

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

FREDDIE A. MEKLED,
License No. 21-01-054480

Complaint No. 21-17-331441

THERMAL SHIELD WINDOW &
CONSTRUCTION, INC.
License No. 21-02-069332

Complaint No. 21-17-331440

Respondents.

_____/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

Formal Complaints (numbers 21-17-331441 and 21-17-331440) were filed on May 23, 2017 charging Freddie A. Mekled and Thermal Shield Window & Construction, Inc (Respondents) with having violated sections 604(c), (g), 2411(2)(d) and (e) of the Occupational Code, as amended, MCL 339.101 *et seq.*; Mich Admin Code, R 338.1536 and R 338.1551(5).

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 a violation of sections 604(c) of the Occupational Code and Mich Admin Code, R 338.1551(5). 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 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 numbers 21-17-331441 and 21-17-331440 clearly indicated on the check or money order), and shall be payable within sixty (60) days of the effective date of this order. Respondents are jointly and severally liable for paying the fine. The timely payment of the fine shall be Respondents' responsibility. If Respondents fail to timely pay fine, their licenses shall be suspended. Respondents 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 I, III, IV and V of the complaints, alleging a violation of section 604(c) contrary to Mich Admin Code, R 338.1536, and alleging violations of sections 604(g), 2411(2)(d), and (e) of the Occupational Code, are DISMISSED.

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

Respondents 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 Respondents violate any term or condition set forth in this order, Respondents 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 9/12/17

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

By _____
Chairperson

STIPULATION

The parties stipulate as follows:

1. The facts alleged in the Formal Complaints (numbers 21-17-331441 and 21-17-331440) 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 complaints 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.

6. Mr. Browne and the parties considered the following factors in reaching this agreement:

A. Respondent Freddie Mekled has been licensed as a residential builder since November 28, 1979 and has no prior disciplinary action against his license.

B. Respondents represented that Ken Locatelli, a long-time employee of Respondents, does not regularly procure contracts. They further stated that the only contract he procured in 2015 was the one with Ms. Romeos.

C. Respondents indicated that they contacted the Waterford Township Building Department to inquire whether a building permit was needed for a re-shingle job and were correctly told that no permit was required unless the job included structural work.

D. Once Respondents began the work on Ms. Romeos' roof, it became apparent that the job was more than a simple re-shingle project and that they would need to replace a significant portion of the decking. Respondents failed to apply for a permit at that time, but Respondents now recognize they should have acquired a permit.

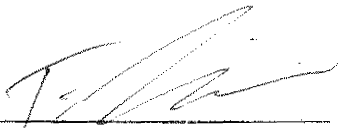
E. Respondents indicated that after being notified of the need for a permit as a result of the building inspection, Respondents obtained a building permit from Waterford Township.

F. Respondents acknowledged that they used OSB instead of plywood for the decking of the roof, but stated that the two products are functionally equivalent when used in the circumstances of this case.

G. Respondents represented that they would have applied clips or blocking to the decking, but the homeowner denied them access to the attic to install the clips or blocking.

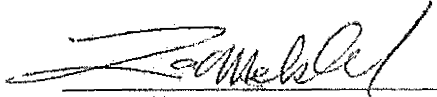
By signing this stipulation, the parties confirm that they have read,
understand and agree with the terms of the consent order.

AGREED TO BY:

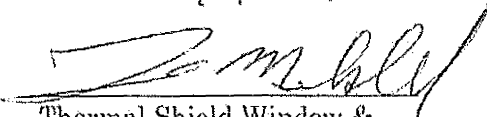


Timothy C. Erickson (P72071)
Assistant Attorney General
Attorney for Complainant
Dated: 6/27/2017

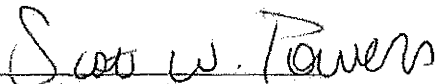
AGREED TO BY:



Freddie A. Mekled
Respondent
Dated: 6/27/17



Thermal Shield Window &
Construction, Inc.
By: Freddie A. Mekled
Respondent
Dated: 6/27/17



Scott W. Powers (P59882)
Attorney for Respondent
Dated: 6-27-17

Bureau of Professional Licensing
Approved by:



Kim Gaedeke, Director

6-30-17
Date

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

In the Matter of

THERMAL SHIELD WINDOW &
CONSTRUCTION, INC.

