

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

ARTEMIO FABIANO SESSIONS
License No. 21-01-208353

Complaint No. 21-17-334146

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed on March 23, 2018 charging Artemio Fabiano Sessions (Respondent) with having violated sections 604(b), (c), (d), (h), (l), 2404a, 2409, 2411(2)(h) and (j) of the Occupational Code, MCL 339.101 *et seq.* and Mich Admin Code, R 338.1533(1) and R 338.1535.

The parties have stipulated that the Board may enter this consent order and that the facts alleged in the Formal Complaint are true and constitute a violation of sections 604(h) and (l), 2404a, and 2411(2)(j) of the Occupational Code. The Board has reviewed the stipulation contained in this document and agrees that the public interest is best served by resolution of the outstanding complaint.

Accordingly, for these violations, IT IS ORDERED:

Respondent is FINED \$750.00 to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 21-17-334146 clearly indicated on the check or money order), and shall be payable within 60 days of the effective date of the order. The timely payment of the fine shall be Respondent's responsibility. Respondent shall mail the fine to: Department of

Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division, Compliance Section, P.O. Box 30189, Lansing, Michigan 48909.

Counts I, II, III, IV, VIII and IX of the complaint, alleging a violation of sections 604(b), (c), (d), (h), 2409 and 2411(2)(h) of the Occupational Code and Mich Admin Code, R 338.1533(1) and R 338.1535, are DISMISSED.

Respondent shall be responsible for all costs and expenses incurred in complying with the terms and conditions of this consent order.

Respondent shall be responsible for the timely compliance with the terms of this consent order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this order.

If Respondent violates any term or condition set forth in this order, Respondent will be in violation of section 604(k) of the Occupational Code.

This order shall be effective thirty days from the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on 6-12-18

MICHIGAN BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND ALTERATION CONTRACTORS

By 
Chairperson,

STIPULATION

The parties stipulate as follows:

1. The facts alleged in the complaint are true and constitute a violation of the Occupational Code.
2. The Director of the Bureau of Professional Licensing, or her designee, must approve this consent order and stipulation before it is submitted to the Board for final approval.
3. Respondent understands and intends that, by signing this stipulation, he is waiving the right under the Occupational Code, rules promulgated under the Occupational Code, and the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, to require the Department to prove the charges set forth in the complaint by presentation of evidence and legal authority, and to present a defense to the charges. Should the Board reject the proposed consent order, the parties reserve the right to proceed to hearing.
4. This matter is a public record required to be published and made available to the public pursuant to section 11(1)(a) of the Michigan Freedom of Information Act, 1976 PA 442, as amended.
5. The Board may enter the above Consent Order. An attorney from the Licensing and Regulation Division may discuss this matter with the Board in order to recommend acceptance of this resolution.
6. The parties considered the following factors in reaching this agreement:

A. Respondent stated that he signed two contracts (totaling \$22,629) with the homeowner and provided copies of each executed contract to the homeowner. Respondent further stated that the parties never agreed to a third contract.

B. Respondent took full responsibility for operating an unlicensed entity, but did obtain licensure for Garages R Us LLC on January 23, 2018. Respondent asserted that the company licensure process was delayed because he had to dissolve Sessions Investment Properties LLC (d/b/a Garages R Us) prior to forming Garages R Us LLC.


C. The homeowner paid a total of \$14,800 to Respondent, but would not pay any additional draws of money. Respondent told the homeowner he would complete the project if additional monies were provided to cover needed materials.

D. Respondent provided a detailed accounting to the Bureau investigator, showing that he spent all monies obtained for this project on this project.

E. Respondent has updated his mailing address with the Bureau and explained that his prior address was that of his ex-wife and children. Respondent could not see why mail to this address came back as undeliverable because he continues to receive mail at that address.

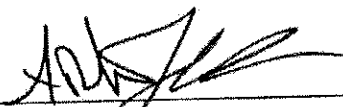
By signing this stipulation, the parties confirm that they have read, understand and agree with the terms of the consent order.

