

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

JOHN HOUSTON FLOYD
License No. 21-01-211216
Respondent.

File Nos. 21-16-328312
21-16-329909
21-16-330003
Docket No. 16-033169

FINAL ORDER

On November 2, 2016, the Department of Licensing and Regulatory Affairs executed a Formal Complaint charging Respondent with violating MCL 339.604(a), 339.604(b), 339.604(c), 339.604(d), 339.604(h), 339.2411(2)(a) and 339.2411(2)(j).

Based upon the documentation obtained during the course of the investigation of the matter and the affidavit from the Regulation Agent, the Department of Licensing and Regulatory Affairs (Department) summarily suspended Respondent's license to practice as an individual builder in the state of Michigan by Order of Summary Suspension dated November 2, 2017.

An administrative hearing was held in this matter before an administrative law judge who, on February 14, 2017, issued a Hearing Report setting forth Findings of Fact and Conclusions of Law.

The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board), having reviewed the administrative record, considered this matter at a regularly scheduled meeting held in Lansing, Michigan on June 13, 2017, and received the administrative law judge's Findings of Fact and Conclusions of Law in the Hearing Report. Therefore,

IT IS ORDERED that the Order of Summary Suspension dated November 2, 2016, is DISSOLVED, as of the effective date of this Order.

IT IS FURTHER ORDERED that for violating MCL 339.604(a), 339.604(b), 339.604(c), 339.604(d), 339.604(h), 339.2411(2)(a) and 339.2411(2)(j), Respondent's license to practice as an individual builder in the state of Michigan is REVOKED.

IT IS FURTHER ORDERED that reinstatement of a license which has been revoked is not automatic and, in the event Respondent applies for reinstatement of the license, application shall be in accordance with MCL 339.411(5).

IT IS FURTHER ORDERED that, in accordance with MCL 339.411(3)(c), 339.602(c) and 339.604(k), no application for licensure, renewal, relicensure, or reinstatement shall be granted until all final orders of the Board have been satisfied in full.

IT IS FURTHER ORDERED that Respondent is FINED \$10,000.00 to be paid to the State of Michigan within 60 days from the effective date of this Order.

IT IS FURTHER ORDERED that the fine shall be mailed to the **Department of Licensing and Regulatory Affairs, Enforcement Division, Compliance Section, P.O. Box 30189, Lansing, MI 48909**. The fine shall be paid by check or money order made payable to the State of Michigan, and the check or money order shall clearly display file numbers **21-16-328312, 21-16-329909, and 21-16-330003**.

IT IS FURTHER ORDERED that in the event Respondent violates any provision of this Order, the Board may proceed to take disciplinary action pursuant to MCL 339.604(k).

This Final Order 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.*

IT IS FURTHER ORDERED that this Order shall be effective on the date signed by the Chairperson of the Board or authorized representative, as set forth below.

Dated: 07/10/2017

**MICHIGAN BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE AND ALTERATION CONTRACTORS**

By: Kim Gaedeke
Kim Gaedeke, Director
Bureau of Professional Licensing

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

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

Complainant,

Complaint Nos. 21-16-330003, 21-16-
329909, & 21-16-328312

v

JOHN HOUSTON FLOYD,
License No. 21-01-211216,

Respondent.

Board: Residential Builders &
Maintenance and Alteration
Contractors

ORDER OF SUMMARY SUSPENSION

A formal complaint has been issued against Respondent under the Occupational Code, 1980 PA 299, as amended, MCL 339.2401-2412, promulgated rules, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 *et seq.*


After consideration of the documentation obtained in investigating this matter and after reviewing the attached affidavit from Regulation Agent Susan Williams, the Department concludes that the public health, safety and welfare requires emergency action, as allowed by section 505(1) of the Occupational Code and section 92 of the Administrative Procedures Act.

THEREFORE, IT IS ORDERED that Respondent's license to practice residential building, maintenance, and alternation in the State of Michigan shall be summarily suspended commencing on the date this order is served.

Under MCL 339.505(2), Respondent has the right to petition for the dissolution of this order of summary suspension. This petition shall clearly state that it is a Petition for Dissolution of Summary Suspension and shall be filed with the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, P.O. Box 30670, Lansing, Michigan 48909, with a copy served upon the Department of Attorney General, Licensing & Regulation Division, P.O. Box 30758,

Lansing, Michigan, 48909. Questions concerning the Order of Summary Suspension may be directed to (517) 373-1146. Upon receipt of such a petition, an administrative hearing will immediately be scheduled before an administrative law judge, who shall dissolve the order of summary suspension unless sufficient evidence is produced to support a finding that the public health, safety, or welfare requires emergency action and a continuation of the suspension order.

DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS, BUREAU OF
PROFESSIONAL LICENSING

By 
Kim Gaedeke, Director
Bureau of Professional Licensing

Dated: 11/02, 2016

LF: 2016-0147928-A/Floyd, John Houston, 329909 (Bldr)/Order - of Summary Suspension - 2016-10-31

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

DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS,
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JOHN HOUSTON FLOYD,
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Respondent.

Board: Residential Builders &
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FORMAL COMPLAINT

NOW COMES Bill Schuette, Attorney General, and Andrew J. Hudson and Timothy C. Erickson, Assistant Attorneys General, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Complainant, pursuant to section 339.101-605 of the Occupational Code, 1980 PA 299, as amended, MCL 339.101 *et seq*, and its rules promulgated thereunder, files this Formal Complaint against John Houston Floyd, Respondent, alleging upon information and belief alleges as follows:

1. Beginning on January 5, 2016, Respondent was licensed as a residential builder pursuant to Article 24 of the Occupational Code, MCL 339.2401-2412.

