

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

STOSH WILLIAM GIZINSKI,
License No. 21-01-193224

Complaint No. 21-16-329343

_____/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

A First Superseding Formal Complaint was filed on February 10, 2017 charging Stosh William Gizinski (Respondent) with having violated sections 604(b), 604(c), 604(d), 604(e), 604(h), and 604(l) of the Occupational Code, as amended, MCL 339.101 *et seq.*

The parties have stipulated that the Board may enter this consent order and that the facts alleged in the First Superseding Formal Complaint are true and constitute a violation of sections 604(b), 604(c), 604(d), 604(e), 604(h), and 604(l) 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's license is SUSPENDED for a minimum period of one day. The license shall be automatically reinstated upon submission of satisfactory evidence

that Respondent has successfully completed the terms imposed by the Board of Residential Builders and Maintenance and Alteration Contractors pursuant to this Order.

Respondent shall successfully complete five (5) hours of continuing education credits in the area of the Michigan Residential Code. These credit hours shall not count toward the number of credit hours required for license renewal. Respondent must seek and obtain advance approval of the continuing education courses from the Chairperson of the Board or the Chairperson's designee. Respondent shall mail requests for approval of a course and proof of successful completion of a course to the Department at the address set forth below.

Respondent is FINED Ten Thousand and 00/100 Dollars (\$10,000.00) to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint numbers 21-16-329343 and 21-16-329342 clearly indicated on the check or money order), and shall be payable within 180 days of the effective date of this order. The timely payment of the fine shall be Respondent's responsibility. Respondent and co-Respondent One Time Construction, LLC are jointly and severally liable for paying the fine. This fine of \$10,000.00 satisfies complaint number 21-16-329343 and complaint number 21-16-329342. Respondent shall mail the fine to: Sanction Monitoring, Bureau of Professional Licensing, Legal Affairs Division – Compliance Section, Department of Licensing and Regulatory Affairs, P.O. Box 30189, Lansing, Michigan 48909.

Counts VII, X, and XI of complaint number 21-16-329343, alleging a violation of sections 604(c) and 604(h) of the Occupational Code, for acts contrary to section 2411(2)(a), Mich Admin Code, R 338.1551(2), and Mich Admin Code, R 338.1551(4), are DISMISSED.

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.

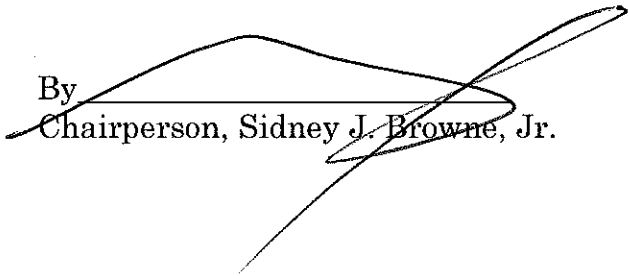
Respondent shall be responsible for the timely compliance with the terms of this consent order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this order.

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 thirty (30) days from 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 J. Browne, Jr.

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, he is waiving the right under the Occupational Code, rules promulgated under the Occupational Code, and the Administrative Procedures Act of 1969, 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, supported by Board conferee Mark Wahl.

6. Mark Wahl and the parties considered the following factors in reaching this agreement:


A. Respondent asserted that he currently works under the supervision of another licensed residential builder.

B. Respondent provided that he became overwhelmed with the amount of work following the storm in the area of Highland Township and White Lake Township in 2014. As a result, he delegated more tasks to others, including to unlicensed salespersons.

C. Respondent only performed work that the insurance company specifically paid for, but Respondent asserts that he understands that the building code may require additional work, such as including proper flashing, when repairing or replacing a roof.

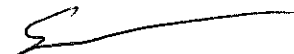
By signing this stipulation, the parties confirm that they have read, understand and agree with the terms of the consent order.

AGREED TO BY:



Timothy C. Erickson (P72071)
Assistant Attorney General
Attorney for Complainant
Dated: 5/1/2017

AGREED TO BY:



Stosh William Gizinski
Respondent
Dated: 4-25-17

Bureau of Professional Licensing
Approved by:



Kim Gaedeke, Director

05/02/2017
Date

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE AND ALTERATION CONTRACTORS

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

Complainant,

v

STOSH WILLIAM GIZINSKI
License No. 21-01-193224,

Complaint No. 21-16-329343
(consolidated with 21-15-
326489, 21-15-325865, and
21-15-325863)

Respondent.

