

DEPARTMENT OF CONSUMER AFFAIRS
CITY OF NEW YORK

DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

ACES TOWING & COLLISION, INC.,
KENNY HERNANDEZ

Respondents.

CONSENT ORDER

Violation No. LL 5324007
5324009

ACES Towing & Collision, Inc. ("Respondent ACES") and Kenny Hernandez ("Respondent Hernandez"), collectively referred to as ("Respondents"), acknowledge receiving the above-captioned Notices of Hearing charging the Respondents with violating NYC Administrative Code ("Code") §§20-101, 20-112, 20-518(b)(3) and Title 6 of the Rules of the City of New York ("RCNY"), §§1-08, 1-01.1(a), and 2-371(m). Respondents agree to entry of this consent order to settle the charges contained in the Notice of Hearing.

Background

1. Respondent ACES maintains tow truck company license no. 1158865 to operate as a tow truck company.
2. The listed principals of Respondent ACES are Respondent Hernandez and Respondent Laura Rivera.
3. Laura Hernandez is no longer a principal of Respondent ACES.
4. Respondent ACES does not operate from the licensed address of 1469 Schenectady Avenue in Brooklyn.
5. Respondents admit that they submitted license applications and other documents to DCA that failed to contain complete and truthful information with respect to the ownership of Respondent ACES.

Injunctive Relief

6. Respondent ACES tow truck company license is immediately suspended and shall remain suspended unless and until it passes a DCA inspection of its new location.
7. Once Respondent ACES obtains a new location, it shall submit a change of address application to DCA.
8. DCA shall inspect the new location in due course
9. Respondents agree to comply with all relevant laws and rules.

DARP Application, Suspension, and License Documents

10. Respondent ACES is suspended from DARP participation and may submit an application to participate in the DARP program on October 2, 2013.
11. If Respondent ACES has not submitted an application for a new company location by October 2, 2013, its license and DARP participation suspensions shall continue beyond October 2, 2012 unless and until it submits an application for a new location and it passes the required inspection.
12. Respondent's business structure is that Kenny Hernandez owns 100% of the business. Within four (4) weeks from the execution of this Agreement, Respondents shall file corrective papers with DCA reflecting the true corporate structure and ownership of the business.

Fines

13. Respondents shall pay a fine of \$30,000.00 to settle the charges contained in the NOH.

Future Cooperation

14. Respondents shall testify at any future proceeding at DCA's Administrative Tribunal, and in any other civil or criminal proceeding, including before a court or grand jury, regarding the subject matter of these proceedings, including, but not limited to:
 - a. The former and present ownership structure of the business;
 - b. All communications regarding the ownership structure of the business;
 - c. Any advice given to the Respondents regarding the ownership structure of the business;

- d. Any advice given to the Respondents regarding the filing of licensing documents at DCA; and
- e. Any other matter related to the tow truck industry and Respondents' business.

Resolution of Consumer Complaints

- 15. Respondents shall make all possible efforts in good faith to resolve all consumer complaints filed with the Department within ten (10) business days of Respondents' receipt of copies of said complaints, regardless of whether Respondent was licensed by the Department at the time of the activity about which the consumer complained. Respondents shall respond to subsequent communications from the Department concerning the complaints within five (5) business days.
- 16. Respondents shall submit to the Department's jurisdiction to adjudicate the merits of every complaint.
- 17. Respondents shall provide DCA with the name, address, telephone number, email address, if any, and title of the individual responsible for addressing complaints received by DCA, within 10 business days of execution of this CO.

Consequences of Breach of this Order

- 18. Any material breach of any provision of this Order either Respondents and/or Respondents' agent, shall be a basis for automatic revocation of license(s) issued to Respondent by the Department.
- 19. Any material breach of any provision of this Order shall be deemed to be proof that no person who has an equity interest of 10% or more in Respondents' business and/or significant managerial responsibility for the operation of Respondents' business, is possessed of the characteristics, including integrity, honesty, and fair dealing, required of persons who or which hold any license issued by the Department.
- 20. Any of the following shall be a basis for automatic revocation of license(s) issued to Respondents by the Department:
 - a. Respondents fail to pay any restitution or fine ordered by the Department's administrative tribunal; or
 - b. Respondents fail to pay any consumer restitution awarded by any other court of competent jurisdiction within thirty days of Respondents' receipt of the decision of such court.

- c. Respondents use storage space for a DARP tow other than the storage space designated by the Respondent in its submission to the Department.

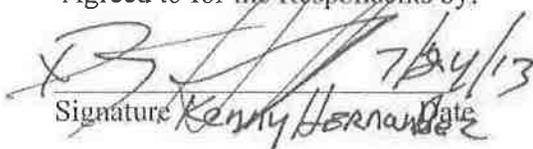
Waiver of Appeals

21. Respondents waive their right to a hearing on, appeal of and/or any challenge of, in any forum, the facts alleged by the above-referenced violation under Sections 20-104 of the Code or under Article 78 of the New York State Civil Practice Law and Rules, Sections 7801-7806.

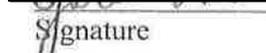
Miscellaneous

22. Nothing in this Order shall be construed to limit in any way the authority of the Department to exercise its enforcement powers under Sections 20-101 of the Code.
23. This settlement will take effect upon notification from the Adjudication Division that the decisions in this matter have been vacated.

Agreed to for the Respondents by:


Signature Kenny Hernandez Date 7/24/13

Accepted for the Department of Consumer Affairs by:


Signature  Date 7/24/2013


Signature _____ Date _____

Businesses licensed by the Department of Consumer Affairs (DCA) must comply with all relevant local, state and federal laws. Copies of New York City licensing and consumer protection laws are available in person at DCA's Licensing Center, located at 42 Broadway, 5th Floor, New York, NY, by calling 311, New York City's 24 hour Citizen Service Hotline, or by going online at www.nyc.gov/consumers.