

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

In the Matter of:

ARTISTIC CONSTRUCTION & DESIGN, LLC Complaint No. 1900450
Residential Building Company
License No. 21-02-213100

and

CRAIG ROSSI Complaint No. 1900449
Individual Residential Builder and
Qualifying Officer for Artistic
Construction & Design, LLC
License No. 21-01-210955

/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on December 2, 2022, alleging Respondents Artistic Construction & Design, LLC and Craig Rossi (referred to collectively as "Respondents," unless otherwise stated) violated sections 604(b), (d), (g), (h), 2404(a), and 2411(2)(e)¹ of the Occupational Code, MCL 339.101 *et seq.*, and Mich Admin Code, R 338.1533(2) and 1551(5).

The parties have stipulated that the Board may enter this consent order. 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.

¹ This document corrects two Occupational Code citations in the formal complaint: (2) was omitted from MCL 339.2411(2)(e) in Count IV and MCL 339.604(g) was omitted from Count V.

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

In the Matter of

BRANDON LEWIS HEITMANN
Residential Builder, Individual
License No. 24-23-00197

Complaint No. 2300616

and

EXIGENT LANDSCAPING, LLC
Residential Builder, Company
License No. 26-23-00279

Complaint No. 2300759

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on March 26, 2024, charging Brandon Lewis Heitmann and Exigent Landscaping, LLC with having violated sections 601(1), 604(b), 604(d), 604(l), 2411(2)(e), 2411(2)(j), 2404a, and 604(h) of the Occupational Code, MCL 339.101 *et seq.*

The parties have stipulated that the Board may enter this consent order.

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.

Therefore, the Board finds that the allegations of fact contained in the formal complaint are true and that Respondents have violated sections 601(1), 604(d), 604(l), 2411(2)(e), 2411(2)(j), 2404a, and 604(h) of the Occupational Code.

Accordingly, for these violations, IT IS ORDERED:

Respondents' licenses are SUSPENDED for a minimum period of six months. The licenses shall be automatically reinstated upon completion of the suspension period, provided Respondents have complied with the terms of this consent order.

If either Respondent's license remains suspended for more than three years, that Respondent will be required to petition for reinstatement of the license in accordance with section 411(5) of the Occupational Code. Under this provision, the applicant must file an application on a form provided by the Department, pay the application processing fee, and file a petition to the Department and the Board stating reasons for reinstatement and including evidence that the person can and is likely to serve the public in the regulated activity with competence and in conformance with all other requirements prescribed by law, rule, or an order of the Department or Board.

Respondents are FINED \$3,500.00, joint and severally, to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 2300616 and 2300759 clearly indicated on the check or money order) and shall be payable within 90 days of the effective date of this order. The timely payment of the fine shall be Respondents' responsibility. The fine shall be mailed to: Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Compliance Division, P.O. Box 30255, Lansing, Michigan 48909.

Count II of the complaint, alleging a violation of section 604(b) of the Occupational Code, is DISMISSED.

Respondents shall direct all communications, except fines, required by the terms of this order to: LARA-BCC-RBS-Compliance@michigan.gov.

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, they will be in violation of section 604(k) of the Occupational Code.

This order shall be effective 30 days from the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on 11-7-24

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

By 
Chairperson

STIPULATION

The parties stipulate as follows:

1. Respondents do not contest the allegations of fact and law in the complaint. Respondents understand that, by pleading no contest, they do not admit the truth of the allegations but agree that the Board may treat the

allegations as true for resolution of the formal complaint and may enter an order treating the allegations as true.

2. The Director of the Bureau of Construction Codes, or his 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, 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, MCL 15.231 *et seq.*

5. The Board may enter the above consent order. An attorney from the Licensing and Regulation Division may discuss this matter with the Board in order to recommend acceptance of this resolution.

6. The parties considered the following factors in reaching this agreement:

- A. Both Respondents have obtained residential builder licenses since the construction of the pool in question.

