

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

CAPTIVATING HOMES LLC  
License No. 21-02-161795

Complaint No. 21-17-333234

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed on February 9, 2018, charging Captivating Homes LLC (Respondent) with having violated sections 604(b), (c), and (h), 2404a, and 2411(2)(c) and (j) of the Occupational Code, MCL 339.101 *et seq.*, and Mich Admin Code, R 338.1533(1) and (2).

The parties have stipulated that the Board may enter this consent order. 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. Therefore, the Board finds that the allegations of fact contained in the complaint are true and that Respondent has violated sections 604(c) and (h) and 2404a of the Occupational Code, and Mich Admin Code, R 338.1533(1) and (2).

Accordingly, for these violations, IT IS ORDERED:

Respondent is FINED \$2,000 to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint number 21-17-333234 clearly indicated on the check or money order), and shall be payable within 60 days of the effective date of this 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.

Respondent shall be jointly and severally liable for the fine payment with Anthony Eric Schram (complaint no. 21-17-333235).

Within 60 days of the effective date of this order, Respondent shall pay RESTITUTION in the amount of \$5,082 to Mr. and Mrs. Keith and Jennifer Kaminski. Respondent shall mail restitution to Mr. and Mrs. Kaminski at the address provided to Respondent in a separate document by the Department or Office of Attorney General, Licensing and Regulation Division at the time he signed this stipulation. Respondent shall be jointly and severally liable for the restitution payment with Anthony Eric Schram (complaint no. 21-17-333235).

Respondent shall submit satisfactory written proof of timely restitution payment to the Department by mail, or other method acceptable to the Department.

Counts I, III, and IV of the complaint, alleging a violation of sections 604(b) and 2411(c) and (j) of the Occupational Code, are DISMISSED.

Respondent shall direct any communications to the Department that are required by the terms of this order to: Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division – Compliance Section, P.O. Box 30670, Lansing, Michigan 48909.

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

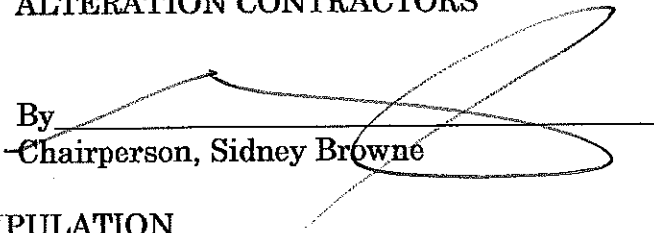
Respondent shall be responsible for the timely compliance with the terms of this consent order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this order.

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 6-12-14

MICHIGAN BOARD OF RESIDENTIAL  
BUILDERS AND MAINTENANCE AND  
ALTERATION CONTRACTORS

By   
Chairperson, Sidney Browne

STIPULATION

The parties stipulate as follows:

1. Respondent does not contest the allegations of fact and law in the complaint. Respondent understands that, by pleading no contest, Respondent does not admit the truth of the allegations but agrees that the Board may treat the allegations as true for resolution of the complaint and may enter an order treating the allegations as true.

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, Respondent 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, MCL 15.231 *et seq.*

5. The Board may enter the above Consent Order, supported by Board conferee Bradley Laackman. Mr. Laackman or an attorney from the Licensing and Regulation Division may discuss this matter with the Board in order to recommend acceptance of this resolution.

6. Mr. Laackman and the parties considered the following factors in reaching this agreement:


- A. Respondent has been licensed since 2002 without any prior disciplinary actions against its residential builder company license.
- B. During a compliance conference, Respondent's qualifying officer, Mr. Schram, demonstrated that he applied for permits for the contracted work, and it passed inspection. Mr. Schram also presented credible evidence that Mr. Crimmins was an independent contractor and worked under his supervision.
- C. Mr. Schram represented that he will stop working with Mr. Crimmins and will revise his contracts and change order

practices to avoid any confusion or miscommunications with homeowners in the future.

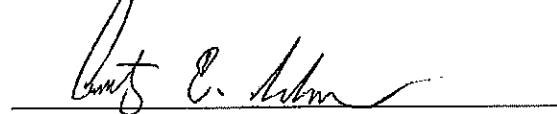
- D. Respondent desires to resolve this case without the time and expense of an administrative hearing.


