

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 LEE CANALES
License No. 21-01-184048,
Respondent.

Docket No. 17-021638
File No. 21-16-330861

FINAL ORDER

On April 19, 2017, 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 28, 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(g) and (h), and 339.2411(2)(a) and (2)(l), 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 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 number **21-16-330861**.

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.

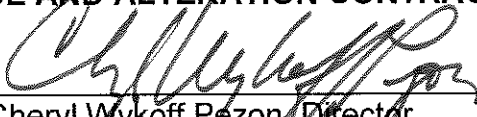
IT IS FURTHER ORDERED that in the event Respondent violates any provision of this Order, the Board may proceed to take disciplinary action pursuant to MCL 339.604(k).

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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JERRY LEE CANALES
License Number: 21-01-184048

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FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Department), by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against Jerry Lee Canales (Respondent) as follows:

1. The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board) is an administrative agency established by the Occupational Code, MCL 339.101 et seq. Pursuant to section 602 of the Occupational Code, supra, the Board is empowered to penalize licensee for violations of the Occupational Code.

2. Respondent is licensed as an individual residential builder, doing business as M & J Drywall.

3. On July 11, 2016, Respondent entered into a contract with Mark I (Homeowner) to add a second story to Homeowner's home. A copy of the contract, marked Exhibit A, is attached and incorporated.

4. In August 2016, during the remodeling process, Respondent completely removed Homeowner's roof, and it remained off for two weeks, during which time rain caused considerable damage to the home. Respondent began ripping out drywall, cabinets, and cupboards, and jackhammering and smashing marble floor in the living room, despite the fact that Respondent was never asked, nor contracted, to do this work.

5. On or about September 8, 2016, Respondent abandoned the job site.

6. On September 14, 2016, Homeowner received a \$6,350.00 Invoice from Tacoma Heating & Cooling, LLC (subcontractor), after Respondent failed to pay the subcontractor for work it performed on the contract. A copy of the Invoice, marked Exhibit B, is attached and incorporated.

7. On October 4, 2016, Homeowner filed a Statement of Complaint with the Department alleging Respondent failed to properly perform the terms under the contract, which resulted in substantial loss and additional costs to the Homeowner.

8. On November 29, 2016, the building inspector for Gaines Charter Township verified that Respondent failed to properly complete a number of items, contrary to the 2009 Michigan Residential Code, adopted pursuant to the Stille-DeRossett-Hale single state construction code act, effective March 9, 2011. The violations found during that inspection were:

- a. The weather resistant barrier was not properly installed. Portions of the house wrap was installed after the window installation. Installation was incomplete with some areas not covered, joints were not lapped over, and window flashings were not installed per the building code and manufacturer's proper installation techniques (R703.1-R703.4).
- b. The bedroom windows on the upper level do not meet the requirements for egress (R310.2.1).
- c. One window was installed sideways with drip channels on the side instead of the sill (R703).
- d. The original design for the roof system was for rafters with ceiling joists. The contractor changed the roof design to trusses during the project and called our office and stated that he was going to order a new truss system instead. The truss design and installation information was to be forwarded to the building department and plans were to be on site at the time of installation (R802.10.1). The contractor apparently decided to reuse the old trusses salvaged from the old roof. No document at or recertification was provided before installation (R802.10.4 and R104.9.1).
- e. No structural repair details were provided to us by a truss designer or architect to address the broken or modified trusses that were used. Broken trusses were reinstalled (R802.10.4).
- f. The trusses lacked proper bracing and installation instructions (R802.10.1).
- g. The trusses lacked the truss tie downs at the time of inspection (R802.11.1.1).
- h. Load bearing points were not continuous down to the foundation (R502.4).
- i. The load bearing walls of the lower floor were offset from the upper floor by more than the maximum allowed by code (R502.4).

- j. Offsets of double plates from top plates were less than the minimum allowed distance of 24 inches (R602.3.2).

A copy of the inspection report, marked Exhibit C, is attached and incorporated.

COUNT I

Respondent's conduct, as described above, evidences a failure to reduce all agreement and changes to the agreements between a builder, contractor, and customer to writing and to have the agreements signed by all parties, contrary to Mich Admin Code, R 338.1533(1), in violation of section 604(h) of the Occupational Code, supra.

COUNT II

Respondent's conduct, as described above, evidences 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(h) of the Occupational Code, supra.

COUNT III

Respondent's conduct, as described above, evidences abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee, in violation of section 2411(2)(a) of the Occupational Code, supra.

COUNT IV

Respondent's conduct, as described above, evidences a willful violation of the building laws of this state or of a political subdivision of this state, in violation of section 2411(2)(e) of the Occupational Code, supra.

COUNT V - *Dismissed by BPL
at hearing*

Respondent's conduct, as described above, evidences a failure to deliver to the purchaser the entire agreement of the parties including any finance or other charge arising out of or incidental to an agreement that involves an addition to a residential structure, in violation of section 2411(2)(h) of the Occupational Code, supra.

COUNT VI

Respondent's conduct, as described above, evidences failing to pay an obligation as it becomes due in the ordinary course of business, in violation of section 2411(2)(l) of the Occupational Code, supra.

COUNT VII - *Dismissed by BPL
at hearing*

Respondent's conduct, as described above, evidences an act of gross negligence in practicing an occupation, in violation of section 604(e) of the Occupational Code, supra.


COUNT VIII

Respondent's conduct, as described above, evidences an act which demonstrates incompetence, in violation of section 604(g) of the Occupational Code, supra.

The Department requests that this Complaint be served upon Respondent and that Respondent be offered an opportunity to show compliance with all lawful requirements for retention of the licenses. If compliance is not shown, the Department further requests that formal proceedings be commenced pursuant to the Occupational Code, the rules promulgated thereunder, and the Administrative Procedures Act, MCL 24.201 et seq.

Pursuant to section 508(2) of the Occupational Code, supra, Respondent has 15 days from the date of receipt of this Complaint to notify the Department of Respondent's decision to either negotiate a settlement of this matter, to demonstrate compliance with the Occupational Code, or to request an administrative hearing. Written notification of Respondents selection shall be submitted to Kim Gaedeke, Director, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909. If Respondents fail to submit written notification within 15 days, this matter shall proceed to an administrative hearing.

Dated: 04/19/2017



Kim Gaedeke, Director
Bureau of Professional Licensing

Attachment

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