

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

In the Matter of

MARC FREEMAN MERCIER,
License No. 21-01-197413

Complaint No. 21-17-333414

and

TIMELESS COATINGS LLC
License No. 21-02-200455

Complaint No. 21-17-333413

_____/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

Formal complaints were filed on December 27, 2017 charging Marc Freeman Mercier and Timeless Coatings LLC (Respondents) with having violated sections 601, 602, 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 Complaints are true and constitute violations of sections 601, 602, 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 complaints.

Accordingly, for these violations, IT IS ORDERED:

Respondents are FINED One Hundred and 00/100 Dollars (\$100.00), jointly and severally, to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint numbers 21-17-333414 and 21-17-333413 clearly indicated on the check or money order), and shall be payable within sixty (60) days of the entry of the final order. The timely payment of the fine shall be Respondents' responsibility. Respondents 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.

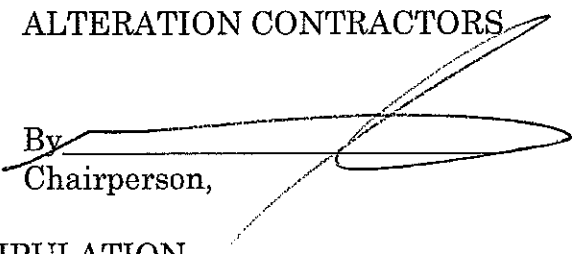
The allegation as to violation of section 2411(2)(1) is WITHDRAWN.

Respondents shall be responsible for all costs and expenses incurred in complying with the terms and conditions of this consent order.

This order shall be effective on the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on 6-12-18

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE &
ALTERATION CONTRACTORS

By 
Chairperson,

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. Respondents understand and intend that, by signing this stipulation, they are waiving the right under the Occupational Code, rules promulgated under the Occupational Code, and the Administrative Procedures Act of 1969, 1969 PA 306, 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 John Kelly. Mr. Kelly 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. Kelly and the parties considered the following factors in reaching this agreement:

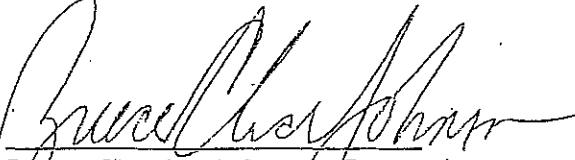
A. Respondent Marc Freeman Mercier has been licensed since April 16, 2004, and Respondent Timeless Coatings LLC has been licensed since April 26, 2011. Neither has been previously sanctioned.

B. The salesperson who was not licensed at the time of this transaction at issue has since become licensed.

C. Respondents were extremely cooperative in resolving this matter, and were very forthright that they were wrong to have committed the alleged violation, and stated that they are determined to ensure that it not be repeated.

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

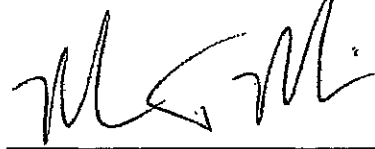
AGREED TO BY:



Bruce Charles Johnson (P62645)
Assistant Attorney General
Attorney for Complainant

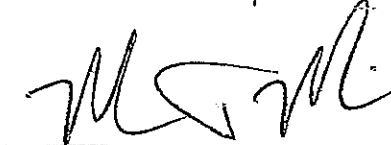
Dated: March 15, 2018

AGREED TO BY:



Marc Freeman Mercier
Respondent

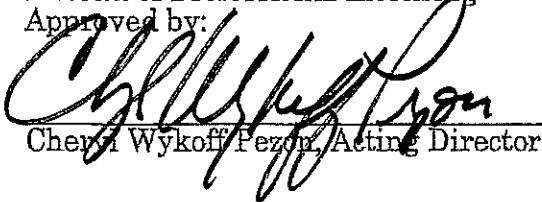
Dated: 3/14/18



Marc Freeman Mercier, Owner
Timeless Coatings LLC

Dated: 3/14/18

Bureau of Professional Licensing
Approved by:



Cheryl Wykoff Pezon, Acting Director

5/16/18
Date

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

MARC FREEMAN MERCIER
Residential Builder
License No. 21-01-197413

Complaint No. 21-17-333414

FORMAL COMPLAINT

Attorney General Bill Schuette, through Assistant Attorney General, Bruce Charles Johnson, on behalf of Complainant Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, files this Formal Complaint against Respondent Marc Freeman Mercier, 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 339.101 *et seq.*
2. Respondent is currently licensed as a residential builder pursuant to the Code, and the owner and responsible officer of Timeless Coating LLC.
3. A Complaint against Respondent conforming to the requirements of § 501 of 1980 PA 229, as amended, was filed with Complainant on July 19, 2017.

4. Section 601 and 2403 of the Code, requires, with exceptions not pertinent here, that a person be licensed as a residential builder salesperson in order to act as a salesperson for a residential builder in this state.

5. Section 602 of the Code sets out penalties applicable to licensee for violating the Code or of a rule or order promulgated or issued under the Code.

6. Section 604(h) of the Code requires the Board to penalize a licensee for violation of a provision of the Code or of a rule promulgated under the Code for which a penalty is not otherwise prescribed.

7. Section 604(h) of the Code requires the Board to penalize a licensee for acting or abetting another person in the unlicensed practice of an occupation.

8. 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

9. On May 3, 2016, Timeless Coatings LLC, of which Respondent is the owner and responsible officer, entered a contract with Richard & Fran Hoffer to perform building work on their home located at 10478 Otter Drive, South Lyon, Michigan. The contract was signed on behalf of Timeless Coatings LLC by a salesperson for the company named Ross Stover.

10. Ross Stover was not licensed at the time as a residential builder salesperson although he now is licensed.

COUNT I

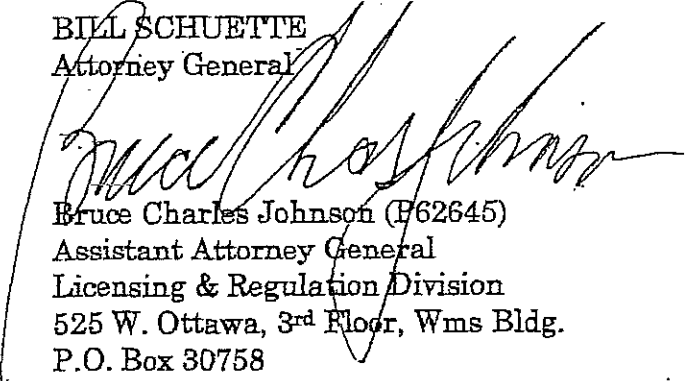
11. Respondent's conduct as described above constitutes aiding or abetting an unlicensed person in practicing as a residential builder, in violation of sections 601, 602, 604(h), and 2411(2)(l) of the Code.

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.

Any written response shall be submitted to the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, Michigan, 48909, with a copy to the undersigned assistant attorney general.

Respectfully submitted,

BILL SCHUETTE
Attorney General



Bruce Charles Johnson (F62645)
Assistant Attorney General
Licensing & Regulation Division
525 W. Ottawa, 3rd Floor, Wms Bldg.
P.O. Box 30758
Lansing, Michigan 48909
517) 373-1146

Dated: December 27, 2017