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

AGREED TO BY:

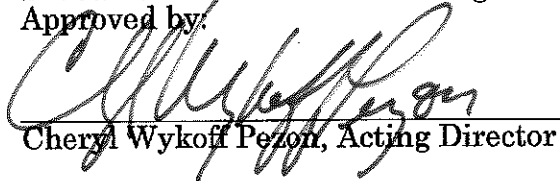
  
M. Catherine Waskiewicz (P73340)  
Assistant Attorney General  
Attorney for Complainant  
Dated: 5-3-18

AGREED TO BY:

  
Anthony Eric Schram  
Authorized Signatory for Respondent  
Dated: 5-2-18

  
Peter W. Joelson (P51468)  
Attorney for Respondent  
Dated: 5-2-18

Bureau of Professional Licensing  
Approved by:

  
Cheryl Wykoff Pezon, Acting Director

5/10/18  
Date

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

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Complaint No. 21-17-333234

FORMAL COMPLAINT

Attorney General Bill Schuette, through Assistant Attorney General M. Catherine Waskiewicz, on behalf of Complainant Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, files this Formal Complaint against Respondent Captivating Homes LLC, alleging upon information and belief 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 339.101 *et seq.*
2. At all times relevant to this Complaint, Respondent was licensed as a residential builder company pursuant to the Code, with Anthony Schram listed as the qualifying officer. Mr. Schram has a related case in file number 21-17-333235.
3. Section 2401(a) defines a "residential builder" in pertinent part as:  
  
a person engaged in the construction of a residential structure . . . who, for a fixed sum, price, fee, percentage, valuable consideration, or other compensation, other than wages for personal labor only, undertakes with another or offers to undertake or purports to have the capacity to undertake with another for the erection, construction, replacement, repair, alteration, or an addition to, subtraction from, improvement,

wrecking of, or demolition of, a residential structure or combination residential and commercial structure; . . . or a person who erects a residential structure . . . except for the person's own use and occupancy on the person's property.

4. Section 2401(d) defines a "salesperson" as:

an employee or agent, other than a qualifying officer, of a licensed residential builder or residential maintenance and alteration contractor, who for a salary, wage, fee, percentage, commission, or other consideration, sells or attempts to sell, negotiates or attempts to negotiate, solicits for or attempts to solicit for, obtains or attempts to obtain a contract or commitment for, or furnishes or attempts or agrees to furnish, the goods and services of a residential builder or residential maintenance and alteration contractor, except a person working for a licensed residential builder or residential maintenance and alteration contractor who makes sales which are occasional and incidental to the person's principal employment.

5. Section 604(b) of the Code requires the Board to penalize a licensee for practicing fraud, deceit, or dishonesty in practicing an occupation.

6. Section 604(c) of the Code requires the Board to penalize a licensee for violating a rule of conduct of an occupation.

7. Section 604(h) of the Code requires the Board to penalize a licensee for violating any other provision of the Code or a rule promulgated under the Code for which a penalty is not otherwise prescribed.

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

9. Section 2405(1) of the Code provides that a qualifying officer is responsible for exercising the supervision or control of the building or construction operations necessary to secure full compliance with Article 24 and the rules promulgated thereunder.

10. Section 2411(2)(c) requires the Board to penalize a licensee for a failure to account for or remit money coming into the person's possession that belongs to others.

11. Section 2411(2)(j) requires the Board to penalize a licensee for aiding or abetting an unlicensed person to evade Article 24, 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) provides that all agreements and changes to the agreements between a builder, or contractor, and the customer shall be in writing and signed by the parties. Copies of all agreements and changes to agreements shall be in writing, and provided to the customer.

13. Mich Admin Code, R 338.1533(2) provides that the builder or contractor shall make certain that the written agreements clearly state the terms of the transaction, including specifications, and when construction is involved, both plans



and specifications, including cost, the type and amount of work to be done, and the type and quality of materials to be used.

14. Section 514 of the Code authorizes the Board to assess penalties against licensees under section 602 of the Code based on an administrative law hearings examiner's hearing report.