B. This consent order does not contemplate restitution because Respondents have filed for bankruptcy.

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

AGREED TO BY:

/s/ Jennifer Fitzgerald
Jennifer Fitzgerald (P60109)
Assistant Attorney General
Attorney for Complainant
Dated: June 18, 2024

AGREED TO BY:

[Signature]
Brandon Lewis Heitmann
Exigent Landscaping, LLC
Respondents
Dated: 6/13/2024

[Signature]
Tyler Phillips (P78280)
Yousef M. Farraj (P79760)
Attorneys for Respondents
Dated: 6/14/2024

Bureau of Construction Codes

Approved by:

Andrew Brisbo
Digitally signed by: Andrew Brisbo
DN: cn = Andrew Brisbo email =
abrisbo@michigan.gov C = US O = Bureau
of Construction Codes OU = Director
Date: 2024.06.18 12:54:19 -0400

Andrew Brisbo, Director

6/18/2024

Date

LF: 2023-0382706-B/Exigent Landscaping LLC, 2200769 - 2023-0382708-B/Heitmann, Brandon, 2300616 (Res Bldr)/Consent Order and Stipulation - 2024-06-06

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

In the Matter of

BRANDON LEWIS HEITMANN
Residential Builder, Individual
License No. 24-23-00197

Complaint No. 2300616

and

EXIGENT LANDSCAPING, LLC
Residential Builder, Company
License No. 26-23-00279

Complaint No. 2300759

_____ /

FORMAL COMPLAINT

Assistant Attorney General Jennifer Fitzgerald, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), files this formal complaint against Brandon Lewis Heitmann and Exigent Landscaping, LLC (referred to individually by name or collectively as “Respondents”), alleging upon information and belief as follows:

1. The Board of Residential Builders and Maintenance and Alteration Contractors is an administrative agency established under Article 24 of the Occupational Code (“Code”), MCL 339.101 *et seq.*
2. After receiving a complaint against Respondent, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.

3. Section 601(1) of the Code subjects a person to sanction for engaging or attempting to engage in the practice of an occupation regulated under the Code or for using a title designated in the Code unless the person possesses a license or registration issued by the department for the occupation.

4. Section 604(b) of the Code subjects a person to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.

5. Section 604(d) of the Code subjects a person to sanction for demonstrating a lack of good moral character, which is defined in MCL 338.41 to mean “the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.”

6. Section 604(h) of the Code subjects a person to sanction for violating any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.

7. Section 604(l) of the Code subjects a person to sanction for aiding or abetting another person in the unlicensed practice of an occupation.

8. Section 2411(2)(e) of the Code subjects a licensee or applicant to sanction for a willful violation of the building laws of this state or of a political subdivision of this state.

9. Section 2411(2)(j) of the Code subjects a licensee or applicant to sanction for aiding or abetting an unlicensed person to evade Article 24 of the Code, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person.

10. Section 2404a of the Code requires a licensee, as part of a contract, to include information relating to his individual license and any license issued to that person as a qualifying officer of another entity.

11. Section 10 of the Stille-DeRossett-Hale Single State Construction Act, MCL 125.1501, et seq requires a residential builder or maintenance and alteration contractor who applies for a building permit on behalf of a homeowner to be duly licensed and to include the license number and expiration date of the contractor, builder, or maintenance and alteration contractor who will perform the work in the application.

12. Section 514 of the Code authorizes the Board to assess penalties against licensees based on an administrative law hearings examiner's hearing report.

FACTUAL ALLEGATIONS

13. Respondents are licensed residential builders pursuant to the Code. Respondent Heitman became licensed by the Department on March 28, 2023. Respondent Exigent became licensed by the Department on April 27, 2023. Neither respondent has ever had a maintenance and alteration contractor license issued by the Department.

14. Respondent Heitmann is the qualifying officer for Exigent Landscaping and is responsible for its compliance with the Occupational Code.

15. On May 14, 2021, before they became licensed by the Department, Respondents entered into a construction contract with the owners (Homeowners) of a home on [REDACTED] in Macomb Township, Michigan.

