

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

KBC HOME IMPROVEMENTS LLC
William Christopher Wilfong, Qualifying Officer
License No. 21-02-204525

Complaint No. 21-16-329348

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A first superseding formal complaint was filed on November 3, 2016, charging KBC Home Improvements LLC (Respondent) with having violated sections 604(b), (c), (d), and (h), 2409, and 2411(2)(a), (b), (e), and (j) of the Occupational Code, MCL 339.101 *et seq.* and Mich Admin Code, R 338.1551(2).

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(b), (c), (d), and (h), 2409, and 2411(2)(a), (b), (e), and (j) of the Occupational Code and Mich Admin Code, R 338.1551(2). 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's license is PERMANENTLY SURRENDERED on the effective date of this order. The license shall not be renewed, reinstated, reissued, or reactivated, limited or otherwise, at any future date.

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 30 days from the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on 6-13-17

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

By 

Chairperson, Sidney Browne

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.

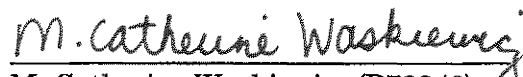
4. The Board may enter the above Consent Order, supported by Board Chair Sidney Browne.

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

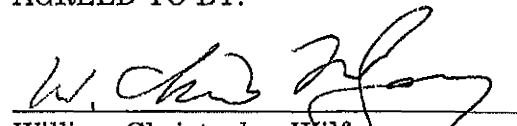
- A. Respondent desires to resolve this complaint without the time and expense of an administrative hearing.

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

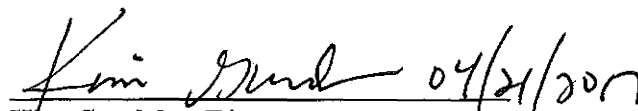
AGREED TO BY:


M. Catherine Waskiewicz (P73340)
Assistant Attorney General
Attorney for Complainant
Dated: 3-31-17

AGREED TO BY:


William Christopher Wilfong
Qualifying Officer for Respondent
Dated: 3/29/2017

Bureau of Professional Licensing
Approved by:


Kim Gaedeke, Director

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. The Board may enter the above Consent Order, supported by Board Chair Sidney Browne.

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

- A. Respondent desires to resolve this complaint without the time and expense of an administrative hearing.

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

AGREED TO BY:

M. Catherine Waskiewicz
M. Catherine Waskiewicz (P73340)
Assistant Attorney General
Attorney for Complainant
Dated: 3-31-17

AGREED TO BY:

William Christopher Wilfong
Qualifying Officer for Respondent

Dated: _____

John David Gardiner (P72641)
Attorney for Respondent
Dated: 3-30-2017

Bureau of Professional Licensing
Approved by:

Kim Gaedeke 04/21/2017
Kim Gaedeke, Director

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING

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

Complainant,

Complaint No. 21-16-329348.
(consolidated with 21-16-
328902 and 21-16-329256)

v

KBC HOME IMPROVEMENTS LLC
William Christopher Wilfong, Qualifying Officer
License No. 21-02-204525,

Board of Residential Builders
and Maintenance and
Alteration Contractors

Respondent.

FIRST SUPERSEDING FORMAL COMPLAINT

Attorney General Bill Schuette, through Assistant Attorney General M. Catherine Waskiewicz, on behalf of Complainant Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, files this First Superseding Formal Complaint against Respondent KBC Home Improvements LLC, 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 339.2401 *et seq.*
2. At all times relevant to this Complaint, Respondent was licensed as a residential builder pursuant to the Code, and William Christopher Wilfong was the

qualifying officer for Respondent. Respondent's license lapsed on May 31, 2016.

Verification of licensure documents are attached as Exhibit 1.

3. Section 2409 requires a licensee to report a change of address to the Department within 30 days after the change occurs.

4. 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.

5. 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 construction project or operation.

6. Section 2411(2)(e) of the Code requires the Board to penalize a licensee for a willful violation of the building laws of this state or of a political subdivision of this state.

7. Section 2411(2)(j) of the Code requires the Board to penalize a licensee for aiding or abetting an unlicensed person to evade Article 24, 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.

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

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

10. 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.”

11. 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 thereunder for which a penalty is not otherwise prescribed.

12. 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.

