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DEPARTMENT OF
BUSINESS AND PROFESSIONAL
REGULATION

STATE OF FLORIDA
CONSTRUCTION INDUSTRY LICENSING BOARD

Final Order No. BPR-2002-00940 Date: 3-19-02
FILED
Department of Business and Professional Regulation
AGENCY CLERK
Sarah Wachman, Agency Clerk

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

By: Brandon M. Nichols

-vs-

DBPR CASE NO.: 99-08601
DOAH CASE NO.: 01-3124PL FSR-CLWS
LICENSE NO.: CG C010229
CC C010868

MANUEL RIVERO,

Respondent.

_____ /

FINAL ORDER

THIS MATTER came before the Construction Industry Licensing Board (hereinafter referred to as the "Board") pursuant to Section 120.57(1)(l), F.S., on February 14, 2002, in Orlando, Florida, for consideration of the Recommended Order (a copy of which is attached hereto and incorporated herein by reference) issued by the Administrative Law Judge in the above styled case. The Petitioner was represented by Robert A. Crabill, Esq. The Respondent was not present and was not represented by counsel at the Board meeting.

Upon consideration of the Administrative Law Judge's Recommended Order, any arguments by the parties and after a review of the complete record in this matter, the

Board makes the following findings:

FINDINGS OF FACT

1. The Administrative Law Judge's Findings of Fact are hereby approved and adopted and incorporated herein by reference.

2. There is clear and convincing evidence to support the Administrative Law Judge's Findings of Fact.

CONCLUSIONS OF LAW

1. The Board has jurisdiction of this matter pursuant to the provisions of Section 120.57(1), and Chapter 489, Florida Statutes.

2. The Administrative Law Judge's Conclusions of Law, are hereby approved and adopted in toto and incorporated herein by reference.

3. Respondent is guilty of violating Sections 489.129(1)(j), (o), and (p), Florida Statutes (1997).

4. There is clear and convincing evidence to support the Board's findings and conclusions.

5. Respondent is guilty of repeat violations because of the violations of which he was found guilty in the Board's Final Order filed on June 8, 1988, in Case No. 86256. As a result, he is subject to the penalty for abandonment by a repeat offender, revocation of his license and a \$5000 fine. The penalties recommended by the Administrative Law Judge are the minimum sanctions for a first offender and, as such, are not applicable to the

Respondent. Therefore, those recommended penalties are rejected as incorrect applications of the disciplinary guidelines of the Board. The Board finds that the repeat violation range of abandonment compels revocation of license and maximum fine.

THEREFORE, IT IS ORDERED AND ADJUDGED:

1. Respondent's license is hereby REVOKED.

2. Respondent shall pay an administrative fine in the amount of Six Thousand Five Hundred Dollars (\$6,500.00), and costs in the amount of Three Thousand Nine Hundred Eighty-Six Dollars and Forty Cents (\$3,986.40), to the Board. Respondent shall also pay restitution to Manuel Chamizo in the amount of Eight Thousand Seven Hundred Eighteen Dollars (\$8,718.00), or, in the alternative, provide proof to the Executive Director of the Board of having satisfied the civil judgment obtained by Manuel Chamizo in Case No. 98-9279 CC23, in the County Court in and for Miami-Dade County, Florida. Said fine and costs shall be paid, and restitution paid or the civil judgment satisfied, within thirty (30) days after the date of filing of the Final Order.

In addition, the Respondent will be required to pay interest on fines due to the Board at a rate of 18% per annum, beginning on the thirty-first (31st) day after the issuance of the Final Order.


A change in your licensure status, including the suspension, revocation, voluntary relinquishment, or involuntary relinquishment of your license does not relieve you of your obligation to pay any fines, costs, interest, or restitution imposed in this order.

Pursuant to Section 120.68, Florida Statutes, the Parties are hereby notified that they may appeal this Order by filing an original Notice of Appeal with the Clerk of The Department of Business and Professional Regulation, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0792, and by filing the filing fee and one copy of the

Notice of Appeal with the District Court of Appeal within thirty (30) days of the effective date of this Order.

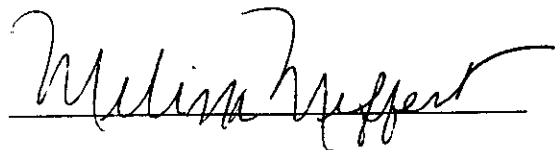
This Order shall become effective upon filing with the clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 14 day of MARCH, 2002.


RAFAEL Ralph R. Palacios, 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: Manuel Rivero, 61 East 16th Street, Hialeah, Florida 33010; to Florence Snyder Rivas, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; by hand delivery/United States Mail to the Construction Industry Licensing Board, 1940 N. Monroe Street, Tallahassee, Florida 32399-1039, and to Robert A. Crabill, Esq., Lead Construction Attorney, Office of the General Counsel, 1940 North Monroe Street, Suite 60, Tallahassee Florida 32399, on or before 5:00 p.m., this 22 day of March, 2002.


Melissa