FIRST SUPERSEDING FORMAL COMPLAINT

Now comes Attorney General Bill Schuette, through Assistant Attorney General Timothy C. Erickson, on behalf of Complainant Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Complainant, pursuant to the Occupational Code, as amended, MCL 339.101 *et seq.*, and the rules promulgated thereunder, and files this Formal Complaint against Stosh William Gizinski (Respondent), 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. Section 604(b) of the Code requires the Board to penalize a licensee for "fraud, deceit, or dishonesty in practicing an occupation."

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

4. 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.

5. Section 604(e) of the Code requires the Board to penalize a licensee who commits an act of gross negligence.

6. Section 604(g) of the Code requires the Board to penalize a licensee who demonstrates incompetence.

7. Section 604(h) of the Code requires the Board to penalize a licensee for violating any other provision of this act or a rule promulgated under the Code for which a penalty is not otherwise prescribed.

8. Section 604(l) of the Code requires the Board to penalize a licensee who "[a]ids or abets another person in the unlicensed practice of an occupation."

9. Section 2404a of the Code requires a licensee to include information relating to his or her individual license and to any license issued to him or her as a qualifying officer of another entity in the contract.

10. 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.

11. Section 2411(2)(e) of the Code requires the Board to penalize a licensee for a willful violation of the building laws of this state or of a political subdivision of this state.

12. Mich Admin Code, R 338.1536 prohibits the “[a]cceptance or performance of a contract procured by a salesperson not licensed under a builder or contractor. . . .”

13. Mich Admin Code, R 338.1551(2) requires a licensee to provide a reply to a complaint within 15 days of receipt.

14. Mich Admin Code, R 338.1551(4) provides that “[i]f a complaint is justified by the local building inspector or by a person authorized by the department to make inspections, the builder or contractor shall correct the complaint within a reasonable time. Failure or refusal by the licensee to correct a structural matter that is materially deficient, dangerous, or hazardous to the owners shall be presumed to be dishonest or unfair dealing.”

15. Mich Admin Code, R 338.1551(5) provides that “[s]tandards of construction shall be in accordance with the local building code, or in the absence of a code in accordance with the building code of the nearest political subdivision having a building code.”

16. Section 602 of the Code authorizes the Board to impose sanctions against a licensee if, after opportunity for a hearing, the licensee is found to have violated one or more of the subdivisions contained in section 604 of the Code.

17. Section 514 of the Code authorizes the Board to assess penalties against licensees under section 602 of the Code based on an administrative law hearing examiner's hearing report.

FACTUAL ALLEGATIONS

18. Respondent is licensed as a residential builder pursuant to the Code. Respondent is the qualifying officer for One Time Construction, LLC, which is currently licensed as a residential builder company pursuant to the Code.

19. On or about May 31, 2011, the residential builder company license for One Time Construction, LLC expired. One Time Construction, LLC did not have a valid license until on or about April 17, 2015, when Respondent renewed the license for One Time Construction, LLC.

20. On or about May 28, 2015, Respondent filed a certificate of dissolution for One Time Construction, LLC with the Department. The residential builder license for One Time Construction, LLC does not expire until May 31, 2018.

21. On or about July 27, 2014, a storm struck Highland Township and White Lake Township, causing damage to various homes in and around those municipalities.

22. Within days of that storm, Respondent, through unlicensed salespersons, contacted homeowners affected by the storm and offered to repair damaged homes in exchange for the homeowners' insurance proceeds.

23. Respondent, through One Time Construction, LLC, agreed to communicate and negotiate with the respective insurance companies on behalf of the homeowners.

24. Respondent subsequently performed repairs on the subject homes but failed to complete the work and/or the work resulted in violations of the 2009 Michigan Residential Code and Respondent failed to fix those violations.

Home (21-16-329343)

25. On or about July 29, 2014, Bryan Ludlow, a representative of Respondent, entered into an "Authorization & Agreement" to repair the home of _____ as a result of storm-related damage to the home for the sum agreed upon by One Time Construction and the Fletchers' insurance company. The home is located at _____ Highland, Michigan 48356.

26. Respondent failed to include Respondent's license information or the license information for One Time Construction in the July 29 agreement.

27. Bryan Ludlow was not licensed as a residential builder or maintenance and alteration contractor, or salesperson when he negotiated and/or signed the July 29 agreement.

28. On or about August 20, 2014, _____ signed another agreement with Respondent authorizing Respondent to communicate with the Fletchers' insurance company and to begin work on the roof after approval by the insurance company.

29. Respondent failed to include Respondent's license information or the license information for One Time Construction in the August 20 addendum.

30. On or about September 8, 2014, Respondent acquired a building permit for the project.

31. Respondent performed repairs on the roof in or around September 2014.

32. The insurance company authorized payment for the new roof and gutters in the amount of \$14,713.38. The paid Respondent the sum of \$14,213.38 on or about March 14, 2015 and the sum of \$500.00 on or about April 6, 2015.

