

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

PALMER CONSTRUCTION SERVICES LLC
License No. 21-02-194985,

and

ANDREW PALMER
License No. 21-01-154015,
Respondents.

File Nos. 21-16-330335
21-16-330706

CONSENT ORDER

On November 30, 2017, the Department of Licensing and Regulatory Affairs (Department) executed a Formal Complaint charging Respondents with violating Mich Admin Code, R 338.1533(1), 1536, and 1551(5) and MCL 339.2411(2)(e), (j), and MCL 339.604(c), (h), and (l).

Respondents presented compliance documentation to the Department and admit that the facts alleged in the Complaint are true and constitute violation(s) of Mich Admin Code, R 338.1533(1), 1536, and 1551(5), in violation of MCL 339.604 (h).

The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board) has reviewed this Consent Order and Stipulation and agrees that the public interest is best served by resolution of the outstanding Complaint.

Therefore, IT IS FOUND that the facts alleged in the Complaint are true and constitute violation(s) of Mich Admin Code, R 338.1533(1), 1536, and 1551(5), in violation of MCL 339.604 (h).

Accordingly, IT IS ORDERED that for the cited violations Respondents are FINED \$1,750.00, to be paid to the state of Michigan within 60 days of the effective date of this Order.

IT IS FURTHER ORDERED that the fine shall be mailed to the **Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division, Compliance Section, P.O. Box 30189, Lansing, MI 48909.** The fine shall be paid by bank cashier check (check) or money order, made payable to the State of Michigan, and the check or money order shall clearly display file numbers **21-16-330335 and 21-16-330706.**

IT IS FURTHER ORDERED that failure to comply with the terms of this Order shall result in a SUSPENSION of all licenses or registrations held by Respondents under Article 24 of the Occupational Code and in the denial of any license or registration renewal until compliance with this Order.

IT IS FURTHER ORDERED that this Order shall be effective on the date
SIGNED BY THE Board, as set forth below.

MICHIGAN BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE AND ALTERATION CONTRACTORS

By: 
Chairperson

Dated: 3/13/18

STIPULATION

1. Respondents are represented by attorney Charles R. Cuzydlo, Cuzydlo Law Group PLLC. The prosecution of the Formal Complaint is scheduled for an administrative hearing to be held on February 21, 2018, and pursuant to Respondents' agreement to settle the Formal Complaint and to enter into this Consent Order and Stipulation, the Department's request for hearing submitted to the Michigan Administrative Hearing System (MAHS) will be withdrawn from the hearing docket (Docket Nos. 17-022625, 17-022624), without prejudice, and the hearing will be cancelled.

2. Department licensure records indicate that Palmer Construction Services LLC, Andrew Palmer, Qualifying Officer, was issued a company builder license effective June 2, 2009, and the license is currently active through May 31, 2020; and

Andrew Palmer was issued an individual builder license effective April 21, 2000, and the license is currently active through May 31, 2020. There is no history of prior disciplinary action against the subject licenses.

3. On or about May 9, 2016, Respondents executed a contract with (Homeowner) in the amount of \$3,600 that included primarily renovation work on the house and garage exterior, as well as installing soffit venting.

4. On or about August 31, 2016, the Homeowner filed a Statement of Complaint with the Department, regarding the quality of work and services provided by Respondents.

5. The contract that was performed by Respondents was solicited and procured by Ian Mattoon, and Ian Mattoon did not possess a Builder Salesperson license at that time. Ian Mattoon obtained a Builder Salesperson license (21-05-213160), employed by Respondents, effective September 6, 2016. The contract was not signed by all of the parties; the contract was only signed by the Homeowner. A Formal Complaint (21-16-330713) was issued against Ian Mattoon, which was resolved by a Consent Order and Stipulation.