16. Under Article 24 of the Code, Respondents were required to be licensed by the Department as residential builders or maintenance and alteration contractors to perform the work in their contract with the Homeowners.

17. The contract with the Homeowners included a “license number” of 802082183. This number does not correspond to residential builder or maintenance and alteration contractor license numbers issued by the Department. In addition, the contract was signed on behalf of Exigent by an unlicensed salesperson¹ and does not contain information regarding a qualifying officer.

18. To obtain a building permit for the construction, Respondents, or someone on their behalf, submitted an application to Macomb County which stated that another company, which was duly licensed as a residential builder under the Code, was the contractor for the Homeowners’ project.

19. The application, which was dated October 12, 2021, included the other company’s name, license number and expiration date in the spots for “contractor/applicant name,” “builder’s license number,” and “expiration date.”

20. Despite what was stated on the permit application, the other company was not the contractor for the project. Neither it nor its qualified officer performed construction on the project or had a contract with the Homeowners.

¹ Salespersons are required to be licensed under Article 24 of the Code.

21. The building permit was issued to the other company, Construction Contractors, LLC, on October 28, 2021.

22. Despite not being licensed as required by the Code, Respondents received payments from the Homeowners and performed the construction on the [REDACTED] home.

COUNT I

23. Respondents' conduct as described above constitutes engaging or attempting to engage in the practice of an occupation regulated under the Code or for using a title designated in the Code without possessing a license issued by the department for the occupation, in violation of section 601(1) of the Code.

COUNT II

24. Respondents' conduct as described above constitutes fraud, deceit, or dishonesty in practicing an occupation, in violation of section 604(b) of the Code.

COUNT III

25. Respondents' conduct as described above constitutes a lack of good moral character, in violation of section 604(d) of the Code.

COUNT IV

26. Respondents' conduct as described above constitutes aiding and abetting another person in the unlicensed practice of an occupation, in violation of section 604(l) of the Code.

COUNT V

27. Respondents' conduct as described above is contrary to Section 10 of the Stille-DeRossett-Hale Single State Construction Act and 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.

COUNT VI

28. Respondents' conduct as described above constitutes aiding or abetting an unlicensed person to evade Article 24 of the Code, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, in violation of Section 2411(2)(j) of the Code.

COUNT VII

29. Respondents' conduct as described above constitutes failing to include required license information in a contract as required by section 2404a 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, MCL 24.201 *et seq.* and the Occupational Code 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.

Any written response shall be submitted by regular mail to the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, P.O. Box 30254, Lansing, MI 48909 or by email to LARA-BCC-RBS-Compliance@michigan.gov, with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

/s/ Jennifer Fitzgerald
Jennifer Fitzgerald (P60109)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Telephone: (517) 335-7569
Facsimile: (517) 241-1997

Dated: March 26, 2024

LF: 2023-0382708-B/Heitmann, Brandon, 2300616 (Res Bldr)/Formal Complaint – 2024-03-26

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

In the Matter of

BRANDON LEWIS HEITMANN
Residential Builder, Individual
License No. 24-23-00197

Complaint No. 2300623

and

EXIGENT LANDSCAPING, LLC,
Residential Builder, Company
License No. 26-23-00279

Complaint No. 2300622

/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on March 26, 2024, charging Brandon Lewis Heitmann and Exigent Landscaping, LLC with having violated sections 601(1), 604(b), 604(d), 604(l), 2411(2)(e), 2411(2)(j), 2411(2)(m),¹ 2404a, and 604(h) of the Occupational Code, MCL 339.101 *et seq*, and Mich Admin Code, R 338.1551(5).

The parties have stipulated that the Board may enter this consent order. 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. Therefore, the Board finds that the allegations of fact contained in the formal

¹ The legal citation in Count VII of the formal complaint is corrected to 2411(2)(m), rather than 2411(2)(j).

complaint are true and that Respondents have violated sections 601(1), 604(d), 604(l), 2411(2)(e), 2411(2)(j), 2411(2)(m), 2404a, and 604(h) of the Occupational Code, MCL 339.101 *et seq*, and Mich Admin Code, R 338.1551(5).