33. On or about April 29, 2015, Highland Township Building Inspector Steve Tino verified the following violations of the 2009 Michigan Residential Code, adopted pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, effective March 9, 2011:

- a. Failure to properly install flashing on the roof rake above the master bedroom, contrary to R905.2.8.4.
- b. Failure to properly install flashing on the roof above the garage, contrary to R905.2.8.4.

34. On or about September 2, 2015, Building Inspector Tino again inspected Respondent's work and noted the same violations as identified on April 29, 2015.

35. In or around April, 2016, Ms. [redacted] contacted Respondent via telephone and email several times asking that the deficiencies from the building inspection be remedied. Respondent failed to fix the deficiencies.

Home (21-15-326489)

36. On or about August 23, 2014, Bryan Ludlow, a representative of Respondent, entered into an "Authorization & Agreement" to repair the home of [redacted] as a result of storm-related damage to the home for the sum agreed upon by One Time Construction and the [redacted] insurance company. The home is located at [redacted] Michigan 48383.

37. Respondent failed to include Respondent's license information or the license information for One Time Construction in the August 23 agreement.

38. Bryan Ludlow was not licensed as a residential builder or maintenance and alteration contractor, or salesperson when he negotiated and/or signed the August 23 agreement.

39. On or about September 8, 2014, Ms. [redacted] paid One Time Construction the sum of \$14,671.98.

40. Respondent and One Time Construction performed work on the [redacted] home in or around September and October 2014.

41. In or around November of 2014, Ms. [redacted] told Respondent not to enter onto her property because Respondent's liability insurance had expired on November 8, 2014.

42. On or about December 15, 2014, White Lake Township Building Inspector Brett Bonnavier sent Respondent a letter stating a building permit was required for the work done at the _____ home. Respondent was further warned that this matter would be referred to the local prosecutor for enforcement and court action if a permit was not obtained within 15 days of the notice.

43. On March 25, 2015, Respondent sent Ms. _____ a letter with notification that a lien had been placed on Ms. _____ property.

44. On or about April 2, 2015, Building Inspector Bonnavier verified the following violations of the 2009 Michigan Residential Code,:

- a. Respondent failed to obtain a building permit, contrary to R105.1.
- b. Respondent failed to properly install a new roof, contrary to R905.2.6.
- c. Respondent failed to properly install flashing and dormers, contrary to R905.2.8.4.
- d. Respondent failed to possess current liability insurance coverage documents.

45. Respondent failed to remedy the violations of the 2009 Michigan Residential Code.

Home (21-15-325865)

46. On or about August 24, 2014, Mike Forester, a representative of Respondent, entered into an "Authorization & Agreement" to repair the home of _____ as a result of storm-related damage to the home for the sum

agreed upon by One Time Construction and [redacted] insurance company. The home is located at [redacted] Highland, Michigan 48357.

47. Respondent failed to include Respondent's license information or the license information for One Time Construction in the August 24 agreement.

48. On or about August 29, 2014, Jeremy Coder, a representative of Respondent, signed an addendum to the contract with Mr. [redacted]. The addendum authorized One Time Construction to communicate with Mr. [redacted] insurance company and to begin work on the home after approval by the insurance company.

49. Respondent failed to include Respondent's license information or the license information for One Time Construction in the August 29 addendum.

50. Neither Mike Forester nor Jeremy Coder were licensed as residential builders or maintenance and alteration contractors, or salespersons when they negotiated and/or signed the August 24 agreement and August 29 addendum.

51. In or around October and November, 2014, Respondent and One Time Construction worked on Mr. [redacted] house.

52. On or about November 24, 2014, Mr. [redacted] provided One Time Construction a list of approximately 30 deficiencies with the work performed at his home.

53. Respondent and One Time Construction failed to complete the agreed-upon work on Mr. [redacted] home or remedy the deficiencies identified by Mr. [redacted].

54. On or about January 30, 2015, Highland Township Builder Inspector Steven Davies verified the following violations of the 2009 Michigan Residential Code:

- a. Respondent failed to obtain the necessary permit, contrary to R 105.1.
- b. Respondent failed to properly install vinyl siding, contrary to R703:11.1.

55. Respondent failed to remedy the violations of the 2009 Michigan Residential Code.

56. On or about February 3, 2015, Complainant mailed a Notice to Respondent to Respondent's address of record directing Respondent to respond to Mr. Statement of Complaint. Respondent failed to respond to the notice within 15 days.

