

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

W.H. CARSON & ASSOCIATES, LLC
License Number: 21-02-184614

and

WILLIAM HARLEY CARSON, JR.
License Number: 21-01-183968

File Numbers: 21-16-328399
21-16-328400

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Complainant) by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against W.H. Carson & Associates, LLC and William Harley Carson, Jr. (Respondents) as follows:

1. The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board) is an administrative agency established by the Occupational Code, 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 W.H. Carson & Associates, LLC is licensed as a residential builder company in the state of Michigan.

3. Respondent William Harley Carson, Jr. is licensed as an individual residential builder and is designated as the qualifying officer of W.H. Carson & Associates, LLC and, pursuant to section 2405(1) the Occupational Code, supra, is responsible for exercising supervision and control over the building and construction operations necessary to secure full compliance with the Occupational Code and the rules promulgated thereunder.

4. In May 2015, Respondents entered into a verbal agreement with (Homeowner) to replace boards on a 23-year-old deck, create a gravel walkway, and install hardwood flooring in Homeowner's home.

5. Respondents failed to provide a written contract to Homeowner that was signed by all parties.

6. Respondents kept unused deck boards and aluminum flashing from the deck project and failed to return them to the store for a refund and reimburse Homeowner.

7. Respondents returned approximately \$400 in unused hardwood flooring to the store and kept the money instead of reimbursing Homeowner.

8. Respondents also overcharged Homeowner approximately \$700 for materials for the gravel walkway project and kept the money instead of reimbursing Homeowner.

9. On January 14, 2016, Homeowners filed a Statement of Complaint.

COUNT I

Respondents' conduct, as described above, evidences a failure to have all agreements and changes to the agreements between a builder, or contractor, and the customer in writing and signed by the parties, contrary to Mich Admin Code, R 338.1533(1), in violation of section 604(h) of the Occupational Code, supra.

COUNT II

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 III

Respondents' conduct, as described above, evidences a failure to account for or remit funds received, in violation of section 2411(2)(c) of the Occupational Code, supra.

Complainant requests that this Complaint be served upon Respondents and that Respondents 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, MCL 24.201 et seq.

Pursuant to section 508(2) of the Occupational Code, supra, Respondents have 15 days from the date of receipt of this Complaint to notify Complainant of Respondents' 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 Respondents' 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 Respondents fail to submit written notification within 15 days, this matter shall proceed to an administrative hearing.

Dated: 11/04/2016



Kim Gaedeke, Director
Bureau of Professional Licensing

Attachment

BCW

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

WILLIAM HARLEY CARSON, JR.
License No. 21-01-183968

File No. 21-16-328400
Docket No. 17-005484

W. H. CARSON & ASSOCIATES L.L.C.
License No. 21-02-184614,
Respondents.

File No. 21-16-328399
Docket No. 17-005483

FINAL ORDER

On November 4, 2016, the Department of Licensing and Regulatory Affairs executed a Formal Complaint charging Respondents with violating MCL 339.604(b), 339.604(h), and 339.2411(2)(c).

An administrative hearing was held in this matter before an administrative law judge who, on May 3, 2017¹, issued Hearing Reports 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 these matters at a regularly scheduled meeting held in Lansing, Michigan on June 13, 2017, and received the administrative law judge's Findings of Fact and Conclusions of Law in the Hearing Reports. Therefore,

¹ The Hearing Reports erroneously indicate May 3, 2016 as the date issued.

IT IS ORDERED that for violating MCL 339.604(b), 339.604(h) and 339.2411(2)(c), Respondents are jointly and severally FINED \$500.00 to be paid to the State of Michigan within six months 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, 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 numbers **21-16-328399 and 21-16-328400**.

IT IS FURTHER ORDERED that Respondents shall jointly and severally pay RESTITUTION in the amount of \$1,100.00 to Marvin Griffin within six months from the effective date of this Order.

IT IS FURTHER ORDERED that Respondents shall submit satisfactory written evidence of payment of the ordered restitution to the **Department of Licensing and Regulatory Affairs, Enforcement Division, Compliance Section, P.O. Box 30670, Lansing, MI 48909**.

IT IS FURTHER ORDERED that failure to pay the fine and restitution within six months from the effective date of this Order, as set forth above, shall result in SUSPENSION of Respondents' licenses to practice as an individual residential builder and a residential builder company in the state of Michigan.

IT IS FURTHER ORDERED that, in accordance with MCL 339.411(3)(c), 339.602(c) and 339.604(k), 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 Respondents violate any provision of this Order, the Board may proceed to take disciplinary action pursuant to MCL 339.604(k).

This Final Order is a public record required to be published and made available to the public pursuant to s the Michigan Freedom of Information Act, MCL 15.231 *et seq.*

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: 07/10/2017

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

By: Kim Gaedeke
Kim Gaedeke, Director
Bureau of Professional Licensing