

STATE OF FLORIDA
CONSTRUCTION INDUSTRY LICENSING BOARD

FILED	
<small>Department of Business and Professional Regulation</small>	
<small>Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	12/7/2018
File #	2018-09879

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

vs.

DANIEL OSVALDO PRIOTTI,

Respondent.

CASE NO.: 2017-036535
LICENSE NO.: CGC 1521660
CGC 1525324
CPC 1458621

FINAL ORDER

THIS MATTER came before the Construction Industry Licensing Board (hereinafter referred to as the "Board") pursuant to Section 120.57(4), Florida Statutes, at a duly-noticed public meeting on November 16, 2018 in Palm Beach Gardens, Florida, for consideration of a Settlement Stipulation (attached hereto as Exhibit A) entered into between the parties in the above-styled cause.

Upon consideration of the Settlement Stipulation, the documents submitted in support thereof, and being otherwise advised in the premises, **it is hereby ordered and adjudged:**

The Settlement Stipulation is hereby approved, adopted, and incorporated herein by reference. Accordingly, the parties shall adhere to and abide by all the terms of the Settlement Stipulation.

This Final Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

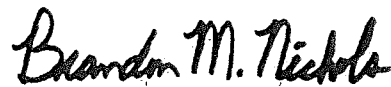
DONE AND ORDERED this 3rd day of December 2018.



RICK KANE, Chair
Construction Industry Licensing Board

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to: DANIEL OSVALDO PRIOTTI, 2550 N. State Street, Unit 14, Bunnell, Florida 32110 and Clayton Osteen, Esquire, 1 Independent Drive, Suite 1400, Jacksonville, Florida 32202; and by hand/interoffice delivery to the Construction Industry Licensing Board, 2601 Blair Stone Road, Tallahassee, Florida 32399-1039; Ian Brown, Chief Construction Attorney, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-1039, and Tom Barnhart, Special Counsel, Attorney General's Office, Administrative Law Bureau, PL-01, The Capitol, Tallahassee, Florida 32399-1050, this 7th day of December 2018.



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
CONSTRUCTION INDUSTRY LICENSING BOARD

DEPARTMENT OF BUSINESS AND
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Case No.: 2017-036535

DANIEL OSVALDO PRIOTTI,

Respondent.

SETTLEMENT STIPULATION

DANIEL OSVALDO PRIOTTI, ("Respondent") and the DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION ("Department") stipulate and agree to the following joint Stipulation and to the entry of a Final Order of the Florida Construction Industry Licensing Board, Divisions I and II, ("Board") incorporating this Stipulation and the agreement in the above-styled matter.

STIPULATED FACTS

1. At all times material, Respondent was a Certified General Contractor and a Certified Pool/Spa Contractor in the State of Florida, having been issued license numbers CGC 1521660, CGC 1525324, and CPC 1458621.

2. Respondent was charged by an Administrative Complaint filed by the Department and properly served upon Respondent with violations of Chapter 489, Florida Statutes, and the rules enacted pursuant thereto. A true and correct copy of the Administrative Complaint is attached and incorporated by reference as Exhibit "A".

3. Respondent neither admits nor denies the allegations of fact contained in the Administrative Complaint.

STIPULATED CONCLUSIONS OF LAW

4. Respondent, in his capacity as a licensed contractor, admits that he is subject to the provisions of Chapters 455 and 489, Florida Statutes, and the jurisdiction of the Department and the Board.

5. Respondent admits that the facts set forth in the Administrative Complaint, if proven, would constitute violations of Chapter 489, Florida Statutes, as alleged in the Administrative Complaint.

6. Respondent understands the Board's acceptance of this Stipulation constitutes disciplinary action within the meaning of Chapters 455 and 489, Florida Statutes.

STIPULATED DISPOSITION

7. **STAYED SUSPENSION:** To ensure successful completion of the terms of this Stipulation, Respondent's license(s) to practice contracting shall be immediately suspended upon the filing of the Final Order, with the imposition of the suspension being stayed for that period of time. If Respondent successfully completes the terms of the Stipulation, the suspension imposed shall not take effect. If Respondent fails to successfully complete the terms of the Stipulation, the stay shall be lifted and Respondent's license(s) shall be immediately suspended. Once the stay is lifted, Respondent's license(s) shall remain in suspended status unless and until the terms of the Stipulation are completed. During a suspended status, Respondent shall not perform contracting or qualify a business that performs contracting.

8. **ADMINISTRATIVE FINES:** Respondent shall pay a fine in the amount of \$10,000.00 to the Board. This shall be paid in the manner described in paragraph 9 below.

9. INVESTIGATIVE COSTS: Respondent shall pay investigative costs totaling \$375.08. This shall be paid in the manner described in paragraph 9 below.

10. METHOD OF PAYMENT: The payments described in paragraphs 7 and 8 total \$10,375.08. This payment is due 90 days from the filing of the Board's Final Order adopting this Stipulation. Said payment shall be in the form of a cashier's or certified check made payable to **Department of Business and Professional Regulation and mailed directly to Department of Business and Professional Regulation, 2601 Blair Stone Road, Tallahassee, FL 32399-2202.** To ensure proper crediting of payments, all payments should include the Respondent's name, the case number, and reason for the payment.

Should any payment set forth above not be made in the prescribed time, Respondent shall be in violation of this term of the Stipulation.

11. CONTINUING EDUCATION: Respondent shall complete a live, approved seven-hour continuing education course (excludes online or distance learning for these continuing education hours) in addition to any otherwise-required continuing education, with an emphasis on Chapter 489, Florida Statutes and the rules enacted pursuant thereto, within one year after entry of the Final Order adopting this Stipulation.)

Should Respondent fail to complete the additional continuing education requirements in the prescribed time, Respondent shall be in violation of this term of the Stipulation.

