

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

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

Complainant,

Complaint No. 21-17-332046
(21-16-331131 and 21-17-331801
consolidated)

v

JOHN HOUSTON FLOYD,
License No. 21-01-211216

Respondent.

_____ /

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A first superseding formal complaint was filed on June 16, 2017 charging John Houston Floyd (Respondent) with having violated sections 604(b), (c), (e), (g), (h), 2404a, 2411(2)(a), (c), and (j) of the Occupational Code, as amended, MCL 339.101 *et seq.*; Mich Admin Code R 338.1551(5) and R 338.1536.

The parties have stipulated that the Board may enter this consent order and that the facts alleged in the superseding formal complaint are true and constitute a violation of section 604(b), (c), (e), (g), (h), 2404a, 2411(2)(a), (c), and (j) of the Occupational Code; Mich Admin Code R 338.1551(5) and R 338.1536.

The Board has reviewed the stipulation contained in this document and agrees that the public interest is best served by resolution of the outstanding superseding formal complaint.

Accordingly, for these violations, IT IS ORDERED:

Respondent is FINED \$11,000 to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 21-17-332046 clearly indicated on the check or money order), and shall be payable prior to petitioning for reinstatement.

Within 180 days of the effective date of this order, Respondent shall pay RESTITUTION in the amount of \$4,400 to M.W. and N.W. jointly; \$7,100 to M.M., and \$11,951 to G.G.* Respondent shall mail restitution to M.W. and N.W., M.M., and G.G. 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 signs 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: Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division – Compliance Section, P.O. Box 30670, Lansing, Michigan 48909.

* G.G.'s last name appears as "Case" in the First Superseding Formal Complaint. That was a scrivener's error and the complaint is hereby amended to reflect G.G.'s last name as "Gase."

Respondent license is currently revoked. Respondent, in accordance with MCL 339.411(3)(c), 339.602(c), and 339.604(k), shall not be granted an application for licensure, renewal, relicensure, or reinstatement until all final orders of the Board have been satisfied in full.

If Respondent petitions for reinstatement of his license, the petition shall be in accordance with section 411(5) of the Occupational Code. Under this provision, shall file an application on a form provided by the department, pay the application processing fee, and file a petition to the department and the appropriate board stating reasons for reinstatement and including evidence that the person can and is likely to serve the public in the regulated activity with competence and in conformance with all other requirements prescribed by law, rule, or an order of the department or board.

Respondent shall be responsible for all costs and expenses incurred in complying with the terms and conditions of this consent 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 3/13/18

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

By _____
Chairperson

STIPULATION

The parties stipulate as follows:

1. The facts alleged in the superseding formal 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 Bill Adcock.
6. Mr. Adcock and the parties considered the following factors in reaching this agreement:

A. Respondent is currently subject to a final order dated July 10, 2017 for file numbers 21-16-328312, 21-16-329909, and 21-16-330003. As part of this final order, the Board revoked Respondent's license and fined him \$10,000.

B. Respondent is currently housed at the Chippewa Correctional Facility.

C. Respondent asserted that he performed some work for both G.G. and M.M., but did not complete either project in full.

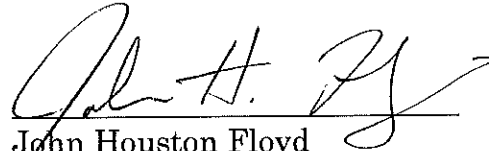
By signing this stipulation, the parties confirm that they have read, understand and agree with the terms of the consent order.

