

STATE OF FLORIDA
BOARD OF DENTISTRY

Final Order No. DOH-15-0944-**FOF**-MQA

FILED DATE - **JUN 17 2015**
Department of Health

By: **Angel Sanders**
Dentistry Agency Clerk

DEPARTMENT OF HEALTH,
BOARD OF DENTISTRY,

PETITIONER,

v.

GUSTAVO B. BORGES, D.D.S.,

RESPONDENT.

DOAH Case No.: 12-0005PL

DOH Case No.: 2007-35238

DIVISION OF ADMINISTRATIVE HEARINGS

FILED
DATE 6/23/15

FINAL ORDER

THIS MATTER came before the Board of Dentistry (Board) pursuant to Sections 120.569 and 120.57(1), Florida Statutes, at a duly noticed public meeting on May 29, 2015, in Gainesville, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order on Remand (a copy is attached hereto as Exhibit A) in the above-styled cause. Petitioner was represented by Candace Rochester, Assistant General Counsel. Respondent was present with his counsel, Randall M. Shochet, Attorney at Law. Upon review of the Recommended Order on Remand, Respondent's exceptions, Petitioner's Response to Respondent's Exceptions, the argument of the parties, and after a review of the complete record in this case, the Board makes the following findings and conclusions.

RULING ON EXCEPTIONS

The Board reviewed and considered the Respondent's Exceptions to the Recommended Order and ruled as follows:

1. Respondent's exception 1 to Paragraph 11 of the Recommended Order is rejected based upon the competent substantial evidence in the record; and the Board incorporates Petitioner's Response to Respondent's Exception 1.

2. Respondent's exception 2 to Paragraph 14 of the Recommended Order is rejected based upon the competent substantial evidence in the record; and the Board incorporates Petitioner's Response to Respondent's Exception 2.

3. Respondent's exception 3 to Paragraphs 16 and 17 of the Recommended Order is rejected based upon the competent substantial evidence in the record.

4. Respondent's exception 4 to Paragraphs 38 and 39 of the Recommended Order is rejected because the Board agrees with and adopts the Administrative Law Judge's Conclusions of Law.

5. Respondent's exception 5 to Paragraph 40 of the Recommended Order is rejected because the Board agrees with and adopts the Administrative Law Judge's Conclusions of Law.

6. Respondent's exception 6 to Paragraph 41 of the Recommended Order is rejected because the Board agrees with and adopts the Administrative Law Judge's Conclusions of Law.

7. Respondent's exception 7 to Paragraph 43 of the Recommended Order is rejected because the Board agrees with and adopts the Administrative Law Judge's Conclusions of Law.

RULINGS ON EXCEPTION TO PENALTY

8. The Board reviewed and considered the Petitioner's Exception 8 which was to the penalty recommendation of the Administrative Law Judge. Respondent's exception 8 is rejected because the Board finds that the Administrative Law Judge considered the specific mitigating factors when making his penalty recommendation.

FINDINGS OF FACT

9. The findings of fact set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

10. There is competent substantial evidence to support the findings of fact.

CONCLUSIONS OF LAW

11. The Board has jurisdiction of this matter pursuant to Sections 120.57(1) and 120.569, and Chapter 466, Florida Statutes.

12. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

13. Upon a complete review of the record in this case, the Findings of Fact and Conclusions of Law of the Administrative Law Judge in the Recommended Order on Remand are ACCEPTED.

THEREFORE, it is hereby ORDERED and ADJUDGED that Respondent has violated Section 466.028(1)(11), Florida Statutes, by violating any provision of chapter 466 or 456, or any rules adopted pursuant thereto, through a violation of Section 456.072(1)(c), Florida Statutes, by being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice or the ability to practice a licensee's profession, by Respondent's guilty plea to one count of receiving child pornography in violation of 18 United States Code, section 2252A(a)(2)(A).

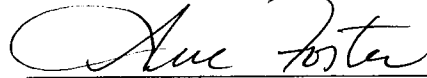
PENALTY

Upon a complete review of the record in this case, the Board determines that the penalty recommended by the Administrative Law Judge be ACCEPTED. WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

Respondent's license to practice dentistry in the State of Florida is hereby REVOKED.

DONE and ORDERED this 16 day of June, 2015.

BOARD OF DENTISTRY



Sue Foster, Executive Director, *on behalf of*
William Kochenour, D.D.S., Chair

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF HEALTH AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by **Certified Mail** to **Gustavo Borges, D.D.S.**, 14941 SW 301st Terrace, Homestead, Florida 33155; by regular US Mail to his counsel of record, **Randall Shochet**, Esquire, Shochet Law Group, 4897 Jog Road, Greenacres, Florida 33467; to **Todd P. Resavage**, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and by electronic mail to: **Candace Rochester**, Assistant General Counsel, Department of Health, Candace.Rochester@flhealth.gov and **Deborah B. Loucks**, Assistant Attorney General, deborah.loucks@myfloridalegal.com, on this 17th day of June, 2015.

G. Borges, DDS

Angel Saucedo
Deputy Agency Clerk

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