

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

CLYDE LOVELL THOMAS
License No. 21-01-162297

Complaint No. 21-17-334217

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed on March 1, 2018 charging Clyde Lovell Thomas (Respondent) with having violated sections 604(c), (e), (g), (h), (l), 2404a, and 2411(2)(c) of the Occupational Code, MCL 339.101 *et seq.* and Mich Admin Code, R 338.1533(1), (2) and 1551(5).

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 section 604(c) of the Occupational Code and Mich Admin Code, R 338.1533(1), (2) and 1551(5). 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 \$1,000.00 to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 21-17-334217 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.

Counts IV, V, VI, VII, and VIII of the complaint, alleging a violation of sections 604 (e), (g), (h), (i), 2404a, and 2411(2)(c) of the Occupational Code, are DISMISSED.

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 on the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on May 15, 2018

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[s] 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, 1969 PA 306, as amended, 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 personally contracted with the homeowners. Respondent did not establish Thomas' Cornerstone Contracting LLC until May 2, 2017, three months after the contract with the homeowners. The homeowners paid Respondent directly, as evidenced by the check written to "Clyde Thomas."

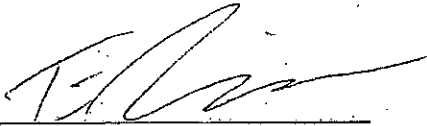
B. Respondent acknowledge that the bid sheet, which formed the written agreement between the parties, did not contain his individual license information, but Respondent asserted that he provided his license number on a business card to the homeowners.

C. Respondent affirmed that if given the opportunity to complete the project, he would correct all violations of the Michigan Residential Code.

D. Respondent provided an accounting of the monies spent on this project, including receipts.

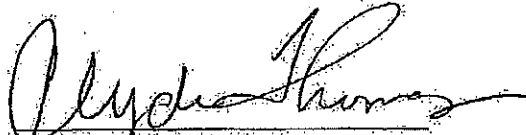
By signing this stipulation, the parties confirm that they have read, understand and agree with the terms of the consent order.

AGREED TO BY:



Timothy C. Erickson (P72071)
Assistant Attorney General
Attorney for Complainant
Dated: 4/18/2018

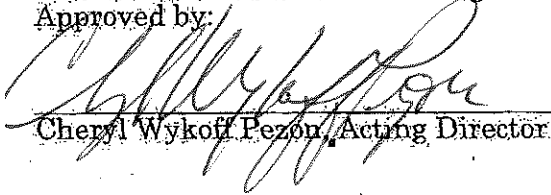
AGREED TO BY:



Clyde Lovell Thomas
Respondent

Dated: April 4 2018

Bureau of Professional Licensing
Approved by:



Cheryl Wykoff Pezon, Acting Director

Date

4/18/2018

LE 2018-0210530-B/Thomas, Clyde Lovell, 3342147 (Res Bldr)/Consent order - 2018-03-22

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

CLYDE LOVELL THOMAS
License No. 21-01-162297

Complaint No. 21-17-334217

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 Clyde Lovell Thomas, 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 October 4, 2000, Respondent was licensed as a Maintenance and Alteration Contractor pursuant to Article 24 of the Code (license number 21-03-156154). Respondent was continually licensed until May 31, 2003 when the license expired. Beginning on May 17, 2002, Respondent was issued a Residential Builder (license number 21-01-162297) and was continually licensed

until May 31, 2003 when the license expired. On March 24, 2016, the license was re-issued by relicensure application and Respondent has been continuously licensed since that date.

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

4. Section 604(e) of the Code subjects a licensee to sanction who commits an act of gross negligence.

5. Section 604(g) of the Code subjects a licensee to sanction who demonstrates incompetence.

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 2411(2)(c) of the Code subjects a licensee to sanction for failing “to account for or remit money coming into the person’s possession that belongs to others.”

10. 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.”

11. Mich Admin Code, R 338.1533(2) requires that the builder or contractor “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.”

12. Mich Admin Code, R 338.1551(5) requires that a licensee adhere to the standards of construction of the local building code or the building code of the nearest political subdivision having a building code.

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

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

FACTUAL ALLEGATIONS

15. On or about February 17, 2017, Respondent contracted with Charles and Elizabeth to replace the roof, siding, and gutters on their home for a total contract price of \$23,500.00.

16. On or about February 19, 2017, the paid Respondent a down payment of \$17,625.00.

17. In the contract, Respondent used the entity “Cornerstone Contracting.”

18. Cornerstone Contracting is not licensed under Article 24 of the Occupational Code, nor does Respondent have Cornerstone Contracting listed on his license as a DBA name.

19. Respondent is not listed as a resident agent, officer, or member of any Michigan business entity called Cornerstone Contracting.

20. The contract does not contain information related to Respondent's individual residential builder's license.

21. The contract does not include the type and quality of the materials to be used to replace the roof, siding, and gutters.

22. Respondent commenced work in or around March 2017.

23. During the project, the _____ and Respondent agreed to changes to the original agreement, but Respondent failed to record these change orders in writing.

24. After several months of working on the project, Respondent ceased work, leaving the project incomplete.

25. On or about September 6, 2017, the _____ through counsel, demanded that Respondent provide an accounting of their money. Respondent failed to provide any accounting.

26. On or about October 13, 2017, building inspector Randy Mastin performed an inspection of the _____ home and noted the following rule violations of the 2015 Michigan Residential Code:

a. R703.1.1 (stonework)

- b. R703.4 (stonework)
- c. R905.2.5 (roof/shingles)
- d. R905.2.8.4 (roof/shingles)
- e. R908.2 (roof/shingles)
- f. R905.2.8.5 (roof/shingles)
- g. R904.1 (roof/shingles)
- h. R703.3 (Siding)
- i. R703.11.1 (Siding)
- j. R703.1 (Siding)
- k. R703.4 (Siding)

27. The did not allow Respondent back on their property to attempt to remedy these violations.

COUNT I

28. 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 II

29. Respondent's conduct, as described above, is contrary to Mich Admin Code, R 338.1533(2), in violation of section 604(c) of the Code.

COUNT III

30. Respondent's conduct, as described above, is contrary to Mich Admin Code, R 338.1551(5), in violation of section 604(c) of the Code.

COUNT IV

31. Respondent's conduct, as described above, constitutes gross negligence in violation of section 604(e) of the Code.

COUNT V

32. Respondent's conduct, as described above, constitutes incompetence in violation of section 604(g) of the Code.

COUNT VI

33. 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 VII

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

COUNT VIII

35. Respondent's conduct, as described above, constitutes a failure to account for money coming into a person's possession that belongs to others, in violation of section 2411(2)(c) 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 1, 2018

LF: 2018-0210530-B/Thomas, Clyde Lovell, 3342147 (Res Bldr)/Formal Complaint - 2018-03-01