

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

BENJAMIN LARRY MILLIKIN
License No. 21-01-197386

Complaint No. 21-16-330688

_____/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed on January 12, 2017 charging Benjamin Larry Millikin (Respondent) with having violated sections 601(1), 604(c), (e), (h), 2404a and 2411(2)(e) of the Occupational Code, 1980 PA 299, as amended, MCL 339.101 *et seq.* and Mich Admin Code R 338.1536.

The parties have stipulated that the Board may enter this consent order and that the facts alleged in the Formal Complaint are true and constitute a violation of section 601(1) 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 ONE THOUSAND AND 00/100 DOLLARS (\$1,000.00) to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 21-16-330688 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

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 through V of the complaint, alleging violations of sections 604(c), (e), (h), 2404a and 2411(2)(e) of the Occupational Code, 1980 PA 299, as amended, MCL 339.101 *et seq.* and Mich Admin Code, R 338.1536 of the Occupational Code, are DISMISSED.

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

Respondent shall be responsible for the timely compliance with the terms of this consent order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this order.

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 thirty (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 &
ALTERATION CONTRACTORS

By _____
Chairperson

STIPULATION

The parties stipulate as follows:

1. The facts alleged in the complaint 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, 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 Sidney Browne, Jr. Mr. Browne 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. Browne and the parties considered the following factors in reaching this agreement:

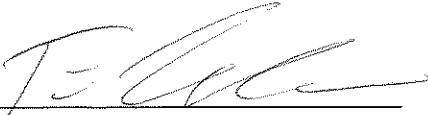
A. Respondent first became licensed as a residential builder on March 3, 2011, but that license lapsed on May 31, 2013. He has no prior disciplinary action on his license.

B. On or about April 15, 2014, Respondent submitted an application for relicensure to the Department along with a check for \$185.00. The check was deposited. Respondent's application contained errors. On or about May 1, 2014, the Department sent a letter explaining those errors to Respondent. Respondent indicates that he never received that letter and failed to otherwise follow up on his application.

C. Respondent readily admitted that he failed to obtain relicensure and that he had the obligation to contact the Department about his 2014 application for relicensure.

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: 3/24/2017

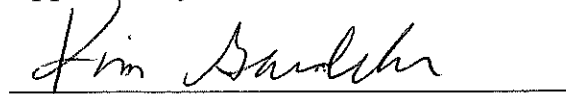
AGREED TO BY:



Benjamin Larry Millikin
Respondent

Dated: 3-13-2017

Bureau of Professional Licensing
Approved by:



Kim Gaedeke, Director

03/24/2017
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,

Complaint No. 21-16-330688

v

BENJAMIN LARRY MILLIKIN,
License No. 21-01-197386,

Board: Residential Builders and
Maintenance and Alteration
Contractors

Respondent.

FORMAL COMPLAINT

NOW COMES Bill Schuette, Attorney General, 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 Benjamin Larry Millikin, Respondent, upon information and belief alleges as follows:

1. Beginning on March 3, 2011, Respondent was licensed as a residential builder pursuant to Article 24 of the Occupational Code, MCL 339.2401-2412. His license lapsed on May 31, 2013.
2. A Complaint against Respondent, conforming to the requirements of section 501 of the Code, as amended; MCL 339.501 has been filed with the Michigan Department of Licensing and Regulatory Affairs.

3. Section 604(c) of the Code requires the Board to penalize a licensee for violating a rule of conduct of an occupation.
4. Section 604(e) of the Code requires the Board to penalize a licensee who commits an act of gross negligence.
5. Section 604(h) of the Code requires the Board to penalize a licensee who “[v]iolates a provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.”
6. Section 601(1) of the Code prohibits an individual to engage in or attempt to engage in the practice of an occupation without a license.
7. 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.
8. Section 2411(2)(e) of the Code requires the Board to penalize a licensee for a willful violation of the building laws of this state or of a political subdivision of this state.
9. Mich Admin Code, R 338.1536 forbids acceptance or performance of a contract procured by an unlicensed person.
10. Mich Admin Code, R 792.10802(a) provides that the expiration, surrender, lapse, suspension, or revocation of a license does not terminate the Board’s authority under Articles 5 and 6 of the Occupational Code, MCL 339.501 to 339.606, to impose sanctions on a person whose license or registration has expired, lapsed, or been surrendered, suspended, or revoked for a period of 7 years after the

license or registration status change occurs or a period of 3 years after all complaints against the license or registration filed with the Bureau of Professional Licensing have been closed, whichever occurs later.

11. Section 602 of the Code authorizes the Board to impose sanctions against persons licensed by the Board 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.

FACTUAL ALLEGATIONS

12. On or about April 28, 2016 and on or about May 13, 2016, Respondent entered into contracts with _____ to perform work on their home, to include painting the house, stone work on the exterior, stone work on the fire place, installing beams, tiling in bathrooms, and pouring cement pans in showers.

13. In total, the _____ paid at least \$22,200 to Respondent, who directed that these payments be made to _____ Respondent's girlfriend.

14. Respondent failed to pull a building permit for the work he performed.

15. Respondent ceased work for the _____ on or about August 8, 2016, but Respondent failed to complete all the agreed-upon work.

COUNT I

16. Respondent's conduct, as described above, constitutes the unlicensed practice of an occupation in violation of section 601(1) of the Code.

COUNT II

17. 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

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

COUNT IV

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

COUNT V

20. Respondent's conduct, as described above, constitutes a willful violation of the building laws of this state or of a political subdivision of this state, contrary to section 2411(2)(e) of the Code, in violation of section 604(h) 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: January 12, 2017