6. On or about September 14, 2016, a building inspector for the City of East Lansing conducted a complaint inspection of the subject home and issued a Building Inspection Report, dated November 14, 2016, which alleged the following violations of the 2015 Michigan Residential Code: R 301.5; R 317.3; R 317.3.1; R 806. It is

acknowledged that although the Building Inspection Report and the Formal Complaint alleged a violation of R 105.2, the scope of work did not require a building permit or a prior inspection by the Building Department, and therefore the alleged violation of R 105.2 is withdrawn.

7. Respondents maintain that they had not completed the scope of the contract at the time the dispute arose and that Respondents only received \$1,800, leaving a balance of \$1,220 for work performed. It is acknowledged that the alleged building code violations were not structural in nature and Respondents maintain that they requested an opportunity to correct the alleged violations and that the Homeowner did not allow Respondents to do so. The Department did not allege a violation of Mich Admin Code, R 338.1551(4) for the failure to correct the building code violations.

8. The Homeowner filed a civil court complaint against Respondents and the case was resolved via a settlement and was dismissed. Therefore, the issue of Restitution, if any, is not applicable because the issue was previously resolved in the civil case.

9. Respondents admit to the following alleged violations:

a) The contract was not signed by all of the parties, contrary to Mich Admin Code, R 338.1533(1), in violation of MCL 339.604 (h).

b) Respondents accepted and performed a contract procured by an unlicensed builder salesperson, contrary to Mich Admin Code, R 338.1536, in violation of MCL 339.604 (h).

c) Respondents did not comply with the Michigan Residential Code, contrary to Mich Admin Code, R 338.1551(5), in violation of MCL 339.604 (h).

10. The following alleged violations are dismissed based upon compliance documentation, duplication of violations, and the principle of settlement and compromise:

a) MCL 339.604(c) regarding the allegation of a violation of a rule of conduct of an occupation.

b) MCL 339.604(l) and 2411(2)(j) regarding the allegation that Respondents aided or abetted an unlicensed person.

c) MCL 339.2411(2)(e) regarding the allegation that Respondents committed a willful violation of the building laws.

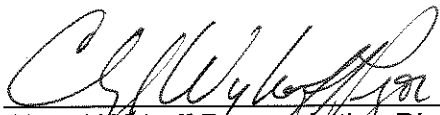
11. Respondents understand and intend that by signing this Stipulation, Respondents are waiving the right, pursuant to the Occupational Code, the rules promulgated thereunder, and the Administrative Procedures Act, MCL 24.201 *et seq.*, to require the Department to prove the allegations set forth in the Complaint by presentation of evidence and legal authority, and Respondents are waiving the right to appear with an attorney and such witnesses as Respondents may desire to present a defense to the allegations.

12. This matter 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.*

13. This Consent Order and Stipulation is approved as to form and substance by Respondents and the Department and may be entered as the final order of the Board in this matter.

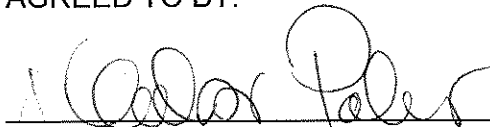
14. This proposal is conditioned upon acceptance by the Board, Respondents, and the Department, expressly reserving the right to further proceedings without prejudice should this Consent Order and Stipulation be rejected.

AGREED TO BY:


Cheryl Wykoff Pezon, Acting Director
Bureau of Professional Licensing
Department of Licensing and
Regulatory Affairs

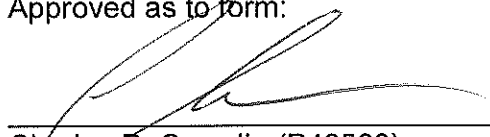
Dated: 2/7/18

AGREED TO BY:


Andrew Palmer, on behalf of Respondents

Dated: 1/23/18

Approved as to form:


Charles R. Cuzydlo (P48503)
Cuzydlo Law Group PLLC
Attorney for Respondents

Dated: 1/23/18

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

Palmer Construction Services LLC
License Number: 21-02-194985

and

Andrew Palmer
License Number: 21-01-154015

File Numbers: 21-16-330335
21-16-330706

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Department) by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against Palmer Construction Services LLC and Andrew Palmer (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 Palmer Construction Service LLC is licensed as a residential builder company, Respondent Andrew Palmer is licensed as an individual residential builder and is designated as the qualifying officer of Palmer Construction

Services LLC, and therefore pursuant to section 2405(1) the Occupational Code, supra, is responsible for exercising the supervision or control of the building or construction operations necessary to secure full compliance with the Occupational Code and the rules promulgated under the Occupational Code, supra.

