

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

JOEL DAVID LERMAN
License No. 21-01-192536

Complaint No. 21-15-326379

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A Formal Complaint was filed on January 20, 2017 charging Joel David Lerman (Respondent) with having violated sections 604(c), 604(e) and 604(h) of the Occupational Code, 1980 PA 299, as amended, MCL 339.101 *et seq.*

The parties have stipulated that the Board may enter this consent order and that the facts alleged in the Formal Complaint are true and constitutes a violation of sections 604(c) and 604(h) of the Occupational Code. 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 \$750.00 to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 21-15-326379 clearly indicated on the check or money order), and shall be payable within 60 days of the effective date of this order. The timely payment of the fine shall be Respondent's responsibility. Respondent is jointly and severally liable for paying

the fine of \$750.00 with co-Respondent Lerman Corporation. This fine of \$750.00 satisfies both complaint number 21-15-326378 and complaint number 21-15-326379. Respondent shall mail the fine to: Sanction Monitoring, Bureau of Professional Licensing, Legal Affairs Division – Compliance Section, Department of Licensing and Regulatory Affairs, P.O. Box 30189, Lansing, Michigan 48909.

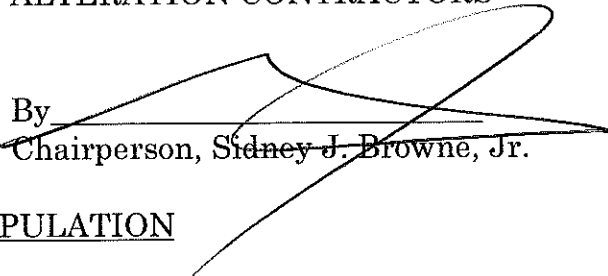
Counts II, III and V of the complaint are DISMISSED.

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 J. Browne, Jr.

STIPULATION

The parties stipulate as follows:

1. The facts alleged in the complaints 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 complaints 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.

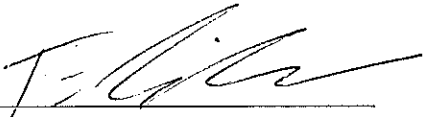
5. The Board may enter the above Consent Order, supported by Board conferee Mark Wahl.

6. Mark Wahl and the parties considered the following factors in reaching this agreement:

- A. Respondent has no prior disciplinary action against his license.
- B. Respondent represents that he obtained signatures from the homeowner on some, but not all, change orders, and Respondent did not provide all changes to the agreement to the homeowner.
- C. Respondent asserts that he provided the homeowner with his licensing information and the licensing information of Lerman Corporation, but admits that it was not provided in the contract.

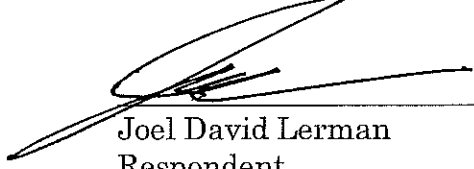
By signing this stipulation, the parties confirm that they have read, understand and agree with the terms of the consent order.

AGREED TO BY:

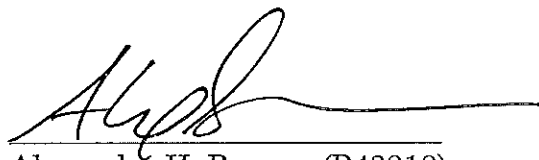


Timothy C. Erickson (P72071)
M. Catherine Waskiewicz (P73340)
Assistant Attorneys General
Attorneys for Complainant
Dated: 4/19/17

AGREED TO BY:



Joel David Lerman
Respondent
Dated: 4-3-17



Alexander H. Benson (P43210)
Attorney for Respondent
Dated: 4-3-17

Bureau of Professional Licensing
Approved by:



Kim Gaedeke, Director

04/21/2017
Date

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

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

Complainant,

v

JOEL DAVID LERMAN
License No. 21-01-192536,

Respondent.

Complaint No. 21-15-326379

Board of Residential Builders
and Maintenance and
Alteration Contractors

FORMAL COMPLAINT

Attorney General Bill Schuette, through Assistant Attorneys General Timothy C. Erickson and M. Catherine Waskiewicz, on behalf of Complainant Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, files this Formal Complaint against Respondent Joel David Lerman, 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 times relevant to this Complaint, Respondent was licensed as a residential builder pursuant to the Code and Respondent was also the qualifying

officer of Lerman Corporation, which is also licensed as a residential builder pursuant to the Code.

3. Section 2404a of the Code requires a licensee to include information relating to his or her individual license and to any license issued to him or her as a qualifying officer of another entity in the contract.

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)(c) of the Code requires the Board to penalize a licensee for failing to account for or remit money coming into the person's possession that belongs to others.

