

FILED	
Department of Business and Professional Regulation AGENCY CLERK	
CLERK	Ronda L. Bryan
Date	5/21/2019
File #	2019-04452

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

v.

Case No. 2018-038735
CILB

MICHAEL A. CLARK,

Respondent.

FINAL ORDER ON WAIVER

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

1. An Administrative Complaint was filed in this case on February 15, 2019, alleging that Respondent violated certain provisions of chapter 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 March 18, 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. Proof of 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:

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

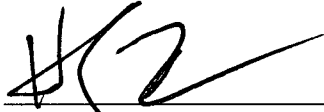
8. Respondent must pay a total administrative fine of \$10,000.00 pursuant to the penalty/disciplinary guidelines of rule 61-5.007, Florida Administrative Code.

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 \$148.65.

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 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 15 day of May, 2019.



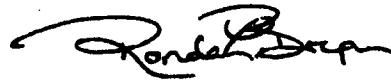
Halsey Beshears, Secretary
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399

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, 775 W. County Road 400 S., New Castle, Indiana 47362, by regular U.S. Mail this 21st day of May, 2019.



OFFICE OF THE AGENCY CLERK

Copy(s) Furnished to:

Maureen Y. White, Assistant General Counsel - ULA

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK **Evette Lawson-Proctor**
Date **2/15/2019**
File #

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

v.

Case No. 2018-038735
CILB

MICHAEL ALLEN CLARK,

Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation (“Petitioner”) files this Administrative Complaint against Michael Allen Clark (“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 Remodeling Services & Complete Restoration (RSACR) an entity properly qualified under the provisions of chapter 489, Florida Statutes.
5. Respondent’s last known address is 2390 W. Main Street, Greenfield, Indiana 46140-2719.
6. On or about November 13, 2017, Respondent, D/B/A Remodeling Services & Complete Restoration (RSACR), offered, contracted, or performed regulated construction

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contracting services, including but not limited to, replacing a roof and pool cage at 1635 Barbados Ct., Marco Island, Florida 34145.

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

8. On or about April 06, 2018, Respondent, D/B/A Remodeling Services & Complete Restoration (RSACR), advertised regulated construction contracting services via internet for compensation in Florida.

9. Respondent presented as his own, CGC1521526, a valid State of Florida contracting license belonging to James F. Pickens.

COUNT ONE

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

11. 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...”

12. 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

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

14. 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.”

15. 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.

COUNT THREE

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

17. Section 489.127(1)(c), Florida Statutes, provides that “no person shall present as his or her own the certificate or registration of another.”

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

19. 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.

(SIGNATURE PAGE FOLLOWS)

Signed this 13th day of February, 2019.

HALSEY BESHEARS, Secretary
Department of Business and
Professional Regulation

By: /s/ Maureen Y. White
Maureen Y. 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
Maureen.White@myfloridalicense.com

PC Found: February 13, 2019
By: DBPR

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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.

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only, No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Administrative
Complaint **MAR 18 2019**

Postage Certified Fee
Return Receipt Fee (Endorsement Required)

Postmark Here

Restr (Endo)

R

Total

Michael A Clark
775 W County Road 400 S
New Castle, IN 47362

Sent

Street or PO City

2018038688, 2018038729, 2018038739,
2018038783, 2018038796, 2018038804,
2018018876, 2018038735, 2018038863,
2018039169, 2018038872 & 2018038903

Instructions

7006 0810 0005 9843 4296

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STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

2601 Blair Stone Road
Tallahassee, Florida 32399

www.MYFlorida.com/dbpr

Administrative
Complaint

MAR 18 2018

R
Michael A Clark
775 W County Road 400 S
New Castle, IN 47362

2018038688, 2018038729, 2018038739,
2018038783, 2018038796, 2018038804,
2018018876, 2018038735, 2018038863,
2018039169, 2018038872 & 2018038903

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Halsey Beshears, Secretary

Ron DeSantis, Governor

MEMORANDUM

TO: File
FROM: Service of Process Unit
SUBJECT: Verification of Waiver
DATE: April 17, 2019

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
CLARK, MICHAEL A

Case No.
2018038735