AGREED TO BY:



Timothy C. Erickson (P72071)
Assistant Attorney General
Attorney for Complainant
Dated: 11/14/2017

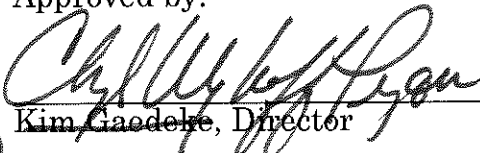
AGREED TO BY:



John Houston Floyd
Respondent

Dated: 11-8-2017

Bureau of Professional Licensing
Approved by:

Acting 
Kim Gaedeke, Director

11/21/17
Date

LF: 2017-0182117-A/Floyd, John Houston, 332046 (Res Bldr)/Consent order - 2017-06-28

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
BOARD OF RESIDENTIAL BUILDERS & MAINTENANCE AND
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DEPARTMENT OF LICENSING AND
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BUREAU OF PROFESSIONAL LICENSING,

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v

JOHN HOUSTON FLOYD,
License No. 21-01-211216,

Respondent.

FIRST SUPERSEDING FORMAL COMPLAINT

NOW COMES Bill Schuette, Attorney General, and Andrew J. Hudson and Timothy C. Erickson, Assistant Attorneys General, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Complainant, pursuant to section 339.101-605 of the Occupational Code, 1980 PA 299, as amended, MCL 339.101 *et seq*, and its rules promulgated thereunder, files this First Superseding Formal Complaint against John Houston Floyd, Respondent, alleging upon information and belief alleges as follows:

1. Beginning on January 5, 2016, Respondent was licensed as a residential builder pursuant to Article 24 of the Occupational Code, MCL 339.2401-2412. His license is currently summarily suspended per order dated November 2, 2016 in case nos. 330003, 329909, and 328312.

2. Section 604(b) of the Code subjects a licensee to sanction 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(e) of the Code requires the Board to penalize a licensee for an act of gross negligence.

5. Section 604(g) of the Code requires the Board to penalize a licensee for incompetence.

6. Section 604(h) of the Code requires the Board to penalize a licensee who “[v]iolates a provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.”

7. Section 2404a of the Code requires a licensee to provide his or her license information as part of the contract with the home owner.

8. 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.

9. Section 2411(2)(c) of the Code requires the Board to penalize a licensee for failure to account for or remit money coming into his possession which belongs to others.

10. 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 operations of a licensee.

11. Mich Admin Code, R 338.1536 prohibits a licensee from accepting or performing a contract procured by an unlicensed person.

12. Mich Admin Code, R 338.1551(5) establishes that a licensee's standards 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.

13. 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

Wolfe contract

14. On or about March 18, 2016, Michael and Nancy contracted with Superior General Contracting and Respondent to replace the roof on a residential structure appurtenant to their home for a contract price of \$6,650 with a deposit of \$4,400.

15. On or about March 18, 2016, Mr. paid Respondent \$4,400.

16. Throughout April 2016, the [redacted] contacted Respondent, who provided excuses why he had not begun the work and kept offering later start dates for the project.

17. Respondent never performed any work for the

May contracts

18. On or about March 20 and May 2, 2016, Marlon [redacted] signed four contracts (#1034, 1069, 1074, and 1081) with Superior General Contracting and Respondent to complete various projects, including, but not limited to, installing a new driveway, walk, and front porch, constructing a garage, perform landscape block work, and install an overhang over the car port.

- a. Contract #1034 had a contract price of \$11,500 including a \$6,000 deposit.
- b. Contract #1069 had a contract price of \$10,100 including a \$5,100 deposit.
- c. Contract #1074 had a contract price of \$700 including a \$400 deposit.
- d. Contract #1081 had a contract price of \$1,700 including a \$1,000 deposit.
- e. None of the contracts included Respondent's licensing information.
- f. Superior General Contracting did not and does not possess a license pursuant to Article 24 of the Occupational Code.