Accordingly, for these violations, IT IS ORDERED:

Respondents' licenses are SUSPENDED for a minimum period of six months. The licenses shall be automatically reinstated upon completion of the suspension period, provided Respondents have complied with the terms of this consent order.

If either Respondent's license remains suspended for more than three years, that Respondent will be required to petition for reinstatement of the license in accordance with section 411(5) of the Occupational Code. Under this provision, the applicant must file an application on a form provided by the Department, pay the application processing fee, and file a petition to the Department and the Board stating reasons for reinstatement and including evidence that the person can and is likely to serve the public in the regulated activity with competence and in conformance with all other requirements prescribed by law, rule, or an order of the Department or Board.

Respondents are FINED \$3,500.00, joint and severally, to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 2300623 and 2300622 clearly indicated on the check or money order) and shall be payable within 90 days of the effective date of this order. The

timely payment of the fine shall be Respondents' responsibility. The fine shall be mailed to: Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Compliance Division, P.O. Box 30255, Lansing, Michigan 48909.

Count II of the complaint, alleging a violation of section 604(b) of the Occupational Code, is DISMISSED.

Respondents shall direct all communications, except fines, required by the terms of this order to: LARA-BCC-RBS-Compliance@michigan.gov.

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, they will be in violation of section 604(k) of the Occupational Code.

This order shall be effective 30 days from the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on 11-7-27

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

By 
Chairperson

STIPULATION

The parties stipulate as follows:

1. Respondents do not contest the allegations of fact and law in the complaint. Respondents understand that, by pleading no contest, they do not admit the truth of the allegations but agree that the Board may treat the allegations as true for resolution of the formal complaint and may enter an order treating the allegations as true.
2. The Director of the Bureau of Construction Codes, or his 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, 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, MCL 15.231 *et seq.*

5. The Board may enter the above consent order. An attorney from the Licensing and Regulation Division may discuss this matter with the Board in order to recommend acceptance of this resolution.

6. The parties considered the following factors in reaching this agreement:

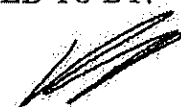
- A. Both Respondents have obtained residential builder licenses since the construction of the pool in question.
- B. This consent order does not contemplate restitution because Respondents have filed for bankruptcy.

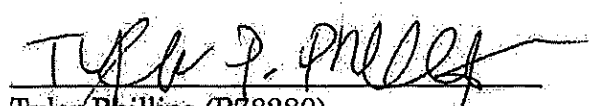
By signing this stipulation, the parties confirm that they have read, understand, and agree with the terms of the consent order.

AGREED TO BY:

/s/ Jennifer Fitzgerald
Jennifer Fitzgerald (P60109)
Assistant Attorney General
Attorney for Complainant
Dated: June 18, 2024

AGREED TO BY:


Brandon Lewis Heitmann
Exigent Landscaping, LLC
Respondents
Dated: 6/13/2024


Tyler Phillips (P78280)
Yousef M. Farraj (P79760)
Attorneys for Respondents
Dated: 6/14/2024

Bureau of Construction Codes
Approved by:

Andrew Brisbo
Digitally signed by Andrew Brisbo
DN: cn = Andrew Brisbo email = brisboe@michigan.gov, c = US o = Bureau of Construction Codes OU = Director
Date: 2024.06.18 12:53:36 -0400
Andrew Brisbo, Director

6/18/2024

Date

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

In the Matter of

BRANDON LEWIS HEITMANN
Residential Builder, Individual
License No. 24-23-00197

Complaint No. 2300623

and

EXIGENT LANDSCAPING, LLC,
Residential Builder, Company
License No. 26-23-00279

Complaint No. 2200622

_____ /

FORMAL COMPLAINT

Assistant Attorney General Jennifer Fitzgerald, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), files this formal complaint against Brandon Lewis Heitmann and Exigent Landscaping, LLC (referred to individually by name or collectively as “Respondents”), alleging upon information and belief as follows:

1. The Board of Residential Builders and Maintenance and Alteration Contractors is an administrative agency established under Article 24 of the Occupational Code (“Code”), MCL 339.101 *et seq.*
2. After receiving a complaint against Respondent, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.

