Gregory S. Ogden.

COUNT ONE

9. Petitioner realleges and incorporates by reference the allegations set forth in paragraphs one through eight as though fully set forth herein.

10 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...”

11 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

COUNT TWO

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

13. Section 489 127(1)(c), Florida Statutes, provides that “no person shall present as his or her own the certificate or registration of another.”

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 as his own the license of another in violation of section 489.127(1)(c), 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.

Signed this 23rd day of July, 2019.

HALSEY BESHEARS, Secretary
Department of Business and
Professional Regulation

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

PC Found. July 23, 2019
By: DBPR

KY

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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U.S. Postal Service CERTIFIED MAIL® RECEIPT <i>Domestic Mail Only</i>	
For delivery information, visit our website at www.usps.com	
OFFICIAL USE	
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\$ Sor Str Cth	Luis Garcia 2018-061410 CON UL P.O. Box 133068, Hialeah, Florida 33013
PS Form 3800, April 2015 SN 7530-02-000-9047 See Reverse for Instructions	

EXHIBIT


B

Administrative
Complaint

R
Luis Garcia
2018-061410 CON UL
P.O. Box 133068,
Hialeah, Florida 33013

SEP 04 2019

COMPLETE THIS SECTION ON DELIVERY

A. Signature  Agent
 Addressee

B. Received by (Printed Name) Luis Garcia C. Date of Delivery 9/11/19

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

RECEIVED
 SEP 23 2019

3. Service Type Priority Mail Express®
 Adult Signature Registered Mail™
 Adult Signature Restricted Delivery® Registered Mail Restricted Delivery
 Certified Mail® Return Receipt for Merchandise
 Certified Mail Restricted Delivery Signature Confirmation™
 Collect on Delivery Signature Confirmation Restricted Delivery
 Collect on Delivery Restricted Delivery
 Insured Mail (over \$500)
 Insured Mail Restricted Delivery (over \$500)

COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to: **Administrative Complaint**

R

Luis Garcia
 2018-061410 CON UL
 P.O. Box 133068,
 Hialeah, Florida 33013

2 Article Number (Transfer from carrier label)

7019 0140 0000 6235 4077

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

