

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

In the Matter of

JERRY LEE FULCHER, JR.
License No. 21-01-096118
Respondent.

Docket No. 18-005498
File No. 21-17-333183

FINAL ORDER

On January 24, 2018, 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 June 15, 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 September 11, 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), (d), (h), and 339.2411(2)(a), (c), and (l), Respondent's license to practice as an individual builder in the state of Michigan is suspended for a minimum period of one day, not to exceed sixty days, commencing on the effective date of this Order. Respondent's license shall be

automatically restored upon compliance with the terms of this Order, PROVIDED compliance occurs within 60 days.

IT IS FURTHER ORDERED that Respondent is FINED \$5,000.00 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, Bureau of Construction Codes, P.O. Box 30255, 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 **21-17-333183**.

IT IS FURTHER ORDERED that Respondent shall satisfy the judgement ordered by the State of Michigan, 44th Judicial District Court, Royal Oak, Michigan, in case number 17-01612SC.

IT IS FURTHER ORDERED that Respondent shall submit acceptable written evidence of satisfying the judgement, as set forth above, within 60 days from the effective date of this Order to the **Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, P.O. Box 30254, Lansing, MI 48909**.

IT IS FURTHER ORDERED that in the event Respondent fails to pay the fine and provide acceptable written evidence of satisfying the judgement within 60 days of the effective date of this Order, as set forth above, Respondent's license to practice as an individual residential builder shall be REVOKED and the FINE shall be increased to \$10,000.00.

IT IS FURTHER ORDERED that reinstatement of a license which has been revoked is not automatic and, in the event Respondent applies for reinstatement of the license, application shall be in accordance with MCL 339.411(5).

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 30 days from the date signed by the Chairperson of the Board or authorized representative, as set forth below.

Dated: October 12, 2018

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

By: Keith Lambert
Keith Lambert, Director
for Bureau of Construction Codes

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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 LEE FULCHER, JR.
License No. 21-01-096118,
Respondent.

File No. 21-17-333183

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs, by Cheryl Wykoff Pezon, Acting Director, Bureau of Professional Licensing, complains against Respondent as follows:

1. The Michigan Board of Residential Builders and Maintenance and Alteration Contractors is an administrative agency established by the Occupational Code, MCL 339.101 *et seq.* Pursuant to MCL 339.602 of the Occupational Code, the Board is empowered to penalize persons for violations of the Occupational Code.

2. Respondent is currently licensed as an individual residential builder in the state of Michigan.

3. "Good moral character" is defined in MCL 338.41 as "the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner."

4. For historical purposes, the following occurred:

- a. On May 8, 2014, the Department executed a Formal Complaint against Respondent for Michigan Residential Code violations. On February 26, 2015, the Department executed a Final Order in resolution of the above complaint, which imposed a \$2,000.00 fine.
- b. On February 13, 2015, the Department executed a Formal Complaint against Respondent for Michigan Residential Code violations. On January 8, 2016, the Department executed a Final Order in resolution of the above complaint, which imposed a \$500.00 fine.

5. On November 22, 2016, Respondent entered into an agreement with Gabrielle and Paul Topolewski (Homeowners) for a remodeling project. Respondent failed to have Homeowners sign the contract and to provide information relating to his license as part of the contract. Homeowners paid a deposit of \$4,280.00 and Respondent never returned to perform the work. A copy of the Contract, marked Exhibit A, is attached and incorporated.

6. On June 22, 2017, the 44th District Court in Royal Oak, Michigan issued a Judgment ordering Respondent to pay Homeowners \$4,395.00 in case number 17-01612-SC. A copy of the Judgment, marked Exhibit B, is attached and incorporated.

7. On July 4, 2017, Homeowners filed a Statement of Complaint with the Department, alleging, in part, abandonment and failure to account for or remit funds.

8. On August 10, 2017, the Department sent the Statement of

Complaint and a letter requesting that Respondent provide an accounting of all money received and disbursed in connection with the project. Respondent failed to respond and provide the requested information.

9. Respondent failed to pay Homeowners the money as required by the Judgment.

COUNT I

Respondent's conduct, as described above, evidences the failure to have all agreements in writing and signed by the parties, contrary to Mich Admin Code, R 338.1533(1), in violation of MCL 339.604(h).

COUNT II

Respondent's conduct, as described above, evidences the failure to respond to a complaint within 15 days from receipt of the complaint to confirm or deny the justification of the complaint, contrary to Mich Admin Code, R 338.1551(2), in violation of MCL 339.604(h).

COUNT III

Respondent's conduct, as described above, evidences the failure to provide information related to his individual license as part of the contract, contrary to MCL 339.2404a, in violation of MCL 339.604(h).

COUNT IV

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 MCL 339.2411(2)(a).

COUNT V

Respondent's conduct, as described above, evidences the failure to account for or remit money coming into the person's possession that belongs to others, in violation of MCL 339.2411(2)(c).

COUNT VI

Respondent's conduct, as described above, evidences the failure to satisfy a judgment, in violation of MCL 339.2411(2)(l).

COUNT VII

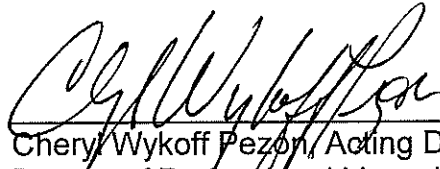
Respondent's conduct, as described above, evidences the practice of fraud, deceit, or dishonesty in practicing an occupation, in violation of MCL 339.604(b).

COUNT VIII

Respondent's conduct, as described above, demonstrates a lack of good moral character, in violation of MCL 339.604(d).

RESPONDENT IS NOTIFIED that, pursuant to MCL 339.508(2), 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 Respondent's selection shall be submitted to the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909. If Respondent fails to notify the Department of their decision within 15 days, the Department shall proceed to an administrative hearing.

Dated: 1/24/18


Cheryl Wykoff Pezon, Acting Director
Bureau of Professional Licensing

Attachments

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