#### FACTUAL ALLEGATIONS

##### Initial Contact with Mr. Crimmins / Unlicensed Activity

15. On or about April 15, 2016, Keith and Jennifer met with Devin Crimmins<sup>1</sup> about completing an addition to include a sun room, master bedroom, and bathroom, and updating the front porch at their home in Farmington Hills, Michigan. Mr. and Mrs. K initially contacted Mr. Crimmins because they knew him when he was a licensed builder and the owner of D.R. Crimmins Construction. Mr. Crimmins failed to inform Mr. and Mrs. K that he was no longer licensed pursuant to the Code and his company was defunct.<sup>2</sup>

16. On the same date, Mr. and Mrs. K provided a deposit in the amount of \$1,000 to Mr. Crimmins. Mr. Crimmins then began the process of supplying architectural designs for the project.

17. On or about April 29, 2016, Mr. Crimmins contacted Mr. K about doing more planning for the project, collecting another deposit, and working on a budget with him.

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<sup>1</sup> Mr. Crimmins has a related case in file number 21-17-333236 for unlicensed activity.

<sup>2</sup> See *Kostopoulos v. Crimmins*, No. 299478, 2011 WL 6848354 (Mich. Ct. App. Dec. 29, 2011). Mr. Crimmins also has a history of disciplinary actions against his builder license.

18. On or about May 2, 2016, Mr. Crimmins again contacted Mr. K to inform him he had some sketches and had met with the City of Farmington Building Department. These sketches were provided by an unlicensed architect and listed "Crimmins Construction" as the agent for the project.

Introduction to Mr. Schram / Deception Regarding Mr. Schram's Role in Project / Lack of Required Information in Contract

19. On or about May 4, 2016, Mr. Crimmins emailed a sketch of the project to Mr. K. On this date and throughout the project, Mr. Crimmins used the email address "drcrimminsconstruction@comcast.net," which is the name of his defunct company, to communicate with Mr. and Mrs. K.

20. On the same date, Mr. and Mrs. K paid a \$5,000 deposit to Respondent. Mr. Crimmins failed to inform Mr. and Mrs. K that he was not the owner of Respondent or a licensed builder.

21. Around this time, Mr. Crimmins introduced Mr. Schram to Mr. and Mrs. K as his "numbers guy." Respondent's website states that it provides consulting services "on all aspects of construction including budgeting, design, as well as construction processes and procedures." Mr. Crimmins and Mr. Schram failed to inform Mr. and Mrs. K that Mr. Schram was the sole owner of Respondent and the licensed builder who would be responsible for the project.

22. On or about July 27, 2016, Mr. and Mrs. K received a document entitled "Description of Work" and a quote of \$83,840 with Respondent's name and address listed at the top of the document. The end of the document contained the following language:

We are fully licensed and insured.

Sincerely,

Anthony Schram & Devin Crimmins  
Captivating Homes, LLC

(emphasis added). Thus, Mr. Schram and Mr. Crimmins gave Mr. and Mrs.

K the impression that they were both appropriately licensed and partners in Respondent.

23. On or about August 2, 2016, Mr. Crimmins forwarded an email from Mr. Schram to Mr. K which contained the contract. The forwarded email from Mr. Schram to Mr. Devin stated:

Hey Devin,

Here it is. Please have them both initial each page and both of them need to sign the last page. Keep one copy for *us* and they can keep the other copy. Let me know if you have any questions.

Thanks

(emphasis added).

24. On this date and throughout the project, Mr. Schram used the email address "captivatinghomesllc@gmail.com" to communicate with Mr. and Mrs.

K. Mr. Crimmins and Mr. Schram copied each other on many emails to Mr. and Mrs. K. This gave the appearance that they were partners and caused confusion for Mr. and Mrs. K as to who was legally responsible for the project.

25. On or about August 3, 2016, Respondent commenced construction of the project.

26. On or about August 10, 2016, Mr. and Mrs. K: signed a contract with Respondent to complete the addition at their home for \$85,850. Mr. Crimmins was present at the signing, although Mr. Schram signed on behalf of Respondent. Unlike the "Description of Work" document, neither Mr. Schram nor Mr. Crimmins were individually named in the contract.

27. The contract included a credit for the initial \$1,000 payment to Mr. Crimmins as an "architectural" fee. A licensed architect, however, was not involved in the project.

