

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE AND ALTERATION CONTRACTORS

In the Matter of

ROBERT L. KOTMAN
License No. 21-01-159346,
Respondent.

Docket No. 17-005489
File No. 21-16-330176

AND

YOU NIQUE CONSTRUCTION, L.L.C.
License No. 21-02-196155,
Respondent.

Docket No. 17-005488
File No. 21-16-330175

FINAL ORDER

On December 21, 2016, the Department of Licensing and Regulatory Affairs executed a Formal Complaint charging Respondents with violating the Occupational Code, MCL 339.101 *et seq.*

An administrative hearing was held in this matter before an administrative law judge who, on July 6, 2017, issued a Hearing Report setting forth Findings of Fact and Conclusions of Law.

The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board), having reviewed the administrative record, considered this matter at a regularly scheduled meeting held in Lansing, Michigan on September 12, 2017, and received the administrative law judge's Findings of Fact and Conclusions of Law in the Hearing Report.

IT IS ORDERED that for violating MCL 339.604(c), 339.2411(2)(a), (c), and (e), Respondents' licenses to practice as an individual residential builder and a residential builder company in the state of Michigan are SUSPENDED for a minimum of one day, commencing on the effective date of this Order.

IT IS FURTHER ORDERED that Respondents' licenses shall be automatically reinstated IF WITHIN 90 DAYS FROM THE EFFECTIVE DATE OF THIS ORDER, Respondents pay the fines, as set forth below.

IT IS FURTHER ORDERED that Respondent Robert L. Kotman is individually FINED \$10,000.00 to be paid to the State of Michigan within 90 days from the effective date of this Order.

IT IS FURTHER ORDERED that Respondent You Nique Construction, L.L.C., is individually FINED \$10,000.00 to be paid to the State of Michigan within 90 days from the effective date of this Order.

IT IS FURTHER ORDERED that the fines shall be mailed to the **Department of Licensing and Regulatory Affairs, Enforcement Division, Compliance Section, P.O. Box 30189, Lansing, MI 48909**. The fines shall be paid by checks or money orders made payable to the State of Michigan, and the check or money order for Respondent Robert L. Kotman shall clearly display file number **21-16-330176** and the check or money order for Respondent You Nique Construction, L.L.C., shall clearly display file number **21-16-330175**.

IT IS FURTHER ORDERED that in the event Respondents fail to pay the fines as set forth above within 90 days, Respondents' licenses to practice as an individual residential builder and a residential builder company shall be REVOKED.

IT IS FURTHER ORDERED that, in accordance with MCL 339.411(3)(c), 339.602(c) and 339.604(k), no application for licensure, renewal, relicensure, or reinstatement shall be granted until all final orders of the Board have been satisfied in full.

IT IS FURTHER ORDERED that in the event Respondents violate any provision of this Order, the Board may proceed to take disciplinary action pursuant to MCL 339.604(k).

This Final Order is a public record required to be published and made available to the public pursuant to the Michigan Freedom of Information Act, MCL 15.231 *et seq.*

IT IS FURTHER ORDERED that this Order shall be effective on the date signed by the Chairperson of the Board or authorized representative, as set forth below.

Dated: 10/16/17

**MICHIGAN BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE AND ALTERATION CONTRACTORS**

By: Virginia Abdo for
Kim Gaedeke, Director
Bureau of Professional Licensing

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STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE
AND ALTERATION CONTRACTORS

In the Matter of

YOU NIQUE CONSTRUCTION, LLC.

License Number: 21-02-196155

and

ROBERT L. KOTMAN

License Number: 21-01-159346

File Numbers: 21-16-330175

21-16-330176

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Complainant) by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against You nique Construction, LLC and Robert L. Kotman (Respondents), as follows:

1. The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board) is an administrative agency established by the Occupational Code, MCL 339.101 et seq. Pursuant to section 602 of the Occupational Code, supra, the Board is empowered to penalize licensees for violations of the Occupational Code.

2. Respondent You nique Construction, LLC is licensed as a residential builder company.

3. Respondent Robert L. Kotman is licensed as an individual residential builder and is designated as the qualifying officer of Respondent Castle Construction.

