

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

PAUL A. ESPOSITO
License No. 21-01-108191

Complaint No. 21-15-328058

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed on October 20, 2016, charging Paul A. Esposito (Respondent) with violating sections 604(b) and (d) of the Occupational Code, MCL 339.101 *et seq.*; conduct contrary to sections 601(1) and 2411(2)(h) and (j) of the Code, in violation of section 604(h); and conduct contrary to Mich Admin Code, R 338.1533(1), in violation of section 604(c) of the Code.

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(b), (c), (d), and (h) 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 \$7,500.00 to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 21-15-328057 and 21-15-328058 clearly indicated on the check or money order)

within 90 days of the effective date of this order. The timely payment of the fine shall be Respondent's responsibility. Respondent is jointly and severally liable for paying the \$7,500.00 fine with Sunset Homes, LLC, of which Respondent is owner and qualifying officer (see related complaint number 21-15-328057). This \$7,500.00 fine satisfies both complaint numbers 21-15-328057 and 21-15-328058. Respondent shall mail the fine to: Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Legal Affairs Division, Compliance Section, P.O. Box 30189, Lansing, Michigan 48909.

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 30 days from the date signed by the chairperson or the chairperson's designee, as set forth below.

Signed on 9/12/17

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, 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.*

4. The Board may enter the above consent order, supported by Board conferee John F. Kelly. Mr. Kelly or an attorney from the Licensing and Regulation Division may discuss this matter with the Board in order to recommend acceptance of this resolution.

5. Mr. Kelly and the parties considered the following factors in reaching this agreement:

- A. During an in-person compliance conference between the parties, Mr. Esposito was forthright about the matter, indicated he has learned from this situation, and expressed regret for a serious lapse in professional judgment. Mr. Esposito was cooperative and wished to resolve this matter without the need for and expense of an administrative hearing.

- B. Although Mr. Esposito's license was lapsed and revoked at the time of the allegations at issue, the license was restored to full and active status before the formal complaint was issued.
- C. Restitution was not awarded due to a concurrent civil action by the homeowners against Mr. Esposito and Sunset Homes, LLC. Mr. Esposito and Sunset Homes agreed to complete specified repairs to the home in order to resolve the civil matter.

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

AGREED TO BY:

Erika N. Marzorati
 Erika N. Marzorati (P78100)
 Assistant Attorney General
 Attorney for Complainant
 Dated: 5-26-17

AGREED TO BY:

Paul A. Esposito
 Paul A. Esposito
 Respondent

Dated: 5/25/17

Cecil D. St. Pierre, Jr.
 Cecil D. St. Pierre, Jr. (P86262)
 Attorney for Respondent
 Dated: 5/25/17

Bureau of Professional Licensing
 Approved by:

Kim Guedeke
 Kim Guedeke, Director

06/05/2017
 Date

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING

DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS, BUREAU
OF PROFESSIONAL LICENSING,

Complainant,

v.

PAUL A. ESPOSITO
Residential Builder
License No. 21-01-108191

Respondent.

Complaint No. 21-15-328058

Board of Residential Builders
and Maintenance and
Alteration Contractors

FORMAL COMPLAINT

Attorney General Bill Schuette, through Assistant Attorney General Erika N. Marzorati, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing (Complainant) files this complaint against Paul A. Esposito (Respondent) under the Occupational Code, MCL 339.101 *et seq.*, and rules promulgated thereunder, alleging upon information and belief as follows:

1. Respondent currently holds a residential builder license under Article 24 of the Code.
2. Section 601(1) of the Code provides that a person shall not engage in the practice of an occupation regulated under the Code unless the person possesses a license or registration issued by the department for the occupation.

3. Section 604(b) of the Code provides that a licensee who practices fraud, deceit, or dishonesty in practicing an occupation is subject to the penalties prescribed in section 602.

4. Section 604(d) of the Code provides that a licensee who demonstrates a lack of good moral character is subject to the penalties prescribed in section 602. Section 104(7) of the Code provides that "good moral character" means "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 in subsection 1(1) of the Occupational License for Former Offenders Act, MCL 338.41(1).

