

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

JERRY BEERS, II  
License No. 21-01-107451,  
Respondent.

Docket No. 18-002209  
File No. 21-17-332525

FINAL ORDER

On September 6, 2017, the Department of Attorney General, Licensing and Regulation Division, on behalf of the Department of Licensing and Regulatory Affairs, executed a Formal Complaint charging Respondent with violating the Occupational Code, MCL 339.101 *et seq.*

An administrative hearing was held in this matter before an administrative law judge who, on March 20, 2018, 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 May 15, 2018, and received the administrative law judge's Findings of Fact and Conclusions of Law in the Hearing Report.

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

IT IS FURTHER ORDERED that Respondent is FINED \$30,000.00 to be paid to the State of Michigan within 90 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 number **21-17-332525**.

IT IS FURTHER ORDERED that Respondent shall pay RESTITUTION in the amount of \$12,800.00 to Wesley [REDACTED] (Homeowner 1), within 60 days from the effective date of this Order.

IT IS FURTHER ORDERED that Respondent shall pay RESTITUTION in the amount of \$1,000.00 to Donald [REDACTED] (Homeowner 2), within 60 days from the effective date of this Order.

IT IS FURTHER ORDERED that Respondent shall submit satisfactory written evidence of payment of the ordered restitution within 60 days from the effective

date of this Order to the **Department of Licensing and Regulatory Affairs, Enforcement Division, Compliance Section, P.O. Box 30670, Lansing, MI 48909.**

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.

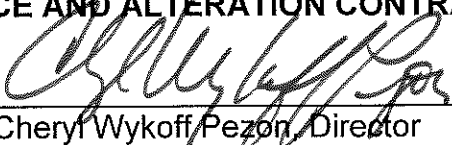
IT IS FURTHER ORDERED that in the event Respondent violates any provision of this Order, the Board may proceed to take disciplinary action pursuant to MCL 339.604(k).

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: 6/14/18

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

By:   
Cheryl Wykoff Pezon, Director  
Bureau of Professional Licensing

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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

JERRY BEERS II,  
Residential Builder  
License No. 21-01-107451

Complaint No. 21-17-332525  
(Consolidated with 21-17-331957)

FORMAL COMPLAINT

Attorney General Bill Schuette, through Assistant Attorney General Eric M. St. Onge, on behalf of Complainant Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, files this Formal Complaint against Respondent Jerry Beers II, 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. Respondent is currently licensed as an individual residential builder pursuant to the Code. Beers Construction does not hold any professional licenses in Michigan.
3. 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.

4. 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 project or operation.

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

6. 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 operation of a licensee.

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

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

9. Section 604(d) of the Code requires the Board to penalize a licensee for demonstrating a lack of good moral character. Section 104 of the Code provides that "good moral character" is defined in MCL 338.41 to mean "the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner."

10. 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.

11. 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.

12. Section 514 of the Code authorizes the Board to assess penalties against licensees based on an administrative law hearings examiner's hearing report.

### FACTUAL ALLEGATIONS

#### Project (332525)

13. On November 10, 2016, Respondent, on behalf of Beers Construction, entered a contract with Don [redacted] to perform cement work for Mr. [redacted] at his home in Big Rapids, Michigan. The contract price was for \$1,700.00.

14. On November 11, 2016, Mr. [redacted] paid Respondent \$1,000.00 as an initial deposit for the work.

15. Since November 11, 2016, Respondent, nor Beers Construction, have performed any work for Mr. [redacted] as specified in the November 11, 2016 contract. Despite numerous attempts by Mr. [redacted] he has never seen or spoken with Respondent since.

16. On May 18, 2017, a Notice to Respondent letter was sent to Respondent's address of record. Respondent failed to submit an answer to the letter.

Project (331957)

17. On July 5, 2016, Respondent, on behalf of Beers Construction, entered a contract with Wesley to complete an addition to Mr. property located in Mecosta County. The total contract price was \$6,800.00.

18. On July 5, 2016, Mr. issued two checks to Respondent. The first check was for project materials in the sum of \$5,000. The second check was for labor in the sum of \$3,800.

19. On August 5, 2016, a permit for the project was issued. The expiration date on the initial permit was February 1, 2017.

20. On December 16, 2016, Mr. authorized a \$4,000.00 cashier's check to Respondent. Respondent conveyed to Mr. the \$4,000 was to pay for material on the project owed to Smith Lumber Co. of Evart.

21. On January 12, 2017, Mr. issued another check to Respondent for \$1,000.00 for the project.

22. On January 23, 2017, Smith Lumber Co. of Evart filed a Notice of Furnishing against Mr. and his wife, Cindy due to failure to receive full payment for the materials it supplied to Respondent for the addition.

23. After receiving the Notice of Furnishing, Mr. contacted Smith Lumber inquiring about the December 16th payment he authorized to Respondent. Smith Lumber informed Mr. that Respondent only paid them \$1,000.

24. Mr. subsequently contacted Respondent who informed him the remaining \$3,000.00 went to fixing his truck.

25. On February 6, 2017, Mr. paid \$40 to renew the original building permit issued on August 5, 2016, which had expired six days earlier.

26. On March 30, 2017, a Notice to Respondent letter was sent to Respondent's address of record. Respondent failed to submit an answer to the letter.

27. Respondent has never completed the work specified in the contract with Mr. nor has he refunded any money to Mr. for the job he was contracted to do.

28. On April 4, 2017, a building inspector from Mecosta County went to the home to inspect the project. During the inspection, the inspector noted a violation of R802.11 due to the rough-in building needing truss uplift screws or clips.

#### COUNT I

29. 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

30. 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

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

COUNT IV

32. 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 V

33. 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 VI

34. 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 section 604(c) of the Code.

COUNT VII

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

Any written response shall be submitted to the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670,

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Lansing, Michigan, 48909, with a copy to the undersigned assistant attorney general.

Respectfully submitted,

BILL SCHUETTE  
Attorney General



Eric M. St. Onge (P56630)  
Assistant Attorney General  
Licensing & Regulation Division  
525 W. Ottawa, 3<sup>rd</sup> Floor, Wms Bldg.  
P.O. Box 30758  
Lansing, Michigan 48909  
(517) 373-1146

Dated: September 6, 2017

LF: 2017-017-332525-B/Beers, Jerry II, 332525/331957 (Res Bldr)/Complaint – Formal – 2017-08-18