19. On or about January 23, 2017, Building Inspector Michael J. Wilson inspected Respondent's work on the home of Mr. [redacted]. Mr. Wilson verified the following violations of the 2015 Michigan Residential Code, adopted pursuant to the Stille-DeRossett-Hale Single State Construction Code Act, effective March 9, 2011:

- a. Failing to obtain a building permit, contrary to R105.3;
- b. Violating the scope of the approved building permit, contrary to R105.4;
- c. Failing to submit construction documents indicating the scope of work, contrary to R106.1;
- d. Failing to submit a site plan or plot plan on original application, contrary to R106.2;
- e. Failing to pay all required fees for work being performed, contrary to R108.1; and
- f. Failing to schedule inspections, contrary to R109.1;

20. Respondent completed some, but not all, the agreed-upon work.

Case contracts

21. In May 2016, Gerald [redacted] responded to an online advertisement for Respondent's company, Superior General Contracting, an unlicensed entity. Mr. [redacted] discussed with Respondent the prospect of building a shed at a Michigan residence that Mr. [redacted] had recently purchased. Respondent promised the project could be completed quickly and at a low cost.

22. On May 25, 2016, Mr. [redacted] signed a contract with Superior General Contracting to construct the shed. Sean Gough, an unlicensed individual, signed the contract on behalf of Superior General Contracting. The contract price was \$7,180.

23. On May 28, 2016, Mr. [redacted] signed a second contract with Superior General Contracting to remove and replace a driveway and front walkway at the same Michigan residence. Again, Sean Gough signed the contract on behalf of Superior General Contracting. The contract price was \$5,500.

24. Over the next few months, Mr. Gough collected additional fees from Mr. [redacted] on Respondent's behalf. These additional costs totaled \$4,271.

25. Over the next eight months, Respondent completed the driveway and walkway but reported numerous delays with the shed project. On December 21, 2016, a Bureau investigator contacted Respondent and requested an accounting of funds for the [redacted] project. Respondent failed to provide that accounting.

26. On January 19, 2017, Respondent was convicted of driving while impaired – third offense and taken into custody by the Michigan Department of Corrections. He did not make arrangements to have the [redacted] project completed in his absence.

27. On January 23, 2017, a Pontiac, Michigan building official visited the [redacted] residence. The building official noted the following violations of the Michigan Residential Building Code:

- a. R105.3...failure to describe the work to be covered by the permit in the application
- b. R105.4...performing work outside of what was permitted
- c. R106.1...failure to submit construction documents with the permit application
- d. R106.2...failure to submit a site or plot plan with the permit application
- e. R108.1...failure to pay required permit application fees before beginning work
- f. R109.1...failure to schedule inspections with building official

COUNT I

28. Respondent's conduct, as described above, constitutes fraud, deceit, or dishonesty in practicing an occupation violation of section 604(b) of the Code.

COUNT II

29. Respondent's conduct, as described above, constitutes violations of the local building code, contrary to Mich Admin Code, R 338.1551(5), in violation of section 604(h) of the Code.

COUNT III

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

COUNT IV

31. Respondent's conduct, as described above, constitutes incompetence in violation of section 604(g) of the Code.

COUNT V

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

COUNT VI

33. 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, in violation of section 2411(2)(a) of the Code.

COUNT VII

34. Respondent's conduct, as described above, constitutes aiding and 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, contrary to section 2411(2)(j) of the Code, in violation of section 604(c) of the Code.

COUNT VIII

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

COUNT IX

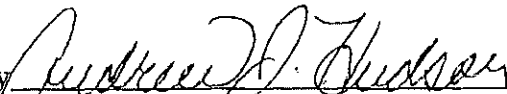
36. Respondent's conduct as described above constitutes acceptance or performance of a contract procured by an unlicensed person, contrary to Mich Admin Code, R 338.1536, in violation of section 604(h) of the Code.

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.

FURTHER, the previous complaint dated April 4, 2017, is hereby
WITHDRAWN and replaced in full by this first superseding administrative
complaint.

Respectfully submitted,

BILL SCHUETTE
Attorney General

By 

Andrew J. Hudson (P76092)
Timothy C. Erickson (P72071)
Assistant Attorneys General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Phone (517) 373-1146; Fax (517) 241-1997

Dated: June 16, 2017