

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

SHARLEEN CINDY GIBBONS
License No. 21-01-089383

Complaint No. 21-16-330228

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed on April 7, 2017 charging Sharleen Cindy Gibbons (Respondent) with having violated sections 604(h) and (l) and 2411(2)(j) of the Occupational Code, MCL 339.101 *et seq.*

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) 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 \$1,500 to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint number 21-16-330228 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 responsible for all costs and expenses incurred in complying with the terms and conditions of this consent order.

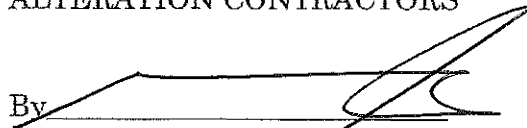
Respondent shall be responsible for the timely compliance with the terms of this consent order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this order.

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 9/12/17

MICHIGAN BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND ALTERATION CONTRACTORS

By 
Chairperson, Sidney Browne

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, she 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 John 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.

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

- A. Respondent has been licensed as a residential builder since 1990 without any prior disciplinary action against her license.
- B. During a compliance conference, Respondent represented that the complainant's project was the only project she undertook with


Lively Home Improvement, LLC and Mr. Trackwell. She also represented she was involved with the project and understands that she is responsible for the company's control and operations.

C. The conferee does not recommend restitution in this case because the amount of restitution would be difficult to ascertain, and this matter is currently the subject of civil litigation.

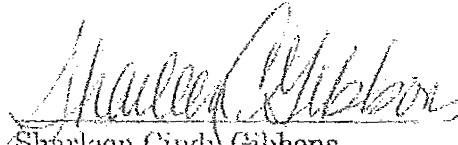
D. Respondent desires to resolve this complaint without the time and expense of an administrative hearing.


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: 7-10-17

AGREED TO BY:


Sharleen Cindy Gibbons
Respondent
Dated: 7-6-17


Deana L. Beard (P67626)
Attorney for Respondent
Dated: 7/6/17

Bureau of Professional Licensing
Approved by:


Kim Gaedeke, Director

07/13/2017
Date

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

SHARLEEN CINDY GIBBONS
Residential Builder
License No. 21-01-089383

Complaint No. 21-16-330228

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 Sharleen Cindy Gibbons, 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 pursuant to the Code.

3. Section 604(1) of the Code requires the Board to penalize a licensee for aiding or abetting another person in the unlicensed practice of an occupation.

4. 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.

5. Section 2411(2)(j) of the Code 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.

6. 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

7. On or about June 1, 2016, Robert Trackwell, acting on behalf of Lively Home Improvement, LLC, contracted with Harry Walkley to replace the roof at his home in Plymouth, Michigan in the amount of \$16,500. The contract contains the word "licensed" and lists "Rob" as the installer but does not include a license number.

8. On or about June 14, 2016, Mr. Walkley made a down payment in the amount of \$10,000 to Lively Home Improvement.

9. Neither Mr. Trackwell nor Lively Home Improvement, LLC are licensed under Article 24 of the Code.

10. On or about July 1, 2016, Respondent applied for the building permit for the contracted work with the Charter Township of Plymouth's Building Department, listing Lively Home Improvement as the contractor and Respondent's license number. Live Home Improvement, LLC and Respondent's license number are also listed in the building inspection report as the contractor responsible for the work performed.

11. On or about September 7, 2016, ABC Supply Co., Inc. filed a Claim of Lien against Mr. Walkley's property for Live Home Improvement, LLC's failure to pay for labor and/or materials under the terms of a contract.

12. Mr. Walkley never had any contact with Respondent and only discovered her name after requesting a copy of the building permit application from the Building Department. The Department's investigator attempted to contact Respondent to inquire about her involvement in the project, but did not receive an answer. Thus, Respondent allowed her license number to be used to obtain a building permit for an unlicensed person/company to perform the contracted work.

COUNT I

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

COUNT II

14. Respondent's conduct as described above constitutes aiding or abetting another person in the unlicensed practice of an occupation, in violation of section 604(l) 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 W. Ottawa, 3rd Floor, Williams Bldg.
P.O. Box 30758
Lansing, Michigan 48909
(517) 373-1146

Dated: April 7, 2017