3. Section 601(1) of the Code subjects a person to sanction for engaging or attempting to engage in the practice of an occupation regulated under the Code or for using a title designated in the Code unless the person possesses a license or registration issued by the department for the occupation.

4. Section 604(b) of the Code subjects a person to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.

5. Section 604(d) of the Code subjects a person to sanction for demonstrating a lack of good moral character, which is defined in MCL 338.41 to mean “the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.”

6. Section 604(h) of the Code subjects a person to sanction for violating any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.

7. Section 604(l) of the Code subjects a person to sanction for aiding or abetting another person in the unlicensed practice of an occupation.

8. Section 2411(2)(e) of the Code subjects a licensee or applicant to sanction for a willful violation of the building laws of this state or of a political subdivision of this state.

9. Section 2411(2)(j) of the Code subjects a licensee to sanction for aiding or abetting an unlicensed person to evade Article 24 of the Code, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person.

10. Section 2411(2)(m) of the Code subjects a licensee to sanction for workmanship not meeting the standards of the Michigan Residential Code (MRC) as promulgated under the Stille-DeRossett-Hale Single State Construction Code Act, MCL 125.1501, *et seq.*

11. Section 2404a of the Code requires a licensee, as part of a contract, to include information relating to his individual license and to any license issued to that person as a qualifying officer of another entity.

12. Section 10 of the Stille-DeRossett-Hale Single State Construction Act requires a residential builder or maintenance and alteration contractor who applies for a building permit on behalf of a homeowner to be duly licensed and to include the license number and expiration date of the contractor, builder, or maintenance and alteration contractor who will perform the work in the permit application.

13. Mich Admin Code, R 338.1551(5) requires all construction, renovations, alterations, or repairs to comply with the Michigan construction code.

14. Section 514 of the Code authorizes the Board to assess penalties against licensees based on an administrative law hearings examiner's hearing report.

FACTUAL ALLEGATIONS

15. Respondents are licensed residential builders pursuant to the Code. Respondent Heitmann became licensed by the Department on March 28, 2023. Respondent Exigent became licensed by the Department on April 27, 2023. Neither respondent has ever had a maintenance and alteration contractor license issued by the Department.

16. Respondent Heitmann is the qualifying officer for Exigent Landscaping and is responsible for its compliance with the Occupational Code.

17. On September 30, 2021, before they were licensed by the Department, Respondents entered into a construction contract with the owners (Homeowners) of a home on [REDACTED] in Macomb, Michigan.

18. Under Article 24 of the Code, Respondents were required to be licensed by the Department as residential builders or maintenance and alteration contractors to perform the work in their contract with the Homeowners.

19. The contract with the Homeowners included a “license number” of 802082183 that does not correspond to residential builder or maintenance and alteration contractor license numbers issued by the Department, was signed on behalf of Exigent by an unlicensed salesperson and does not contain information regarding a qualifying officer.

20. To obtain a building permit for the construction, Respondents, or someone on their behalf, submitted a permit application to Macomb County which stated that another company, which was duly licensed as a residential builder under the Occupational Code, was the contractor for the Homeowners’ project

21. The application, which was dated October 6, 2021, included the other company’s name, license number, and expiration date in the spots for “contractor/applicant name,” “builder’s license number,” and “expiration date.” However, the contact email address was for someone at “exigentdesignbuild.com” and the contact phone number was the same number Respondents used on their contract with the Homeowners.

22. Despite what was stated on the permit application, the other company was not the contractor for the project. Neither it nor its qualified officer performed construction on the project, and they did not have a contract with the Homeowners.

23. The building permit was issued to the other company, Construction Contractors, LLC, on October 28, 2021.

24. Despite not being licensed as required by the Code, Respondents received payments from the Homeowners and performed the construction on the [REDACTED] home.