2. Section 604(a) of the Code requires the Board to penalize a licensee for fraud or deceit in obtaining a license or registration.

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

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

5. Section 604(d) of the Code requires the Board to penalize a licensee 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,” MCL 338.41.

6. Section 601(1) of the Code prohibits an individual from engaging in or attempting to engage in the practice of an occupation without a license.

7. Section 2404a of the Code requires a licensee to provide his or her license information as part of the contract with the home owner.

8. Section 2411(2)(a) of the Code requires the Board to penalize a licensee for abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee.

9. Section 2411(2)(j) of the Code requires the Board to penalize a licensee for 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, allowing one’s license to be used by an unlicensed person, or

acting as or being an ostensible licensed residential builder 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.

10. Mich Admin Code, R 338.1536 forbids acceptance or performance of a contract procured by an unlicensed person.

11. After conducting an investigation, the Department may issue an order summarily suspending a license or a certificate of registration issued pursuant to articles 8 to 25 based on an affidavit by a person familiar with the facts set forth in the affidavit, or, if appropriate, based upon an affidavit on information and belief, that an imminent threat to the public health, safety, and welfare exists. MCL 339.505(1).

FACTUAL ALLEGATIONS

APPLICATION FOR LICENSURE

12. On October 18, 2004, Respondent pleaded guilty in Macomb County Circuit Court to operating a motor vehicle while intoxicated in violation of MCL 257.625(1), operating a vehicle while license is suspended or revoked in violation of MCL 257.904(3)(a), and operating a vehicle with a forged, altered, or false identification in violation of MCL 257.324. The court sentenced him to eighteen months' probation, \$200 in restitution, a \$700 fine, sixty days' community service, and ordered him to pay court costs.

13. Respondent pleaded guilty in the United States District Court for the Eastern District of Michigan to conspiracy to possess with intent to distribute controlled substances in violation of 21 USC 846. The Federal District Court ultimately sentenced Respondent to forty-five months' imprisonment.

14. On May 7, 2009, Respondent pleaded guilty in Macomb County Circuit Court to false pretenses with intent to defraud of a value of \$20,000 or more in violation of MCL 750.218(5)(a). The court sentenced him to five years' probation with the first ten months to be served in jail, \$107,105 in restitution, and ordered him to pay court costs.

15. On March 9, 2015, Respondent submitted an online application for licensure as a residential builder. He did not disclose his criminal convictions.

COUNT I

16. Respondent's conduct, as described above, constitutes fraud or deceit in obtaining a license violation of section 604(a) of the Code.

COUNT II

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

WHITE HOME

18. On or about October 12, 2015, Respondent, doing business through Nationwide Construction, LLC, entered into an agreement with Mr. Michael White to renovate the basement of the White home for a sum of \$13,800. Mr. White made a down payment of \$5,750 to Respondent.

19. Respondent did not have a residential builder's license on October 12, 2015.

20. Respondent did not provide any residential-builder-license information in the contract.

21. Nationwide Construction, LLC is not licensed by the State of Michigan as a residential builder and has not been since January 1, 1987.

22. On or about October 12, 2015, Respondent submitted a building permit application to Grand Blanc Township. Respondent used license number 21-01-201611, which belongs to residential builder Timothy Herman Duncan, Jr. Mr. Duncan did not give Respondent permission to use his license number at all, including to pull permits.

23. Respondent and Nationwide Construction, LLC began work on the White home in October 2015 but only worked at the White home sporadically and did not finish the agreed-upon renovations.

COUNT III

24. Respondent's conduct as described above constitutes abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee, contrary to section 2411(2)(a) of the Code, in violation of section 604(c) of the Code.

COUNT IV

25. Respondent's conduct as described above constitutes engaging in or attempting to engage in the practice of an occupation without a license or registration, contrary to section 601(1) of the Code, in violation of section 604(c) of the Code.

COUNT V

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

COUNT VI

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 VII

28. Respondent's conduct as described above demonstrates acceptance and performance of a contract procured by an unlicensed person, contrary to Mich Admin Code, R 338.1536, in violation of section 604(c) of the Code.

COUNT VIII

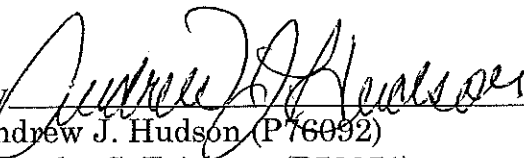
29. Respondent's conduct as described above demonstrates a failure to provide license information as part of the contract, contrary to Section 2404a of the Code, in violation of section 604(c) of the Code.

WHEREFORE, Complainant, Department of Licensing and Regulatory Affairs, hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, PA 306, 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.

FURTHER, Complainant requests that pending the hearing and final determination Respondent's license to work as a residential builder in the State of Michigan continue to be summarily suspended pursuant to section 92 of the Administrative Procedures Act and § 505(1) of the Occupational Code for the reason that, based upon the allegations set forth herein, to permit Respondent to continue to practice the profession constitutes a danger to the public health, safety and welfare requiring emergency action.

Respectfully submitted,

BILL SCHUETTE
Attorney General

By 
Andrew J. Hudson (P76092)
Timothy C. Erickson (P72071)
Assistant Attorneys General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Phone (517) 373-1146; Fax (517) 241-1997

Dated: November 2, 2016