AGREED TO BY:



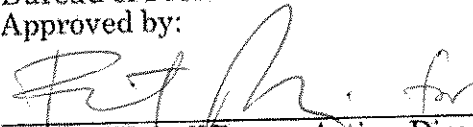
Timothy C. Erickson (P72071)
Assistant Attorney General
Attorney for Complainant
Dated: 5/3/2018

AGREED TO BY:



Artemio Fabiano Sessions
Respondent
Dated: 5/2/18

Bureau of Professional Licensing
Approved by:



Cheryl Wykoff Pezon, Acting Director

5-7-18

Date

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
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BOARD OF RESIDENTIAL BUILDERS AND
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In the Matter of

ARTEMIO FABIANO SESSIONS
License No. 21-01-208353

Complaint No. 21-17-334146

Respondent.

FORMAL COMPLAINT

NOW COMES Attorney General Bill Schuette, through Timothy C. Erickson, Assistant Attorney General, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Complainant, pursuant to the Occupational Code, as amended, MCL 339.101 *et seq*, and its rules promulgated thereunder, and files this Formal Complaint against Artemio Fabiano Sessions, Respondent, upon information and belief alleges as follows:

1. The Board of Residential Builders and Maintenance and Alteration Contractors is an administrative agency established under Article 24 of the Occupational Code, MCL 339.2401 *et seq*.
2. Beginning on May 5, 2015, Respondent was licensed as a Residential Builder and/or Maintenance and Alteration Contractor pursuant to Article 24 of the Code, and has been continually licensed.
3. Section 604(b) of the Code subjects a licensee to sanction for "fraud, deceit, or dishonesty in practicing an occupation."

4. Section 604(c) of the Code subjects a licensee to sanction for violating a rule of conduct of an occupation.

5. Section 604(d) of the Code subjects a licensee to sanction who demonstrates a lack of good moral character, meaning "the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner," as defined by MCL 338.41.

6. Section 604(h) of the Code subjects a licensee to sanction who "[v]iolates a provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed."

7. Section 604(l) of the Code subjects a licensee to sanction who "[a]ids or abets another person in the unlicensed practice of an occupation."

8. Section 2404a of the Code requires a licensee to "provide information relating to his or her individual license and to any license issued that person as a qualifying officer of another entity" in the contract.

9. Section 2409 of the Code requires a licensee to "report to the department a change of name or address or a change of members or addresses of the partnership, association, or corporation holding a license under this article within 30 days after the change occurs."

10. Section 2411(2)(h) of the Code subjects a licensee to sanction for failing "to deliver to the purchaser the entire agreement of the parties including any finance or other charge arising out of or incidental to the agreement"

11. Section 2411(2)(j) of the Code subjects a licensee to sanction for “[a]iding 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, allowing one’s license to be used by an unlicensed person, or acting as or being an ostensible licensed residential builder or licensed residential maintenance and alteration contractor for an undisclosed person who does or shall control or direct, or who may have the right to control or direct, directly or indirectly, the operations of a licensee.”

12. Mich Admin Code, R 338.1533(1) requires “[a]ll agreements and changes to the agreements between a builder, or contractor, and the customer to be in writing and signed by the parties. Copies of all agreements and changes to agreements must be in writing and provided to the customer.”

13. Mich Admin Code, R 338.1535 requires a licensee, upon notice of the Department, to “submit within 30 days sworn financial statement showing the licensee’s current financial status.”

14. Section 514 of the Code authorizes the Board to sanction licensees based on an administrative law hearing examiner’s hearing report.

15. Section 602 of the Code requires the Board to sanction licensees who have violated the Code.

FACTUAL ALLEGATIONS

16. Respondent, using Garages R Us LLC, contracted with Erica to construct a garage, replace the roof, and build an addition on her home located in West Bloomfield, Michigan.

17. Respondent is the resident agent of Garages R Us LLC, which is a Michigan Limited Liability Corporation with Articles of Organization first filed on January 3, 2018.