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

7. Section 604(e) of the Code requires the Board to penalize a licensee who commits an act of gross negligence.

8. Section 604(h) of the Code requires the Board to penalize a licensee for violating any other provision of this act or a rule promulgated under the Code for which a penalty is not otherwise prescribed.

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

10. Section 602 of the Code authorizes the Board to impose sanctions against a licensee if, after opportunity for a hearing, the licensee is found to have violated one or more of the subdivisions contained in section 604 of the Code.

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

FACTUAL ALLEGATIONS

12. On or about May 2, 2013, Respondent contracted with _____ to remodel _____ in Ann Arbor, Michigan ("the Condo") from commercial to residential use for a total contract price of \$395,080.

13. In the contract, Respondent agreed to substantially complete the renovations not later than August 1, 2013. Ms. _____ never agreed to a modification of the completion deadline. Respondent failed to complete the work by the contracted deadline.

14. On numerous occasions, including, but not limited to September 4, 5, 6, 8, November 3, 2013 and January 8, 2014, Ms. _____ asked that Respondent provide accountings related to change orders, price increases, modifications to the contract, subcontracted work, and invoices. Respondent failed to do so.

15. On or about March 6, 2014, Ms. _____ asked Respondent to provide her copies of signed change orders. Respondent failed to do so.

16. On or about March 17, 2014, Ms. _____ provided Respondent with a list of unfinished jobs, defects in construction and other items that needed to be

completed or remedied pursuant to the contract. Respondent failed to complete or remedy the items from the list.

17. On or about March 30, 2014, [redacted] again contacted Respondent about the list of work that needed to be completed.

18. Respondent failed to review the state of his work in April 2014, failed to complete all the items from Ms. [redacted] March list referenced in paragraphs 16 and 17, and failed to develop a punch list for the completion of the work at the Condo.

19. On or about April 22, 2014, Ms. [redacted] again asked Respondent to provide her copies of signed change orders. Respondent failed to do so.

20. In or around April 2014, Respondent asked for payment of \$25,000. Ms. [redacted] paid \$17,702.51 because Respondent was behind on the work. After receipt of the \$17,702.51, Respondent ceased all work at the Condo.

21. In total, Ms. [redacted] paid approximately \$352,859.37 to Respondent.

22. On or about May 29, 2014, Lerman Corporation sued Ms. [redacted] in the Circuit Court for Washtenaw County, Michigan.

23. After Respondent ceased work at the Condo, Ms. [redacted] hired other contractors to complete some of the work left undone by Respondent.

24. Ms. [redacted] paid \$46,655.53 to other contractors for work that fell under the scope of the contract with Respondent that Respondent failed to complete.

25. The City of Ann Arbor did not issue a Certificate of Occupancy until May 6, 2014, nine months after the contracted completion date of August 1, 2013.

26. On or about June 20 and 21, 2014, inspector Patrick Lyons inspected the Condo and identified numerous code violations, deficiencies, safety hazards, potential problems or incomplete work.

27. On June 12, 2015, Ann Arbor building inspector Matthew Forster inspected the Condo. He noted the following three violations of the 2009 Michigan Building Code for work performed by Respondent:

- a. A step exceeding 8 ¼ inches.
- b. Failure to seal holes at wires and pipes with caulk.
- c. Failure to paint exterior windows and trim.

28. Mr. Forster also listed approximately 118 other deficiencies, safety hazards, potential problems or incomplete work at the Condo.

COUNT I

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

COUNT II

30. 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

31. Respondent's conduct, as described above, constitutes a failure to account for money coming into a person's possession that belongs to others, contrary to section 2411(2)(c) of the Code, in violation of section 604(h) of the Code.

COUNT IV

32. Respondent's conduct, as described above, constitutes a failure to make all agreements and changes to the agreements in writing and a failure to provide the customer with copies of such agreements and changes to agreements, contrary to Mich Admin Code, R 338.1533(1), in violation of sections 604(c) and 604(h) of the Code.

COUNT V

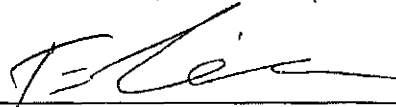
33. Respondent's conduct, as described above, constitutes gross negligence in violation of section 604(e) of the Code.

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.

Respectfully submitted,

BILL SCHUETTE
Attorney General



Timothy C. Erickson (P72071)
M. Catherine Waskiewicz (P73340)
Assistant Attorneys General
Licensing & Regulation Division
525 West Ottawa, 3rd Floor, Williams Bldg.
P.O. Box 30758
Lansing, MI 48909.
(517) 373-1146

Dated: January 20, 2017

LF: 2016-0159687-B/Lerman, Joel David, 326379 (Res Bldr)/Formal Complaint - 2017-01-20