28. The contract does not contain any license information or a detailed description of the project. This caused disagreements about the project to the detriment of Mr. and Mrs. K: In one instance, Mr. and Mrs. K: requested that a particular type of hardwood flooring be installed. Mr. Crimmins refused, and Mr. and Mrs. K: had to hire another contractor to install the hardwood flooring, which was included in their contract with Respondent.

29. Throughout the project, Mr. Crimmins collected checks, arranged for architects, coordinated the permit and inspection process, explained the design and construction process, gathered and explained bids, coordinated specialty contractors, provided skilled labor, answered questions, and responded to Mr. and Mrs. K: concerns.

Failure to Account for or Remit Funds to Homeowners / Lack of Signed Change Orders / Deceit Regarding Permit Deposit to City

30. On or about September 23, 2016, Mr. and Mrs. K: requested an accounting for the project. Mr. Schram did not provide an accounting until on or

about December 21, 2016. The accounting acknowledged several credits that were owed to Mr. and Mrs. K but included numerous charges that were already included in the price of the contract or never agreed to with properly signed change orders. Thus, the accounting requested additional funds from Mr. and Mrs. K that they did not agree to.

31. On or about January 27, February 4, and February 6, 2017, Mr. and Mrs. K requested written, signed change orders for the project. On or about February 16, 2017, Mr. Schram admitted that “most of the change orders were verbal and some were confirmed by text,” although the contract states “[o]ral changes will not be accepted.” Respondent never provided any written change orders that were signed by both parties to Mr. and Mrs. K. In fact, contrary to the administrative rules cited above, Respondent’s contract incorrectly states that “changes are deemed acceptable via text message and or email if found to be more convenient.”

32. The accounting also misrepresented that the cost of the building permit was \$660, and that it was spent. The City, however, had returned a \$100 permit deposit to Respondent on or about December 15, 2016. Thus, the actual cost of the permit was \$560, with a \$100 deposit to the City. Mr. Schram cashed the check on or about December 29, 2016, and failed to inform Mr. and Mrs. K about the \$100 credit for the deposit. On or about February 6, 2017, Mr. K inquired with Mr. Schram about the deposit after learning about it from the City. Only then

did Respondent remit the \$100 deposit to Mr. and Mrs. K on or about February 23, 2017.

33. Mr. and Mrs. K paid a total of \$85,000 to Respondent between May 4, 2016 and November 18, 2016. The contract did not specify when payments were due, although it stated "Upon verbal request of the builder, all progress payments must be made within 48 hours or builder reserves the right to stop all work and the owner is considered to be in default." Mr. and Mrs. K did not make the final \$850 "substantial completion" payment because Respondent failed to pay them for the credits or do a "final walk through" of the project to fix several issues.

#### COUNT I

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

#### COUNT II

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

#### COUNT III

36. Respondent's conduct as described above constitutes a failure to account for or remit funds, contrary to section 2411(2)(c) of the Code, in violation of section 604(h) of the Code.

COUNT IV

37. Respondent's conduct as described above constitutes aiding or abetting an unlicensed person, contrary to section 2411(2)(j) of the Code, in violation of section 604(h) of the Code.

COUNT V

38. Respondent's conduct as described above constitutes a failure to obtain signed change orders, contrary to Mich Admin Code, R 338.1533(1), in violation of sections 604(c) and (h) of the Code.

COUNT VI

39. Respondent's conduct as described above constitutes a failure to make certain that the written agreements clearly state the terms of the transaction, contrary to Mich Admin Code, R 338.1533(2), in violation of sections 604(c) and (h) of the Code.

THEREFORE, Complainant Department of Licensing and Regulatory Affairs hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, the Occupational Code, MCL 339.101 *et seq.*, and the associated administrative rules 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.

Any written response shall be submitted to the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, Michigan 48909, with a copy to the undersigned assistant attorney general.

Respectfully submitted,

BILL SCHUETTE  
Attorney General

*M. Catherine Waskiewicz*

M. Catherine Waskiewicz (P73340)  
Assistant Attorney General  
Licensing & Regulation Division  
525 West Ottawa, 3<sup>rd</sup> Floor, Williams Bldg.  
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(517) 373-1146

Dated: February 9, 2018

LF: 2017-0202838-A/Captivating Homes LLC, 333234/Formal Complaint - 2018-02-09