18. Garages R Us LLC is not licensed as a Residential Builder and/or Maintenance and Alteration company pursuant to Article 24 of the Occupational Code.

19. The total agreement was broken down into three contracts with a total price of \$24,129.00:

- a. The parties entered into the garage contract on or about May 8, 2017 with a price of \$18,240.00. Ms. B made payments totaling \$10,411.00.
- b. The parties entered into the roof contract on or about May 8, 2017 with a price of \$4,389.00. Ms. B made payments totaling \$4,389.00.
- c. The parties entered into the addition contract on or about June 7, 2017 with a contract price of \$1,500.00.
- d. In total, Ms. B paid Respondent approximately \$14,800.00.

20. The above contracts do not include Respondent's individual license information.

21. Respondent never signed the above contracts and never provided final versions of the contracts to Ms. B

22. The contracts used by Respondent provided an address of 29777 Telegraph Road, Suite 2400, Southfield, Michigan 48034. This address is for the Law offices of Yatooma & Associates, P.C.

23. Respondent was supposed to use monies drawn from Ms. B to purchase, among other things, materials for the agreed-upon work. Respondent diverted some monies elsewhere.

24. On or about September 2, 2017, Respondent ceased work on Ms. B home, leaving the work incomplete.

25. On or about November 13, 2017, the Bureau mailed a "Notice to Respondent" and a request for signed and notarized accounting to Respondent's registered address for his individual license of 47255 North Gate Drive, Canton, Michigan 48188. It was returned as undeliverable.

26. On or about November 13, 2017, the Bureau provided the same documents via electronic mail to Respondent.

27. Respondent never provided the accounting requested by the Bureau.

28. On or about January 23, 2018, the Bureau mailed a Statement of Complaint to the same address and it was returned as undeliverable.

29. Respondent failed to inform the Department of a change in address.

COUNT I

30. Respondent's conduct, as described above, constitutes fraud, deceit, or dishonesty in practicing an occupation violation of section 604(b) of the Code.

COUNT II

31. Respondent's conduct, as described above, is contrary to Mich Admin Code, R 338.1533(1), in violation of section 604(c) of the Code.

COUNT III

32. Respondent's conduct, as described above, is contrary to Mich Admin Code, R 338.1535, in violation of section 604(c) of the Code.

COUNT IV

33. Respondent's conduct, as described above, constitutes a lack of good moral character in violation of section 604(d) of the Code.

COUNT V

34. Respondent's conduct, as described above, constitutes aiding and abetting the unlicensed practice of the occupation in violation of section 604(l) of the Code.

COUNT VI

35. Respondent's conduct, as described above, constitutes aiding and abetting the unlicensed practice of a residential builder or maintenance and alterations contractor, in violation of section 2411(2)(j) of the Code.

COUNT VII

36. Respondent's conduct, as described above, constitutes a failure to include license information in the contract, contrary to section 2404a of the Code, in violation of section 604(h) of the Code.

COUNT VIII

37. Respondent's conduct, as described above, constitutes a failure to report a change of address, contrary to section 2409 of the Code, in violation of section 604(h) of the Code.

COUNT IX

38. Respondent's conduct, as described above, constitutes a failure to deliver the entire agreement, including any changes, to the purchaser, in violation of section 2411(2)(h) of the Code.

WHEREFORE, Complainant, Department of Licensing and Regulatory Affairs, hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, as amended, MCL 24.201-328 and the Occupational Code, *supra*, to determine whether disciplinary action should be taken by the Department of Licensing and Regulatory Affairs, pursuant to the Occupational Code, for the reasons set forth herein.

Respectfully submitted,

BILL SCHUETTE
Attorney General

By 

Timothy C. Erickson (P72071)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Phone (517) 373-1146; Fax (517) 241-1997

Dated: March 23, 2018

LF: 2018-0212625-B/Sessions, Artemio Fabiano, 334146 (Res Bldr)/Formal Complaint - 2018-03-23