13. Mich Admin Code, R 792.10802(a) provides that the expiration, surrender, lapse, suspension, or revocation of a license does not terminate the Board’s authority under Articles 5 and 6 of the Occupational Code, MCL 339.501 to MCL 339.606, to impose sanctions on a person whose license or registration has expired, lapsed, or been surrendered, suspended, or revoked for a period of 7 years after the license or registration status change occurs or a period of 3 years after all complaints against the license or registration filed with the Bureau of Professional Licensing have been closed, whichever occurs later.

14. Section 514 of the Code authorizes the Board to assess penalties against licensees under section 602 of the Code based on an administrative law hearings examiner's hearing report.

FACTUAL ALLEGATIONS

15. William Christopher Wilfong served as qualifying officer for Respondent from November 19, 2014 until May 31, 2016.

16. Despite Mr. Wilfong being listed as the qualifying officer, Stephen Webster Lewis, an unlicensed person, controlled and/or directed Respondent's operations during the relevant time period.

17. During a criminal investigation into the matter, Mr. Wilfong admitted he was not aware of Respondent's daily operations.

18. On or about May 26, 2016, the Department's investigator went to the address of record for Respondent and found it had vacated the premises. Respondent did not report a change in address to the Department.

Homeowner

19. On or about September 17, 2015, Respondent's agent, Christopher Balden, contracted with _____ to replace the roof on her home in East Grand Rapids, Michigan. Mr. Balden's builder salesperson license had lapsed on May 31, 2015.

20. In accordance with the terms of the contract, Ms. _____ made a down payment of \$3,770 to Respondent. The contract also required Ms. _____ to pay \$3,773 upon completion of the work.

21. Prior to commencing work on Ms. roof, Respondent's agent, Mr. Lewis, used Ms. personal information to open a credit card in her name and charged \$3,773 to her credit card for payment to Respondent.

22. Despite Ms. multiple attempts to contact Respondent, it never commenced the work or refunded Ms. money.

23. Respondent failed to pull a permit for the project.

24. On May 19, 2016, the Department notified Respondent that Ms. had filed a complaint based on the aforementioned conduct.

25. Respondent failed to respond to the Department's notice.

Homeowner

26. On or about December 1, 2015, Respondent's agent contracted with to remodel the bathroom in her home in Grand Rapids, Michigan.

27. Ms. made a down payment of \$2,000 to Respondent.

28. On or about December 31, 2015, Respondent's agent, Mr. Lewis, contracted with to remodel another bathroom in her home.

29. Ms. made another down payment of \$2,000 to Respondent.

30. Despite Ms. multiple attempts to contact Respondent, it never commenced the work on either project or refunded any of the money.

31. Respondent failed to pull a permit for the project.

32. On August 19, 2016, the Department notified Respondent that Ms. had filed a complaint based on the aforementioned conduct.

33. Respondent failed to respond to the Department's notice.

Homeowners e

34. On or about February 5, 2016, Respondent's agent contracted with _____ to remodel the bathroom in their home in Plainwell, Michigan for \$5,000.

35. The _____ made a down payment of \$3,333 to Respondent.

36. Despite Mr. _____ multiple attempts to contact Respondent, it never commenced the work or refunded the money.

37. Respondent failed to pull a permit for the project.

38. On May 19, 2016, the Department notified Respondent that the _____ had filed a complaint based on the aforementioned conduct.

39. Respondent failed to respond to the Department's notice.

COUNT I

40. Respondent's conduct as described above constitutes a failure to report a change of address to the Department within 30 days after the change occurs, contrary to section 2409 of the Code, in violation of section 604(h) of the Code.

COUNT II

41. 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 III

42. 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 IV

43. Respondent's conduct as described above constitutes a willful violation of the building laws of this state or of a political subdivision of this state, contrary to section 2411(2)(e) of the Code, in violation of section 604(h) of the Code.

COUNT V

44. Respondent's conduct as described above constitutes aiding or abetting an unlicensed person to evade Article 24, contrary to section 2411(2)(j) of the Code, in violation of section 604(h) of the Code.

COUNT VI

45. 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 VII

46. 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 sections 604(c) and (h) of the Code.

COUNT VIII

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

THEREFORE, Complainant Department of Licensing and Regulatory Affairs hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, the Occupational Code, MCL 339.101 *et seq.*, and the associated administrative rules 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 administrative complaint previously filed against Respondent on September 14, 2016, is hereby WITHDRAWN and replaced in full by this superseding complaint.

Respectfully submitted,

BILL SCHUETTE
Attorney General

M. Catherine Waskiewicz

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Assistant Attorney General
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Dated: November 3, 2016