

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

~~JOSEF~~ OLSZEWSKI
License No. 21-01-204379

Complaint No. 21-17-332511

Respondent.

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed on December 8, 2017 charging ~~Josef~~ Olszewski (Respondent) with having violated sections 604(c), (e), (g), (h), 2404a, 2411(2)(a), (c), and (j) of the Occupational Code, MCL 339.101 *et seq.* and Mich Admin Code, R 338.1533(1) and R 338.1536.

The parties have stipulated that the Board may enter this consent order and that the facts alleged in the Formal Complaint are true and constitute a violation of sections 604(c), (h), 2404a, and 2411(2)(j) of the Occupational Code and Mich Admin Code, R 338.1533(1). 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 is FINED \$1,000.00 to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 21-17-332511 clearly indicated on the check or money order), and shall be payable within 60 days.

If Respondent fails to timely pay this fine, his license shall be suspended. The timely payment of the fine shall be Respondent's responsibility. Respondent shall mail the fine to: Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division, Compliance Section, P.O. Box 30189, Lansing, Michigan 48909.

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, Respondent 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.

Counts II, III, IV, VI, and VII of the complaint, alleging a violation of sections 604 (c), (e), (g), 2411(2)(a) and (c), of the Occupational Code and Mich Admin Code, R 338.1536, are DISMISSED.

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.

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 3/12/18

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

By _____
Chairperson

STIPULATION

The parties stipulate as follows:

1. The facts alleged in the 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, 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.

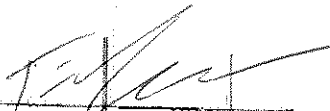
5. The Board may enter the above Consent Order, supported by Board conferee Sidney Browne, Jr. Mr. Browne or an attorney from the Licensing and Regulation Division may discuss this matter with the Board in order to recommend acceptance of this resolution.

6. Mr. Browne and the parties considered the following factors in reaching this agreement:

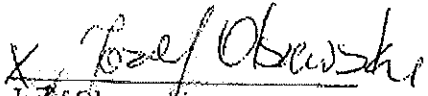
- A. Respondent acknowledges that he failed to provide oversight of Michigan Specialty Contractors, LLC as he should have done as the qualifying officer.
- B. Respondent asserts that on or about January 11, 2018 he submitted a letter to the Department in which he resigned as qualifying officer for Michigan Specialty Contractors, LLC.
- C. Respondent states that he had no knowledge of the work that led to this formal complaint prior to be contacting as part of the Department's investigation.


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

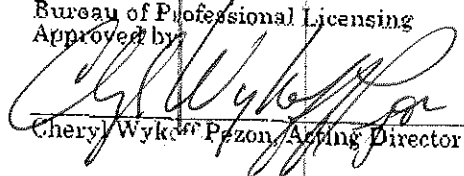
AGREED TO BY:


Timothy C. Erickson (P72071)
Assistant Attorney General
Attorney for Complainant
Dated: 2/7/2018

AGREED TO BY:


Jozef Olszewski
Respondent
Dated: 2-5-18


Matthew C. Norris (P36806)
Attorney for Respondent
Dated: 2/6/18

Bureau of Professional Licensing
Approved by:

Cheryl Wyke, Acting Director

2/13/18
Date

LP: 2017-0202158-f/Olszewski, Jozef; 582511 (Bis. IIIb)/Consent order - 2018-01-23

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

JOSEF OLSZEWSKI
License No. 21-01-204379

Complaint No. 21-17-332511

Respondent.

FORMAL COMPLAINT

NOW COMES Attorney General Bill Schuette, through Timothy C. Erickson, Assistant Attorney General, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Complainant, pursuant to the Occupational Code, as amended, MCL 339.101 *et seq.*, and its rules promulgated thereunder, and files this Formal Complaint against Josef Olszewski, Respondent, upon information and belief alleges 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. Beginning on September 14, 2011, Respondent was licensed as a Residential Builder and/or Maintenance and Alteration Contractor pursuant to Article 24 of the Code, and has been continually licensed.
3. Respondent is the qualifying officer for Michigan Specialty Contractors, LLC, a Residential Builder Company (license number 21-02-201548).

4. Section 2405(1) of the Code states that “[a] qualifying officer is responsible for exercising the supervision or control of the building or construction operations necessary to secure full compliance with this article and the rules promulgated under this article.”