3. On May 9, 2016, Ian Mattoon acted on behalf of Palmer Construction Services LLC and entered into a contract with [REDACTED] (Homeowner) to repair siding, garage repair work, and soffit work on the entire house. The contract was not signed by all parties. A copy of the contract, marked Exhibit A, is attached and incorporated.

4. At the time the contract was executed, Ian Mattoon was not designated as the qualifying officer of Palmer Construction Services LLC and was not licensed as a builder's salesperson.

5. On September 21, 2016, the Homeowner filed a Statement of Complaint.

6. On September 14, 2016, a building inspector for the City of East Lansing cited the following violations of the 2009 Michigan Residential Code (building code), adopted pursuant to the Stille-DeRossett-Hale single state construction code act, effective March 9, 2011:

- a. Stucco board installation has counter sunk nails that need to be sealed, contrary to R703.1.1

- b. Areas around sliding door (rear of house at deck) and trim re-installed after stucco board applied –gaps between siding and trim not sealed to prevent moisture entry, contrary to R703.1.1.
- c. Guardrail was removed and re-installed incorrectly after replacement of stucco board siding. Top of guardrail moves and incorrect fastens used, contrary to R301.5, R317.3, and R317.3.1.
- d. Back of soffit return open and not closed – possibly entry for insects and pests, contrary to R703.1.1 and R806.
- e. Large repair of drywall crack on ceiling of garage – not completed, contrary to R105.2.
- f. Insulation baffles missing in upper attic roof area, contrary to R105.2.

A copy of the Building Inspection Report, marked Exhibit B, is attached and incorporated.

COUNT I

Respondents' conduct, as described above, evidences a failure to have all written agreements 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 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 III

Respondents' conduct, as described above, evidences acceptance or performance of a contract procured by a salesperson not licensed under a builder or contractor, or acceptance or performance of a contract, other than the sale of real property, procured by anyone not licensed under the Occupational Code, contrary to Mich Admin Code, R 338.1536, in violation of section 604(h) of the Occupational Code, supra.

COUNT IV

Respondent's conduct, as described above, evidences a willful violation of the building laws of this state or political subdivision of this state, in violation of sections 2411(2)(e) and 604(h) of the Occupational Code, supra.

COUNT V

Respondents' conduct, as described above, evidences aiding or abetting an unlicensed person to evade this article, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, or allowing one's license to be used by an unlicensed person, in violation of sections 2411(2)(j) and 604(l) of the Occupational Code, supra.

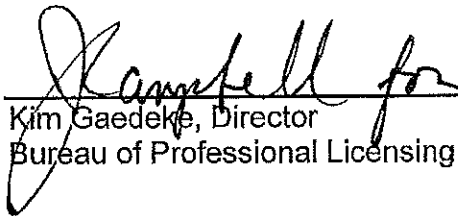
The Department requests that this Complaint be served upon Respondents and that Respondents be offered an opportunity to show compliance with all lawful requirements for retention of the license. If compliance is not shown, the Department further requests that formal proceedings be commenced pursuant to the Occupational

Code, rules promulgated thereunder, and the Administrative Procedures Act of 1969, 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 the Department 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 Kim Gaedeke, Director, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909. If Respondents fail to submit written notification within 15 days, this matter shall proceed to an administrative hearing.

Dated: _____

11/30/17



Kim Gaedeke, Director
Bureau of Professional Licensing

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