5. Section 2411(2)(h) of the Code provides that a licensee who fails to deliver to the purchaser the entire agreement of the parties including any finance or other charge arising out of or incidental to an agreement that involves repair, alteration, or addition to, subtraction from, improvement of, wrecking of, or demolition of a residential structure is subject to the penalties set forth in Article 6.

6. Section 2411(2)(j) of the Code provides that a licensee who aids or abets an unlicensed person to evade Article 24 or knowingly combines or conspires with, or acts as agent, partner, or associate for an unlicensed person is subject to the penalties set forth in Article 6.

7. 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, signed by the parties, and provided to the customer.

8. Section 604(c) of the Code provides that a licensee who violates a rule of conduct of an occupation is subject to the penalties prescribed in section 602.

9. Section 604(h) of the Code provides that a licensee who violates any other provision of the Code or a rule promulgated thereunder for which a penalty is not otherwise prescribed is subject to the penalties prescribed in section 602.

10. 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 this article and rules promulgated thereunder.

11. Section 602 of the Code provides that a person, school, or institution that violates the Code or a rule promulgated thereunder shall be assessed one or more of the penalties enumerated under this section.

FACTUAL ALLEGATIONS

12. Respondent was the owner of Sunset Homes, LLC, at all times relevant to this complaint.

13. In or around June 2014, Respondent on behalf of Sunset Homes entered into a contract with Leon and to perform services regulated under the Code. Specifically, Respondent agreed to renovate the home on Drive in East China, Michigan.

14. At the time he entered into the agreement, Respondent represented to the that he was a licensed residential builder and that that Sunset Homes was a licensed residential builder company.

15. Neither Respondent nor Sunset Homes was licensed at the time Respondent entered into the contract.

16. Respondent previously held a license, which lapsed on May 31, 2007. The license later was suspended and then revoked as the result of disciplinary action. Respondent's license was returned to active status on September 18, 2015.

17. Sunset Homes was first issued a license on October 20, 2015. Respondent is the qualifying officer for the company.

18. Respondent failed to provide a written agreement to the

19. A crew hired by Respondent began work on the house in June 2014.

20. An East China building inspector visited the property in August 2014. Workers told the inspector they were simply cleaning and performing "superficial work" such as painting and removing debris that did not require a permit.

21. On August 6, 2014, the building inspector mailed a letter informing the that building, mechanical, plumbing, and electrical permits may be required for the project. Respondent assured the he would obtain any required permits.

22. Respondent failed to pull any permits for the project.

23. From June through August 2014, the made six payments totaling \$79,000 to Sunset Homes for the renovation project.

24. The company provided a cost analysis to the reflecting the amounts received by the homeowners and a detailed breakdown of expenses incurred and/or paid from June 2014 through early January 2015.

25. Respondent ceased work on the project in or around December 2014, claiming the work provided exceeded the amount paid by the

COUNT I

26. Respondent's conduct as described above constitutes unlicensed practice as a residential builder, contrary to section 601(1) of the Code, in violation of section 604(h) of the Code.

COUNT II

27. 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 III

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

COUNT IV

29. Respondent's conduct as described above constitutes a failure to deliver to the purchaser the entire agreement of the parties, contrary to section 2411(2)(h) of the Code, in violation of section 604(h) of the Code.

COUNT V

30. Respondent's conduct as described above constitutes aiding or abetting an unlicensed person to evade Article 24, contrary to section 2411(2)(j) of the Code, in violation of section 604(h) of the Code.

COUNT VI

31. Respondent's conduct as described above constitutes failure to provide a signed, written agreement to the customer, contrary to Mich Admin Code, R 338.1533(1), in violation of section 604(c) of the Code.

WHEREFORE, Complainant hereby commences proceedings under the Occupational Code and Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, to determine whether the Department should take disciplinary action pursuant to the Occupational Code for the reasons set forth herein.

Respectfully submitted,

BILL SCHUETTE
Attorney General



Erika N. Marzorati (P78100)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, Michigan 48909
(517) 373-1146

Dated: October 20, 2016