5. Section 604(c) of the Code subjects a licensee to sanction for violating a rule of conduct of an occupation.

6. Section 604(e) of the Code subjects a licensee to sanction who commits an act of gross negligence.

7. Section 604(g) of the Code subjects a licensee to sanction who demonstrates incompetence.

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

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

10. Section 2411(2)(a) of the Code subjects a licensee to sanction for “[a]bandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee.”

11. Section 2411(2)(c) of the Code subjects a licensee to sanction for failing “to account for or remit money coming into the person’s possession that belongs to others.”

12. Section 2411(2)(j) of the Code subjects a licensee to sanction for “[a]iding 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 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.”

13. Mich Admin Code, R 338.1533(1) requires “[a]ll agreements and changes to the agreements between a builder, or contractor, and the customer to be in writing and signed by the parties. Copies of all agreements and changes to agreements must be in writing and provided to the customer.”

14. Mich Admin Code, R 338.1536 prohibits “[a]cceptance or performance of a contract procured by a salesperson not licensed under a builder or contractor, or acceptance or performance of a contract, other than the sale of real property, procured by anyone not licensed under the act”

15. Section 514 of the Code authorizes the Board to sanction licensees based on an administrative law hearing examiner’s hearing report.

16. Section 602 of the Code requires the Board to sanction licensees who have violated the Code.

FACTUAL ALLEGATIONS

17. On or about June 17, 2014, Respondent signed a statement authorizing Donald E. Madsen, Jr. to sign and pull permits on behalf of Michigan Specialty Contractors, LLC.

18. On or about June 18, 2014, Respondent signed and submitted, or caused to be submitted, a Qualifying Officer Change Application to the Department making Respondent the qualifying officer for Michigan Specialty Contractors, LLC.

19. On or about August 24, 2016, Mr. Madsen, who is not licensed under Article 24 of the Occupational Code, procured a contract with _____ on behalf of Michigan Specialty Contractors, LLC.

20. The contract included tearing off and replacing the roof on the residential structure at _____ Detroit for the total contract price of \$13,750.

21. The agreement does not contain the information relating to Respondent's individual license nor any license issued to Respondent as a qualifying officer.

22. On or about August 24, 2016, Ms. _____ made a down payment to Mr. Madsen of \$6,000 via cashier's check made out to MDC Advisors, a company not licensed under Article 24 of the Occupational Code. Mr. Madsen directed that Ms. _____ make the payment to MDC Advisors.

23. On or about August 27, 2016, Ms. _____ made payment to Mr. Madsen of \$2,000 via money orders made out to MDC Advisors.

24. Mr. Madsen commenced work in or around August and September, 2016, but only completed a small portion of the roof.

25. Mr. Madsen alleged that he discovered problems with the decking of the roof and that Ms. orally agreed to have new plywood installed. This alleged change order was never memorialized in writing nor signed by either party.

26. Mr. Madsen provided excuses to Ms. to explain why he and Michigan Specialty Contractors, LLC failed to continue the project.

27. The incomplete roofing job left the interior of the residential structure open to the elements and the interior suffered water damage as a result.

28. A few weeks after work began, Ms. requested an accounting of the work performed and material purchased by Mr. Madsen. Neither Mr. Madsen, Respondent, nor Michigan Specialty Contractors, LLC provided any accounting.

29. Respondent, Michigan Specialty Contractors, LLC, and Mr. Madsen abandoned the project in or around mid-September 2016. Ms. hired another contractor to finish the project.

COUNT I

30. Respondent's conduct, as described above, is contrary to Mich Admin Code, R 338.1533(1), in violation of section 604(c) of the Code.

COUNT II

31. Respondent's conduct, as described above, is contrary to Mich Admin Code, R 338.1536, in violation of section 604(c) of the Code.

COUNT III

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

COUNT IV

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

COUNT V

34. 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

35. 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

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

COUNT VIII

37. Respondent's conduct, as described above, constitutes aiding and abetting the unlicensed practice of a residential builder or maintenance and alterations contractor or salesperson, in violation of section 2411(2)(j) of the Code.

WHEREFORE, Complainant, Department of Licensing and Regulatory Affairs, hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, 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.

Respectfully submitted,

BILL SCHUETTE
Attorney General

By 

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

Dated: December 8, 2017

LF: 2017-0202458-B/Olszewski, Josef, 332511 (Res Bldr)/Formal Complaint - 2017-12-08