

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

ROBERT WILLIAM GERACZ
License No. 21-01-123105

Complaint No. 21-16-330867

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A superseding formal complaint was filed on January 23, 2017 charging Robert William Geracz (Respondent) with having violated sections 604(b), (c), (d), and (h), and 2411(2)(a), (b), (c), (j), and (l) of the Occupational Code, MCL 339.101 *et seq.*, and Mich Admin Code, R 338.1551(2).

Based on the superseding formal complaint and an accompanying affidavit from manager Jon Campbell, the Department summarily suspended Respondent's license to practice as a residential builder by order dated January 23, 2017.

The parties have stipulated that Respondent does not admit the truth of the allegations, but the Board may enter this consent order treating the allegations as true and constituting a violations of sections 604(b), (c), (d), and (h), and 2411(2)(a), (b), (c), (j), and (l) of the Occupational Code, MCL 339.101 *et seq.*, and Mich Admin Code, R 338.1551(2) for purposes of resolving the complaint. 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:

The order of summary suspension previously issued is DISSOLVED.

Respondent's license to practice as a residential builder is PERMANENTLY SURRENDERED on the effective date of this order. The license shall not be renewed, reinstated, reissued, or reactivated, limited or otherwise, at any future date.

Within eighteen months of the effective date of this order, Respondent shall pay RESTITUTION in the amount of \$38,877.09 to Steve and Joy Danley, \$51,812.75 to CJ and Patricia Dixon, \$28,500 to Terry and Elayne Miller, and \$23,102.62 to Kayne Williams. Respondent and Lion Building Company (complaint no. 21-17-331491) are jointly responsible for paying the restitution. Respondent shall mail restitution to the recipients at the addresses 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 submit satisfactory written proof of timely restitution payment to the Department by mail or other method acceptable to the Department.

Respondent shall direct any communications to the Department that are required by the terms of this order to: Sanction Monitoring Unit, Bureau of Professional Licensing, Legal Affairs Division – Compliance Section, Department of Licensing and Regulatory Affairs, 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.

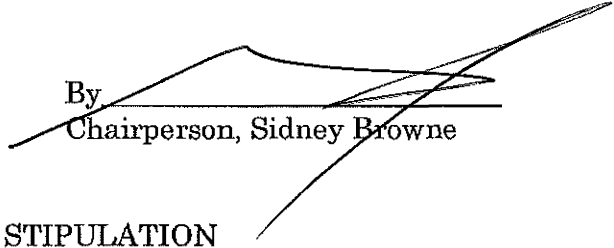
Respondent shall be responsible for the timely compliance with the terms of this consent order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this order.

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

Signed on 6-13-17

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, he 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, he 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. 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 desires to resolve this case without the time and expense of an administrative hearing.

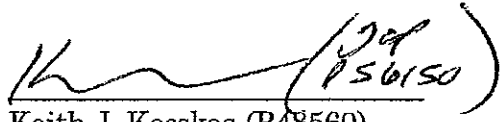
By signing this stipulation, the parties confirm that they have read, understand, and agree with the terms of the consent order.

AGREED TO BY:

AGREED TO BY:


M. Catherine Waskiewicz (P73340)
Assistant Attorney General
Attorney for Complainant
Dated: 5-10-17


Robert William Geracz
Respondent
Dated: 5-9-17

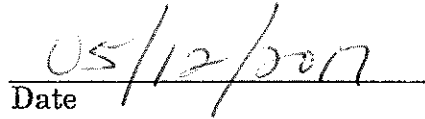
 (2d P56150)

Keith J. Kecskes (P48560)
Attorney for Respondent

Dated: _____

Bureau of Professional Licensing
Approved by:


Kim Gaedeke, Director


Date

LF: 2017-0163338-A/Geracz, Robert William, 330867 (Res Bldr)/Proposed Consent Order and Stipulation – 2017-05-05

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 No. 21-16-330867
(consolidated with 21-16-328885 and
21-16-329258)

v

ROBERT WILLIAM GERACZ
License No. 21-01-123105,

Respondent.