STIPULATED GENERAL PROVISIONS

12. It is expressly understood that this Stipulation is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs of the stipulated facts, stipulated conclusions of law, stipulated disposition, and stipulated general provisions) shall have no force and effect unless a Final Order incorporating

the terms of this Stipulation is entered by the Board.

13. Should this Stipulation be rejected, no statement made in furtherance of this Stipulation by Respondent may be used as direct evidence against Respondent in any proceeding.

14. Respondent and the Department fully understand that this joint Stipulation and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint.

15. Upon the Board's adoption of this Stipulation, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the stipulation of facts, conclusions of law, stipulated disposition, stipulated general provisions, and the Final Order of the Board incorporating said Stipulation, or any part thereof.

16. Upon the Board's adoption of this Stipulation, the parties hereby agree that the parties will bear their own attorney's fees and costs resulting from prosecution and/or defense of this proceeding, except as otherwise provided herein. Respondent waives the right to seek any attorney's fees or costs from the Department in connection with this disciplinary proceeding.

17. This Stipulation is executed by Respondent for the purpose of avoiding further administrative action with respect to this cause. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent, prior to or in conjunction with consideration of the Stipulation. Should this joint Stipulation not be accepted by the Board, it is agreed that presentation to and consideration of this Stipulation and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.


18. This Stipulation embodies the whole agreement of the parties. There are no promises, terms, conditions, or allegations other than those contained herein or in an attachment hereto, and this document with attachments shall supersede all previous communications, representations, and/or agreements, whether written or verbal, between the parties hereto.

19. This Stipulation may be signed in counterparts, and facsimile and scanned copies shall be treated as original.

20. The Department reserves the right to correct any typographical errors to this Stipulation after it is signed.


ACCEPTED AND APPROVED BY AND BETWEEN:

SIGNED this 29 day of Aug 2018.

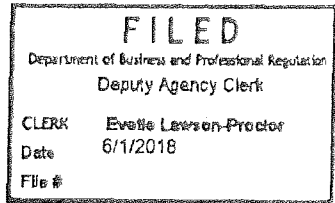


Daniel Osvaldo Priotti

APPROVED this 7 day of September 2018.



Brooke Elizabeth McCormick
Assistant General Counsel
By Delegation from the Secretary



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

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DANIEL OSVALDO PRIOTTI,

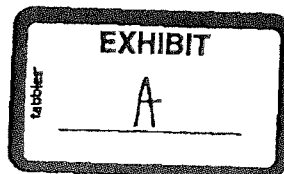
Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation ("Petitioner") files this Administrative Complaint before the Construction Industry Licensing Board, Divisions I & II, against Daniel Osvaldo Priotti ("Respondent"), and alleges:

1. Petitioner is the state agency charged with regulating the practice of contracting pursuant to section 20.165, Florida Statutes, and chapters 455 and 489, Florida Statutes.
2. At all times material hereto, Respondent was licensed as a Certified General Contractor and Certified Pool/Spa Contractor in the State of Florida, having been issued license numbers CGC 1521660, CGC 1525324, and CPC 1458621.
3. Respondent's address of record is 1 Chesney Court, Palm Coast, Florida 32137.
4. At all times material hereto, Respondent was the primary qualifying agent of Agua Construction Company.
5. Section 489.1195(1)(a), Florida Statutes, provides that all primary qualifying agents for a business organization are jointly and equally responsible for supervision of all operations of the business organization; for all field work at all sites; and for financial matters, both for the organization in general and for each specific job.



6. On or about July 3, 2017, Chad Henderson ("Henderson") d/b/a Quality 1st Aluminum entered into a contract with Manuel Oliva ("Oliva") to construct an insulated screen porch for compensation.

7. On or about July 14, 2017, Respondent applied for permit number 2017070410 at the City of Palm Coast for the project.

8. Respondent did not have a contract with Oliva to perform the work specified in permit number 2017070410.

9. At no time material hereto was Henderson certified or registered to engage in the practice of construction contracting in the State of Florida pursuant to chapter 489, part I, Florida Statutes.

10. Respondent knew or had reasonable grounds to know that Henderson was not certified or registered to engage in the practice of construction contracting in the State of Florida pursuant to chapter 489, part I, Florida Statutes.

11. Based upon the foregoing, Respondent violated section 489.129(1)(d), Florida Statutes, by performing an act which assists a person or entity in engaging in the prohibited uncertified and unregistered practice of contracting.

WHEREFORE, Petitioner respectfully requests the Construction Industry Licensing Board enter an Order imposing one or more of the following penalties: place on probation, reprimand the licensee, revoke, suspend, deny the issuance or renewal of the certificate or registration, require financial restitution to a consumer, impose an administrative fine not to exceed \$10,000 per violation, require continuing education, assess costs associated with investigation and prosecution, impose any or all penalties delineated within section 455.227(2),

Florida Statutes, and/or any other relief that the Board is authorized to impose pursuant to chapters 489, 455, Florida Statutes, and/or the rules promulgated thereunder.

Signed this 22nd day of May, 2018.

JONATHAN ZACHEM, Secretary
Department of Business and
Professional Regulation

By: /s/Brooke Elizabeth McCormick
Brooke Elizabeth McCormick
Assistant General Counsel
Florida Bar No. 1003314
Department of Business and
Professional Regulation
Office of the General Counsel
2601 Blair Stone Road
Tallahassee, FL 32399-2202
(850) 488-0062 Telephone
(850) 488-5700 Facsimile

Division II
Probable Cause Found: 05/22/2018
By: Wood/Moody

Division I
Probable Cause Found: 05/22/2018
By: Evetts/Layton

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 further 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. 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. 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*.

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.