

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

JOHN HOWARD MORGAN
License Number: 21-05-134721

Complaint Number: 21-15-328208
Docket Number: 16-026959

FINAL ORDER

On June 24, 2016, a Formal Complaint (Complaint) was executed that charged John Howard Morgan (Respondent) with violating sections 604(b), 604(d) and 2411(2)(c) of the Occupational Code, 1980 PA 299, as amended; MCL 339.101 et seq.

An administrative hearing was held in this matter before an administrative law judge who, on November 9, 2016, 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 March 14, 2017, and received the administrative law judge's Findings of Fact and Conclusions of Law in the Hearing Report. Therefore,

IT IS ORDERED that for violating sections 604(b), 604(d), and 2411(2)(c) of the Occupational Code, supra, Respondent is FINED \$5,000.00 to be paid to the State of Michigan within 90 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, Legal Affairs/Enforcement Division, Compliance Section, P.O. Box 30189, 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 **21-15-328208**.

IT IS FURTHER ORDERED that failure to pay the fine, as set forth above, shall result in REVOCATION of Respondent's license to practice as a builders salesperson in the state of Michigan.

IT IS FURTHER ORDERED that, in accordance with sections 411(3)(c), 602(c), and 604(k) of the Occupational Code, *supra*, 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 section 604(k) of the Occupational Code, *supra*.

This Final Order 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; MCL 15.241(1)(a).

IT IS FURTHER ORDERED that this Order shall be effective on the date signed by the Chairperson of the Board or authorized representative, as set forth below.

Dated: 04/06/2017

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

By: 
Kim/Gaedeke, Director
Bureau of Professional Licensing

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FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Complainant) by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against John Howard Morgan (Respondent) as follows:

1. The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board) is an administrative agency established by the Occupational Code, 1980 PA 299, as amended; MCL 339.101 et seq. Pursuant to section 602 of the Occupational Code, supra, the Board is empowered to penalize licensees for violations of the Occupational Code.

2. "Good moral character" is defined at Section 1 of 1974 PA 381, as amended; 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."

3. Respondent is licensed as a residential builder salesperson in the state of Michigan.

4. At all relevant times, Respondent was employed as a residential builder salesperson for the All-Weather Seal Company, Inc. (Employer) in Burton, Michigan.

5. On or about December 27, 2013, Respondent provided Proposal #36839 to Chris Reynolds (Homeowner) for Employer to replace two exterior doors for a total cost of \$3,396.00. Respondent accepted a \$1,000.00 cash deposit from Homeowner and noted the deposit amount as "cash" on the proposal, which was dated December 27, 2013. A copy of Proposal #36839, marked Exhibit A, is attached and incorporated.

6. Later, Respondent submitted Proposal #36857 to Employer for the same Homeowner services, dated January 17, 2014. Proposal #36857 noted a total cost for services of \$3,396.00, no cash deposit, and balance due "to be financed" of \$3,396.00.

7. After Employer billed Homeowner for the full amount, Homeowner contacted Employer to report the overbilling. Employer corrected the billing error and recouped the \$1,000.00 down payment from Respondent's paycheck.

8. On February 23, 2016, during a telephone interview with Complainant's investigator, Respondent stated that he lost Homeowner's \$1,000.00 down payment.

CONTINUED ON THE NEXT PAGE.

COUNT I

Respondents' conduct, as described above, evidences fraud, deceit, or dishonesty in practicing an occupation, in violation of section 604(b) of the Occupational Code, supra.

COUNT II

Respondents' conduct, as described above, evidences a lack of good moral character, in violation of section 604(d) of the Occupational Code, supra.

COUNT III

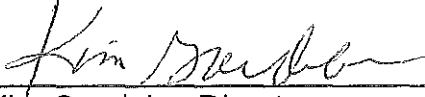
Respondents' conduct, as described above, evidences failure to account for or remit money coming into Respondents possession that belongs to others, contrary to section 2411(2)(c) of the Occupational Code, supra.

Complainant requests that this Complaint be served upon Respondent and that Respondent be offered an opportunity to show compliance with all lawful requirements for retention of the license. If compliance is not shown, Complainant further requests that formal proceedings be commenced pursuant to the Occupational Code, rules promulgated thereunder, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 et seq.

Pursuant to section 508 of the Occupational Code, supra, Respondent has 15 days from the date of receipt of this Complaint to notify Complainant 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 Complainant, Kim Gaedeke, Director, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909. If Respondent fails to submit written notification within 15 days, this matter shall proceed to an administrative hearing.

DATED: 06/24/2016



Kim Gaedeke, Director
Bureau of Professional Licensing

This is the final page of a Formal Complaint in the matter of John Howard Morgan, Complaint Number 21-15-328208, before the Michigan Board of Residential Builders and Maintenance and Alteration Contractors, consisting of four pages, this page included.

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