

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

MICHIGAN SPECIALTY CONTRACTORS, LLC
License No. 21-02-201548

Complaint No. 21-17-332509

Respondent.

CONSENT ORDER AND
STIPULATION

CONSENT ORDER

A formal complaint was filed on December 8, 2017 charging Michigan Specialty Contractors, Inc. (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 constitute a violation of 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 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 to practice as a Residential Builder Company is PERMANENTLY SURRENDERED on the effective date of this order. The license

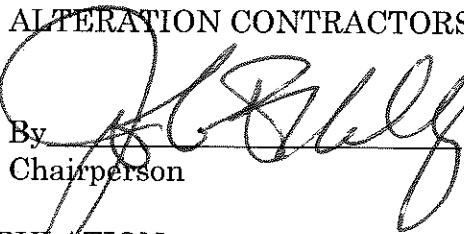
shall not be renewed, reinstated, reissued, or reactivated, limited or otherwise, at any future date.

Respondent is FINED \$500.00 to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 21-17-332509 clearly indicated on the check or money order), and shall be payable within 60 days. 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.

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

Signed on MAY 15, 2018

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

By 
Chairperson

STIPULATION

The parties stipulate as follows:

1. Respondent does not contest the allegations of fact and law in the complaint. Respondent understands that, by pleading no contest, Respondent does not admit the truth of the allegations but agrees that the Board may treat the

allegations as true for resolution of the complaint and may enter an order treating the allegations as true.

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.

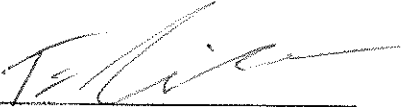
3. Respondent understands and intends that, by signing this stipulation, it is waiving the right under the Occupational Code, rules promulgated under the Occupational Code, and the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, to require the Department to prove the charges set forth in 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. An attorney from the Licensing and Regulation Division may discuss this matter with the Board in order to recommend acceptance of this resolution.

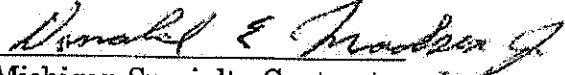
By signing this stipulation, the parties confirm that they have read, understand and agree with the terms of the consent order.

AGREED TO BY:




Timothy C. Erickson (P72071)
Assistant Attorney General
Attorney for Complainant
Dated: 4/10/2018

AGREED TO BY:




Michigan Specialty Contractors, Inc.
by: Donald E. Madsen, Jr.
Respondent
Dated: 4-9-18



Michael D. Bryant (P39515)
Attorney for Respondent
Dated: 4-8-18

Bureau of Professional Licensing
Approved by:



Cheryl Wykoff Pozon, Acting Director

4/16/18
Date

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
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Complaint No. 21-17-332509

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 Michigan Specialty Contractors, LLC, 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 builder company pursuant to Article 24 of the Code, and has been continually licensed.
3. At all times relevant to this complaint, Josef Olszewski was the qualifying officer for Respondent.

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

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

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

7. 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.”

8. 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.

9. 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.”

10. 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.”

11. 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.”

12. 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.”

13. 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”

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

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

FACTUAL ALLEGATIONS

16. On or about June 17, 2014, Mr. Olszewski signed a statement authorizing Donald E. Madsen, Jr. to sign and pull permits on behalf of Respondent.

17. On or about June 18, 2014, Respondent signed and submitted, or caused to be submitted, a Qualifying Officer Change Application to the Department making Mr. Olszewski the qualifying officer for Respondent.

18. On or about August 24, 2016, Mr. Madsen, who is not licensed under Article 24 of the Occupational Code, procured a contract with Renia [redacted] on behalf of Respondent.

19. The contract included tearing off and replacing the roof on the residential structure at [redacted] Street, Detroit for the total contract price of \$13,750.

20. The agreement does not contain the information relating to Respondent's license nor Mr. Olszewski's individual license.

21. On or about August 24, 2016, Ms. [redacted] 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. [redacted] make the payment to MDC Advisors.

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

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

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

25. Mr. Madsen provided excuses to Ms. [redacted] to explain why Mr. Olszewski and Respondent failed to continue the project.

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

27. A few weeks after work began, Ms. [redacted] requested an accounting of the work performed and material purchased by Mr. Madsen. Neither Mr. Madsen, Mr. Olszewski, nor Respondent provided any accounting.

28. Respondent, Mr. Olszewski, and Mr. Madsen abandoned the project in or around mid-September 2016. Ms. [redacted] hired another contractor to finish the project.

COUNT I

29. 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

30. 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

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

COUNT IV

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

COUNT V

33. 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

34. 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

35. 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

36. Respondent's conduct, as described above, constitutes aiding and abetting the unlicensed practice of a residential builder or maintenance and alterations contractor, 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: 2017-0202454-B/Michigan Specialty Contractors, 332509/Formal complaint -- 2017-12-08