License No. 21-02-069332,

Complaint No. 21-17-331440

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 Thermal Shield Window & Construction, Inc., Respondent, upon information and belief alleges as follows:

1. Beginning on November 21, 1984, Respondent was licensed as a Residential Builder Company pursuant to Article 24 of the Occupational Code, MCL 339.2401-2412 and has been continually licensed.
2. Section 604(c) of the Code subjects a licensee to sanction for violating a rule of conduct of an occupation.
3. Section 604(g) of the Code subjects a licensee to sanction for demonstrating incompetence.

4. Section 2411(2)(d) of the Code subjects a licensee to sanction for “[a] willful departure from or disregard of plans or specifications in a material respect . . . without the consent of the owner”

5. Section 2411(2)(e) of the Code subjects a licensee to sanction for “[a] willful violation of the building laws of this state or of a political subdivision of this state.”

6. 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”

7. Mich Admin Code, R 338.1551(5) requires that a licensee adhere to the standards of construction of the local building code or the building code of the nearest political subdivision having a building code.

8. Section 602 of the Code authorizes the Board to sanction licensees who have violated the Code.

FACTUAL ALLEGATIONS

9. Respondent is a Michigan Domestic Profit Corporation and its resident agent is Freddie Mekled (license number 21-01-054480).

10. In or around September and October 2015, Ken Locatelli, an agent of Respondent, procured contracts between Ms. _____ and Respondent. Mr. Locatelli was not licensed as a residential builder or maintenance and alterations contractor or as a salesperson under a builder or contractor.

11. Mr. Locatelli had been working for Respondent for approximately three to five years procuring contracts on Respondent's behalf without possessing a license.

12. On or about October 5, 2015, Respondent, through Mr. Locatelli, contracted with Ms. I to perform work on the porch of Ms. home.

13. On or about October 9, 2015, Respondent, through Mr. Locatelli, contracted with Ms. to replace the roof and perform other related work on the roof of Ms. home. As part of this contract, Respondent agreed to install new plywood as decking.

14. Ms. made two payments to Respondent: \$1,935.00 on or about October 5, 2015 and \$4,065.00 on or about October 16, 2015.

15. Respondent failed to pull any building permits for the work performed at Ms. home.

16. Respondent installed Oriented Strand Board (OSB) rather than plywood as the decking for the roof.

17. Respondent failed to complete all the agreed-upon work and the parties mutually agreed to terminate their business relationship on or about October 30, 2015.

18. A Waterford Township Building Inspector, David Hills, inspected the home of Ms.] and identified two violations of the 2009 Michigan Residential Code: failure to obtain a building permit in violation of R105.1 and failure to use clips or blocking with OSB in violation of R804.3.

COUNT I

19. Respondent's conduct, as described above, constitutes the performance of a contract procured by a salesperson not licensed under a builder or contractor and is contrary to Mich Admin Code, R 338.1536, in violation of section 604(c) of the Code.

COUNT II

20. Respondent's conduct, as described above, constitutes a violation of the local building code and is contrary to Mich Admin Code, R 338. 1551(5), in violation of section 604(c) of the Code.

COUNT III

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

COUNT IV

22. Respondent's conduct, as described above, constitutes a deviation from the plans without consent of the owner, in violation of section 2411(2)(d) of the Code.

COUNT V

23. 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, in violation of section 2411(2)(e) 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: May 23, 2017

LF: 2017-0179624-B/Thermal Shield Windows & Construction, Inc, 331440/Formal Complaint – 2017-05-23