

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

THE MONTELL CO LLC  
License No. 21-02-199351  
Respondent.

File No. 21-16-329878

CONSENT ORDER

On September 15, 2017, the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, executed a Formal Complaint charging Respondent with violating the Occupational Code, MCL 339.101 *et seq.*

Respondent neither admits nor denies the allegations in the Complaint but, pursuant to the principle of settlement and compromise, agrees that for purposes of this Order the allegations shall be accepted as true and constitute violation(s) of MCL 339.604(h), MCL 339.2411(2)(e), and MCL 339.2411(2)(h). The Michigan Board of Residential Builders and Maintenance and Alteration Contractors has reviewed this Consent Order and Stipulation and agrees that the public interest is best served by resolution of the outstanding Complaint.

Therefore, IT IS FOUND that the facts alleged in the Complaint constitute violation(s) of MCL 339.604(h), MCL 339.2411(2)(e), and MCL 339.2411(2)(h).

IT IS ORDERED that for the cited violation(s) of the Occupational Code, Respondent is FINED \$1,500.00 to be paid to the State of Michigan within 60 days of the effective date of this Order.

IT IS FURTHER ORDERED that the fine shall be mailed to the **Department of Licensing and Regulatory Affairs, Enforcement Division, 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 **21-16-329878**.

IT IS FURTHER ORDERED that failure to comply with the terms of this Order shall result in **SUSPENSION** of all licenses or registrations held by Respondent under Article 24 of the Occupational Code and in the denial of any license or registration renewal until compliance with this Order.

IT IS FURTHER ORDERED that this Order shall be effective 30 days from the date signed by the Board, as set forth below.

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

By:   
Chairperson

Dated: May 15, 2018

## STIPULATION

1. Respondent neither admits nor denies the alleged violations but, pursuant to the principle of settlement and compromise, agrees that the alleged violations shall be accepted as true for purposes of this Order.

2. The facts alleged in the Complaint constitute violation(s) of MCL 339.604(h), MCL 339.2411(2)(e), and MCL 339.2411(2)(h).

3. Respondent understands and intends that by signing this Stipulation Respondent is waiving the right, pursuant to the Occupational Code, the rules promulgated thereunder, and the Administrative Procedures Act, 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 Respondent is waiving the right to appear with an attorney and such witnesses as Respondent may desire to present a defense to the charges.

4. This matter is a public record required to be published and made available to the public pursuant to the Michigan Freedom of Information Act, MCL 24.231 *et seq.*

5. Factors taken into consideration in the formulation of this Order

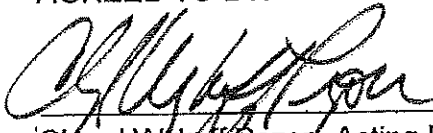
include the following:

Respondent stated it made numerous efforts to satisfy the homeowner, including providing a \$2,500 discount off the contract price and performing additional work that Respondent estimated at more than \$2,000 but, ultimately, Homeowner refused to allow Respondent to make any further repairs.

6. This proposal is conditioned upon acceptance by the Board.

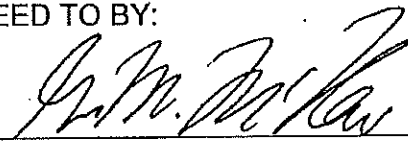
Respondent and the Department expressly reserve the right to further proceedings should this Order be rejected.

AGREED TO BY:

  
Cheryl Wykoff Pezon, Acting Director  
Bureau of Professional Licensing  
Department of Licensing and  
Regulatory Affairs

Dated: 3/29/18

AGREED TO BY:

  
The Montell Co LLC  
Respondent

Dated: 3/22/18

APPROVED AS TO FORM BY:

Aaron L. Davis (P77406)  
Fraser Trebilcock Davis and Dunlap PC  
Attorney for Respondent

STATE OF MICHIGAN  
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FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs, by Kim Gaedeke, Director, Bureau of Professional Licensing, complains against Respondent as follows:

1. The Michigan Board of Residential Builders and Maintenance and Alteration Contractors is an administrative agency established by the Occupational Code, MCL 339.101 *et seq.* Pursuant to MCL 339.602 of the Occupational Code, the Board is empowered to penalize persons for violations of the Occupational Code.
2. Respondent is currently licensed as a residential builder company in the state of Michigan.
3. On October 22, 2014, Respondent entered into a contract with Raymond (Homeowner) to install a new roof on his home for approximately \$13,000.00. A copy of the contract, marked Exhibit A, is attached and incorporated.

4. On March 11, 2015, Respondent entered into another contract with Homeowner to complete additional roofing work. A copy of the contract, marked Exhibit B, is attached and incorporated.

5. On July 11, 2016, the Homeowners filed a Statement of Complaint with the Department.

6. On November 10, 2016, building inspectors from the City of Grand Rapids performed a destructive test on Homeowner's roof and cited the following violations of the 2009 Michigan Residential Code:

- a. Shingle nails were not driven flush per the manufacturer's instructions, contrary to R903.1.
- b. Respondent failed to install the fasteners 6 1/8" from the bottom of the shingle and through the common bond, as required by the manufacturer's instructions, contrary to R903.1.
- c. Respondent failed to install flashing on the outside corner of the front porch sidewall, contrary to R903.2 and R903.2.1.
- d. Respondent installed flashing short of the peak of the roof, contrary to R903.2 and R903.2.8.
- e. Step flashing on the front porch was only two inches in height, contrary to R905.2.8.3.
- f. Respondent failed to fasten the shingles around the front dormers to a solidly sheathed deck, contrary to R905.2.1.
- g. Respondent failed to install the shingles in a "shiplap" manner from the fascia (band under the

roof edge) to the sidewall of the dormer and under the valley, contrary to R905.2.7.

- h. Respondent failed to install the underlayment in a continuous shiplap manner to the sidewall of the dormer and under the eave, contrary to R903.1 and 903.2.1.

A copy of the Destructive Test results, marked Exhibit C, is attached and incorporated.

#### COUNT I

Respondent's conduct, as described above, evidences a failure to maintain standards of construction in accordance with the local building code, contrary to Mich Admin Code, R 338.1551(5), in violation of MCL 339.604(h).

#### COUNT II

Respondent's conduct, as described above, evidences a willful violation of the building laws of this state or of a political subdivision of this state, in violation of MCL 339.2411(2)(e).

#### COUNT III

Respondent's conduct, as described above, evidences a failure to deliver to the purchaser the entire agreement of the parties, in violation of MCL 339.2411(2)(h).

RESPONDENT IS NOTIFIED that, pursuant to MCL 339.508(2), Respondent has 15 days from the date of receipt of this Complaint to notify the Department 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 the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909. If Respondent fails to notify the Department of their decision within 15 days, the Department shall proceed to an administrative hearing.

Date: 09/15, 2017

  
Kim Gaedeke, Director  
Bureau of Professional Licensing

Attachments

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