Board of Residential Builders &
Maintenance and Alteration
Contractors

ORDER OF SUMMARY SUSPENSION

A First Superseding Formal Complaint has been issued against Respondent under the Occupational Code, MCL 339.2401 *et seq.*, promulgated rules, and the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*

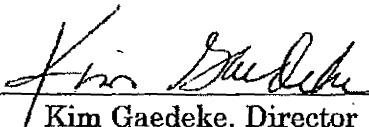
After consideration of the documentation obtained in investigating this matter and after reviewing the attached affidavit from Manager Jon Campbell, the Department concludes that the public health, safety and welfare requires emergency action, as allowed by section 505(1) of the Occupational Code and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

THEREFORE, IT IS ORDERED that Respondent's license to practice as a residential builder 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: 01/23, 2017

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 No. 21-16-330867
(consolidated with 21-16-328885 and
21-16-329258)

v

ROBERT WILLIAM GERACZ
License No. 21-01-123105,

Respondent.

Board of Residential Builders &
Maintenance and Alteration
Contractors

FIRST SUPERSEDING 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 First Superseding Formal Complaint against Respondent Robert William Geracz, 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 339.2401 *et seq.*
2. At all times relevant to this Complaint, Respondent was licensed as a residential builder pursuant to the Code. On January 10, 2002, a \$500 fine was

imposed against Respondent's license for violating a rule of conduct and failing to reduce changes in the agreement to a writing that is dated and initialed by the parties.

3. Respondent is listed as the qualifying officer for Lion Building Company (d/b/a Your New Housing Building Co.), which became licensed on January 28, 2015.

4. 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 under Article 24.

5. 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.

6. Section 2411(2)(b) of the Code requires the Board to penalize a licensee for diversion of funds or property received for prosecution or completion of a specific construction project or operation.

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

8. 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.

9. Section 2411(2)(l) of the Code requires the Board to penalize a licensee for failing to satisfy judgments or liens or failing to pay an obligation as it becomes due in the ordinary course of business.

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

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

12. Section 604(d) of the Code requires the Board to penalize a licensee for demonstrating a lack of good moral character.

13. 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.

14. Mich Admin Code, R 338.1551(2) requires a licensee to reply to the Department within 15 days from receipt of a complaint and confirm or deny the justification of the complaint.

15. 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 of the Code 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).

16. 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

17. Respondent represented himself to homeowners as Robert "Gerich" as opposed to "Geracz," and his company as "Your New House Bldg. Co" as opposed to its legal assumed name, "Your New Housing Building Co." Based upon the manner in which Respondent entered into contracts, directed homeowners to make payments to entities, and otherwise conducted business caused confusion with homeowners, appeared to be deceitful, and allowed an unlicensed entity to operate.

Complaint

18. On April 12, 2013, Respondent entered into a contract with [redacted] to construct a residential structure in South Lyon, Michigan for \$402,016.

19. Lion Building Company and "Your New House Building Co." received at least three payments from GreenStone Farm Credit Services pursuant to construction loan in the amounts of \$60,000 on April 17, 2013, \$87,000 on May 30, 2014, and \$89,000 on October 2, 2014. Lion Building Company was not licensed until January 28, 2015.

20. On April 16, 2015, General Shale, a subcontractor, filed a lien in the amount of \$10,673.59 against the _____ property, which listed Lion Building Company as the contractor.

21. On September 22, 2015, Fox Brothers Company, a subcontractor, filed a lien in the amount of \$11,188.42 against the _____ property, which listed Lion Building Company as the contractor. _____ paid Fox Brothers Company \$5,000 to release the lien.

22. On February 22, 2016, Quality Aire Systems, Inc. filed a lien in the amount of \$10,500.00 against the _____ property.

23. Throughout 2015, _____ were paying for materials and subcontractors directly to finish their home.

24. In October 2015, _____ fired Respondent because his house had not been completed (the contract provided an estimated completion date of November 2013), and subcontractors were filing liens against the property.

25. On July 8, 2016, the Department notified Respondent that _____ had filed a complaint based on the aforementioned conduct. Respondent failed to respond to the Department's notice.

Complaint

26. On August 31, 2013, Respondent entered into a contract with _____ to construct a residential structure in Carleton, Michigan for \$169,900. Respondent assured Ms. _____ that the cost of the lot was included in the contract price.

27. Respondent entered into a change order (undated) with Ms. V for \$7,750, which increased the contract price to \$177,650.

28. Between August 2013 and September 2014, Ms. paid approximately \$173,350 to Respondent.

29. On or about June 26, 2014, Iverson's Lumber Company, Inc. provided a notice of furnishing to Ms. for material provided in connection with the construction of her home, which listed Lion Building Company and Respondent as the builder. Lion Building Company was not licensed until January 28, 2015.

30. Although the contract provided an estimated completion date of June 15, 2014, a certificate of occupancy was not issued until over a year later on August 10, 2015.