4. In October of 2015, Respondents entered into an agreement with (Homeowners) to build an addition to their home. However, Respondents failed to reduce the agreement to a written contract and have the contract signed by all parties. Respondents quoted the addition at \$60,000.00, of which Homeowners provided proof of paying \$45,400.00.

5. On December 4, 2015, Respondents obtained a building permit to construct Homeowners' addition.

6. In July 2016, Respondents abandoned the work on Homeowners' addition. Due to Respondents' failure to pay the subcontractors, Homeowners' addition was left unfinished.

7. On August 16, 2016, Homeowner filed a Statement of Complaint with Complainant. Respondents failed to respond to the Statement of Complaint.

8. On September 14, 2016, the building inspector conducted an inspection of Homeowner's home and noted the following violations of the 2009 Michigan Residential Code (building code), adopted pursuant to the Stille-DeRossett-Hale single state construction act, effective March 9, 2011:

- a. Ridge cap is not installed properly, in violation of R905.2.8.1 and 903.2

- b. The skylights are not flashed properly, in violation of R905.2.8.3 and 903.2.
- c. Valleys do not have ice and water shields, only tar and paper, in violation of R905.2.8.2 and 903.2.
- d. No starter shingles used, in violation of R903.2.
- e. Nail heads are showing, in violation of R905.2.6;
- f. Flashing not installed correctly, in violation of R905.2.8 and 903.2;
- g. No house wrap installed over flashing, in violation of R903.2.

A copy of the inspection report, marked Exhibit B, is attached and incorporated.

COUNT I

Respondents' conduct, as described above, evidences a failure to reduce all agreements and changes to the agreements between a builder, or contractor, and customer to writing and have the agreement signed by all parties, contrary to Mich Admin Code, R 338.1533(1), in violation of section 604(c) of the Occupational Code, supra.

COUNT II

Respondents' conduct, as described above, evidences a failure to respond to a complaint within a reasonable time, contrary to Mich Admin Code, R 338.1551(2), in violation of section 604(c) of the Occupational Code, supra.

COUNT III

Respondent's conduct, as described above, evidences the failure or refusal to correct, within a reasonable time, a structural matter that was materially deficient, dangerous, or hazardous to the owners as presumed to be dishonest or unfair dealing, contrary to Mich Admin Code, R 338.1551(4), in violation of section 604(c) of the Occupational Code, supra.

COUNT IV

Respondent's conduct, as described above, evidences a failure to maintain standards of construction in accordance with the local building code, contrary to Mich Admin Code, R 338.1551(5), in violation of section 604(c) of the Occupational Code, supra.

COUNT V

Respondents' conduct, as described above, evidences abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee, in violation of section 2411(2)(a) of the Occupational Code, supra.

COUNT VI

Respondents' conduct, as described above, evidences a failure to account for or remit money in Respondents' possession that belongs to others, in violation of section 2411(2)(c) of the Occupational Code, supra.

COUNT VII

Respondent's conduct, as described above, evidences a willful violation of the building laws of this state or of a political subdivision of this state, in violation of section 2411(2)(e) of the Occupational Code, supra.

Complainant requests that this Complaint be served upon Respondents and that Respondents be offered an opportunity to show compliance with all lawful requirements for retention of the licenses. If compliance is not shown, Complainant further requests that formal proceedings be commenced pursuant to the Occupational Code, rules promulgated thereunder, and the Administrative Procedures Act, MCL 24.201 et seq.

Pursuant to section 508(2) of the Occupational Code, supra, Respondents have 15 days from the date of receipt of this Complaint to notify Complainant of Respondents' decision to either negotiate a settlement of this matter, to demonstrate compliance with the Occupational Code, or to request an administrative hearing. Written notification of Respondents' selection shall be submitted to Complainant, Kim Gaedeke, Director, Bureau of Professional Licensing, Department of Licensing and Regulatory

Affairs, P.O. Box 30670, Lansing, MI 48909. If Respondents fails to submit written notification within 15 days, this matter shall proceed to an administrative hearing.

Dated: 12/21/2016

Kim Gaedeke
Kim Gaedeke, Director
Bureau of Professional Licensing

Attachment

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