



Arizona Department of Agriculture

Pest Management Division
1688 W. Adams Street, Phoenix, Arizona 85007
(602) 542-4373 FAX (602) 542-0466

July 17, 2020

CITATION
Case #100913

**Aaron Clark Industries, LLC DBA Desert Foothills Landscape
(Unlicensed Business)
Aaron Clark (Member)**

The Pest Management Division (PMD) opened a complaint against Aaron Clark Industries, LLC, doing business as (DBA) Desert Foothills Landscape (DFL), for the following reason(s): Engaging in the business of pest management without a business license or registered Qualifying Party (QP).

On 3-26-20, PMD Inspector Kellie Smith observed and video-taped a person with a 4-gallon backpack sprayer applying what she believed to be a pre-emergent herbicide to a roadway in Scottsdale. The applicator, Mr. John Moya, stated he was applying Pendulum 3.3 EC on behalf of his employer, DFL. Pendulum 3.3 EC is a pre-emergent herbicide. Inspector Smith reviewed the pesticide label instructions with the applicator and noted that it required him to wear "chemical resistant gloves", which he was not wearing.

PMD licensing records show that neither DFL, nor ACI, hold any PMD licenses. Mr. Moya holds no PMD certification.

On 4-13-20, Inspector Smith interviewed ACI's Owner, Mr. Aaron Clark. When she informed him that his company was required to have a license to apply pre-emergent herbicides. He stated he was not aware of his company's use of them and thought his maintenance staff only sprayed limited quantities of Roundup at residential properties at which the company provided landscaping services.

While A.R.S. § 3-3613 provides landscapers with a license exemption for certain weed control services, section (B)(2) of that statute, specifically states that the exemption does not apply to those who apply *pre-emergent* herbicides. A.R.S. § 3-3615 (A) states that if a person engages in pest management services (such as by performing pre-emergent weed control), a person shall obtain a PMD Business License. However, PMD licensing records established that Aaron Clark Industries, LLC did not hold any PMD licenses.

As a result of the PMD's investigation, the Director of the Office has determined that you have committed the following violation(s):

I. VIOLATIONS

1. On or about 3-26-20, Mr. John Moya, on behalf of his employer, Aaron Clark Industries, LLC, (DBA Desert Foothills Landscape), engaged in the business of pest management without a business license or registered Qualifying Party.

A.R.S. § 3-3624 (A)(1) and (2) ("A person shall not: Engage in the business of pest management, commence work on a contract or sign, issue or deliver any document expressing an opinion or statement relating to pest management without a business license issued pursuant to this chapter, unless the person is otherwise exempt pursuant to this chapter; Engage in the business of pest management in any category without a qualifying party who is registered in that category.")

A.R.S. § 3-3601 (4) ("Business of pest management" means engaging in, offering to engage in, advertising for, soliciting or performing pest management ...")

A.R.S. § 3-3615 (A) ("A person who engages in the business of pest management shall obtain a valid business license from the division. A person who is not exempt under this chapter and who advertises for, solicits or claims to be willing to engage in the business of pest management is presumed to be engaging in the business of pest management.")

It is **ORDERED** that **Aaron Clark Industries, LLC, (DBA Desert Foothills Landscape)**:

- a. **Cease and desist** from performing and/or advertising any pest control service, (which includes weed control services) that requires a respective qualifying party and business license and pay a **\$1000.00 civil penalty** (due within 30 days of receipt of this Order) or remit 5 monthly payments of \$200.00 each, to begin on the 16th of the month, following receipt of this order and continuing on the 16th of every successive month thereafter, until paid in full.
- b. **Only apply herbicides in accordance with the landscaper exemption guidelines**, outlined in A.R.S. § 3-3613 (B)(1) through (8). See attached copy of the exemptions.


Mark W. Killian, Director

7/22/20
Date

Pursuant to Title 41, Chapter 6, Article 10 of the Arizona Revised Statutes (A.R.S. § 41-1092, et seq.), you have the right to request a hearing to appeal the above citation and order; and to request an informal settlement conference after the hearing date is scheduled. If you wish to appeal, you must submit a letter requesting a hearing, within thirty (30) days after receipt of this notice addressed to:

Vince Craig
Pest Management Division
1688 W. Adams
Phoenix, AZ 85007

OR to request by FAX:

Attention: Vince Craig
FAX (602) 542-5420

The Request for Hearing must include the following:

- The contesting party
- The party's address
- The specific action being contested
- A concise statement of the reasons for the request for a hearing

If you fail to request a hearing within 30 days, the above citation and order shall be deemed final