31. On or about August 21, 2015, the title company informed Ms. that she was required to pay an additional \$46,205.24 to obtain the title to her home, which she paid at closing.

32. On or about November 3, 2016, the Department notified Respondent that Ms. had filed a complaint based on the aforementioned conduct. Respondent failed to respond to the Department's notice.

33. In addition, on or about November 3, 2016, the Department's investigator sent an Account and Remit Letter to Respondent. Respondent failed to respond to the Department's letter.

Complaint

34. On April 10, 2014, Respondent entered into a contract with [redacted] and [redacted] to construct a residential structure in Carleton, Michigan for \$215,000. The contract price included the purchase of the lot from Respondent, but Respondent failed to purchase the land from the developer.

35. Between April 2014 and March 2015, [redacted] paid approximately \$190,150 to Respondent and his company "Your New House." Lion Building Company was not licensed until January 28, 2015.

36. In March 2015, Respondent informed [redacted] that he did not have the funds to complete the contracted work. Thus, [redacted] paid for materials and subcontractors directly to finish their home.

37. Although the contract provided an estimated completion date of November 15, 2014, a certificate of occupancy was not issued until a year later on November 13, 2015.

38. On March 13, 2015, General Shale, a subcontractor, filed a lien in the amount of \$6,795.93 against the [redacted] property for work done between October 15 and December 31, 2014, which listed Lion Building Company as the contractor.

39. On August 3, 2016, Biundo Cement Co. Inc., a subcontractor, filed a lien in the amount of \$11,016.82 against the [redacted] property.

40. Because Respondent does not own the lot and has canceled closing dates, [redacted] do not own the lot their house is built on.

41. On June 29, 2016, the Department notified Respondent that Mrs. [REDACTED] had filed a complaint based on the aforementioned conduct. Respondent failed to respond to the Department's notice.

Complaint

42. On October 10, 2014, Respondent entered into a contract with [REDACTED] to construct a residential structure in New Boston, Michigan.

43. On April 23, 2015, [REDACTED] signed a change order for Respondent to construct a sunroom for \$28,500. [REDACTED] made payments of \$12,500 on April 24, 2015, and \$16,000 on May 14, 2015, to Respondent's company "Your New House" for the sunroom.

44. Respondent failed to construct the sunroom in accordance with the change order, only doing the rough framing. Thus, [REDACTED] paid subcontractors to complete the sunroom.

45. Since Respondent stopped communicating with [REDACTED] on or about February 19, 2016, [REDACTED] requested a full accounting from Respondent, which Respondent failed to provide.

46. On October 11, 2016, the Department notified Respondent that Mr. [REDACTED] had filed a complaint based on the aforementioned conduct. Respondent failed to respond to the Department's notice.

47. On November 4, 2016, the Department's investigator sent an Account and Remit Letter to Respondent. Respondent failed to respond to the Department's letter.

COUNT I

48. 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(h) of the Code.

COUNT II

49. Respondent's conduct as described above constitutes diversion of funds or property received for prosecution or completion of a specific construction project or operation, contrary to section 2411(2)(b) of the Code, in violation of section 604(h) of the Code.

COUNT III

50. Respondent's conduct as described above constitutes a failure to account for or remit money coming into the person's possession that belongs to others, contrary to section 2411(2)(c) of the Code, in violation of section 604(h) of the Code.

COUNT IV

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

COUNT V

52. Respondent's conduct as described above constitutes a failure to satisfy judgments or liens or a failure to pay an obligation as it becomes due in the

ordinary course of business, contrary to section 2411(2)(l) of the Code, in violation of section 604(h) of the Code.

COUNT VI

53. 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

54. Respondent's conduct as described above constitutes a failure to reply to the Department within 15 days from receipt of a complaint, contrary to Mich Admin Code, R 338.1551(2), in violation of sections 604(c) and (h) of the Code.

COUNT VIII

55. Respondent's conduct as described above constitutes a lack of good moral character in violation of section 604(d) 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.


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 section 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.

FURTHER, the administrative complaint previously filed against Respondent on December 16, 2016, is hereby WITHDRAWN and replaced in full by this superseding complaint.

Respectfully submitted,

BILL SCHUETTE
Attorney General



M. Catherine Waskiewicz (P73340)
Assistant Attorney General
Licensing & Regulation Division
525 West Ottawa, 3rd Floor, Williams Bldg.
P.O. Box 30758
Lansing, MI 48909
(517) 373-1146

Dated: January 23 2017