Home (21-15-325863)

57. On or about September 3, 2014, Stephen McMahon, a representative of Respondent, entered into an "Authorization & Agreement" with Respondent to repair their home and replace the roof shared with a connected barn for the sum agreed upon by Respondent and the Greens' insurance company. The home is located at Highland, Michigan 48357.

58. Respondent failed to include Respondent's license information or the license information for One Time Construction in the September 3 agreement.

59. On or about September 16, 2014, the Respondent signed over their first insurance check in the amount of \$89,376.62 to Respondent.

60. On or about November 17, 2014, the work commenced.

61. On or about November 23, 2014, the [redacted] noticed that rain water ran into the barn through the ridge cap of the new roof installed by Respondent.

62. On or about November 24, 2014, sections of the roof installed by Respondent blew off. The [redacted] observed the roof lifting in the wind and the insulation panels shifting. Water also leaked into the master bedroom and living room in the [redacted] home through the roof installed by respondent.

63. On or about December 1, 2014, another panel blew off the roof.

64. On or about December 9, 2014, Respondent came to the property and assured them he would have a big crew to repair the barn roof. Two workers showed up the next day.

65. On or about December 16, 2014, rain again leaked through the roof.

66. On or about December 18, 2014, Highland Township Building Inspector Steven Davies informed the Greens that neither Respondent nor One Time Construction had pulled a building permit for the project.

67. On or about January 14, 2015,* the Highland Township Building Department sent One Time Construction a letter stating a building permit was required and all work must cease until proper permits are issued.

* The letter is dated January 14, 2015, but other Highland Township Building Department records indicate that the letter was sent on December 14, 2014.

68. On or about January 29, 2015, Inspector Davies conducted an inspection of the () home and noted the following violations of the 2009 Michigan Residential Code:

- a. Construction was performed with no building permit pulled for project, in violation of R 105.1; and
- b. The metal roof panels were not installed according to the manufacturer's installation instructions, in violation of R 905.1.

69. Respondent failed to remedy the violations of the 2009 Michigan Residential Code.

70. On February 3, 2015, Complainant mailed a Notice to Respondent to Respondent's address of record directing Respondent to respond to the allegations within 15 days. Respondent failed to respond to the notice within 15 days.

71. Respondent failed to correct defects in the construction work.

COUNT I

72. 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 II

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

COUNT III

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

COUNT IV

75. Respondent's conduct, as described above, constitutes aiding and abetting the unlicensed practice of a profession in violation of section 604(l) of the Code.

COUNT V

76. Respondent's conduct, as described above, constitutes a failure to include license information in a contract, contrary to section 2404a of the Code, in violation of section 604(h) of the Code.

COUNT VI

77. Respondent's conduct, as described above, constitutes a failure to provide information relating to Respondent's individual license as part of the contract, contrary to Section 2404a of the Code, in violation of section 604(h) of the Code.

COUNT VII

78. 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 VIII

79. Respondent's conduct, as described above, constitutes a willful violation of the building laws of this state or a political subdivision of this state, contrary to section 2411(2)(e) of the Code, in violation of section 604(h) of the Code.

COUNT IX

80. Respondent's conduct, as described above, constitutes the acceptance or performance of a contract procured by someone not licensed under a builder or contractor, contrary to Mich Admin Code, R 338.1536, in violation of section 604(c) of the Code

COUNT X

81. Respondent's conduct, as described above, constitutes a failure to respond to a complaint within 15 days from receipt of the notice of complaint, contrary to Mich Admin Code, R 338.1551(2), in violation of section 604(c) of the Code.

COUNT XI

82. Respondent's conduct, as described above, constitutes a failure to correct defects that are the subject of a justified complaint within a reasonable time, contrary to Mich Admin Code, R 338.1551(4), in violation of section 604(c) of the Code.

COUNT XII

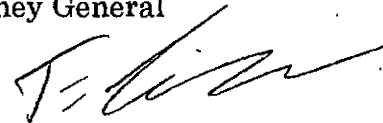
83. Respondent's conduct, as described above, constitutes a failure to maintain standards of construction in accordance with the local building code, contrary to Mich Admin Code, R 338.1551(5), in violation of section 604(c) of the Code.

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.

Respectfully submitted,

BILL SCHUETTE
Attorney General



Timothy C. Erickson (P72071)
Assistant Attorney General
Licensing & Regulation Division
525 West Ottawa, 3rd Floor, Williams Bldg.
P.O. Box 30758
Lansing, MI 48909
(517) 373-1146

Dated: February 10, 2017

LF: 2017-0167240-B/ Gizinski, Stosh William, 329343 (Res Bldr /Superseding formal complaint – 2017-02-10