

**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

**ANDREW JOHN MALBURG
License Number: 21-01-148103**

**Complaint Number: 21-15-326765
Docket Number: 16-001007**

FINAL ORDER

On November 19, 2015, a Formal Complaint (Complaint) was executed that charged Andrew John Malburg (Respondent) with violating sections 604(c), 2411(2)(a), and 2411(2)(l) 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 May 5, 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(c), 2411(2)(a) and 2411(2)(l) of the Occupational Code, supra, Respondent is FINED \$2,500.00 to be paid to the State of Michigan prior to submitting an application for reinstatement.

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 complaint number **21-15-326765**.

IT IS FURTHER ORDERED that for the cited violations of the Occupational Code Respondent shall pay RESTITUTION to satisfy the judgement as ordered by the State of Michigan, 87-B District Court, Kalkaska, Michigan, in case number 15-18551-SC-2.

IT IS FURTHER ORDERED that Respondent shall submit evidence of payment of restitution in full as ordered in case number 15-18551-SC-2 to the **Department of Licensing and Regulatory Affairs, Legal Affairs/Enforcement Division, Compliance Section, P.O. Box 30670, Lansing, MI 48909**.

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
Kim Gaedeke, Director
Bureau of Professional Licensing

lb

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

ANDREW JOHN MALBURG

License Number: 21-01-148103

File Number: 21-15-326765

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Complainant) by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against Andrew John Malburg (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. Respondent is licensed as a residential builder in the state of Michigan.

3. On or about on October 7, 2014, Respondent entered into a contract with David (Homeowner) to replace a roof. A copy of the contract, marked Exhibit A, is attached and incorporated.

4. On May 4, 2015, Homeowner filed a Statement of Complaint with Complainant alleging Respondent failed to replace Homeowner's roof, ceased contact with Homeowner, and failed to return Homeowner's \$4,975.00 deposit.

5. On May 11, 2015, in the 87-B Judicial District Court, Kalkaska, Michigan, a default judgment was entered against Respondent based on the conduct described above. Respondent was ordered to pay Homeowner \$5,090.00, but has failed to satisfy the judgment. A copy of the court document, marked Exhibit B, is attached and incorporated.

6. On May 18, 2015, Complainant mailed a Notice to Respondent (Notice) to the address of record for Respondent. Respondent failed to respond to the Notice.

COUNT I

Respondent's conduct, as described above, evidences a failure to respond to a complaint within 15 days from receipt of the complaint, contrary to Mich Admin Code, R 338.1551(2), in violation of section 604(c) of the Occupational Code, supra.

COUNT II

Respondent's conduct, as described above, evidences the abandonment without legal excuse of a contract or construction project, in violation of section 2411(2)(a) of the Occupational Code, supra.

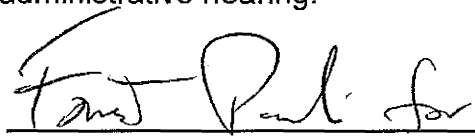
COUNT III

Respondent's conduct, as described above, evidences a failure to satisfy a judgment, in violation of section 2411(2)(l) 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 licenses. 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: 11-19-15



Kim Gaedeke, Director
Bureau of Professional Licensing

This is the final page of a Formal Complaint in the matter of Andrew John Malburg, File Number 21-15-326765, before the Michigan Board of Residential Builders and Maintenance and Alteration Contractors, consisting of three pages, this page included.
SDM