25. A Macomb Township building inspector inspected the construction and found the following deficiencies in violation of Section 305 of the 2015 International Swimming Pool and Spa Code, which is applicable to Michigan via the MRC:

- a. Failure to maintain a 48" approved pool barrier in rear yard
- b. Lack of self-closing, self-latching gate that swing out from the pool.

COUNT I

26. Respondents' conduct constitutes engaging or attempting to engage in the practice of an occupation regulated under this act or for using a title designated in this act without possessing a license issued by the department for the occupation, in violation of section 601(1) of the Code.

COUNT II

27. Respondents' conduct constitutes fraud, deceit, or dishonesty in practicing an occupation, in violation of section 604(b) of the Code.

COUNT III

28. Respondents' conduct constitutes a lack of good moral character, in violation of section 604(d) of the Code.

COUNT IV

29. Respondents' conduct constitutes aiding and abetting another person in the unlicensed practice of an occupation, in violation of section 604(l) of the Code.

COUNT V

30. Respondents' conduct is contrary to Section 10 of the Stille-DeRossett-Hale Single State Construction Act and 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.

COUNT VI

31. Respondents' conduct constitutes aiding or abetting an unlicensed person to evade Article 24 of the Code, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, in violation of Section 2411(2)(j) of the Code.

COUNT VII

32. Respondents' conduct constitutes workmanship not meeting the standards of the Michigan Residential Code as promulgated under the Stille-DeRossett-Hale Single State Construction Code Act Section, in violation of section 2411(2)(j) of the Code.

COUNT VIII

33. Respondents' conduct constitutes failing to include license information in a contract as required by section 2404a of the Code, in violation of section 604(h) of the Code.

COUNT IX

34. Respondents' conduct constitutes construction, renovations, alterations, or repairs that fail to comply with the Michigan construction code, contrary to R 1551(5), and 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, MCL 24.201 *et seq.* and the Occupational Code 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.

Any written response shall be submitted by regular mail to the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, P.O. Box 30254, Lansing, MI 48909 or by email to LARA-BCC-RBS-Compliance@michigan.gov, with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

/s/ Jennifer Fitzgerald
Jennifer Fitzgerald (P60109)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Telephone: (517) 335-7569
Facsimile: (517) 241-1997

Dated: April 9, 2024

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE
ALTERATION CONTRACTORS

In the Matter of

BRANDON D. JACOBSEN
License No. 241900259

Complaint No. 2100842

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on April 21, 2023, charging Brandon D. Jacobsen (Respondent) with having violated sections 604(b), (d), 2411(2)(a), (c) and (j) of the Occupational Code, MCL 339.101 *et seq.*

The parties have stipulated that the Board may enter this consent order. 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. Therefore, the Board finds that the allegations of fact contained in the complaint are true and that Respondent has violated sections 604(b), (d), 2411(2)(a), (c) and (j) of the Occupational Code.

Accordingly, for these violations, IT IS ORDERED:

Respondent's license is SUSPENDED for a period of six months. The license shall be automatically reinstated upon completion of the suspension period.

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 2100842 clearly indicated on the check or money order), and shall be payable within ninety (90) 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: Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Compliance Division, P.O. Box 30255, Lansing, Michigan 48909. If Respondent fails to timely pay this fine, his license shall be suspended until the fine is paid.

Within ninety (90) days of the effective date of this order, Respondent shall pay RESTITUTION in the amount of \$525.15 to BK. Respondent shall mail restitution to BK at the address provided to Respondent in a separate document by the Department or Office of Attorney General, Licensing and Regulation Division at the time he signed this stipulation. Respondent shall submit satisfactory written proof of timely restitution payment to the Department by email to LARA-BCC-RBS-Compliance@michigan.gov.

Respondent shall direct all communications, except fines, required by the terms of this order to: LARA-BCC-RBS-Compliance@michigan.gov.

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 days from the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on 11-7-24

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE AND
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. Respondent does not contest the allegations of fact and law in the complaint. Respondent understands that, by pleading no contest, he does not admit the truth of the allegations but agrees that the Board may treat the allegations as true for resolution of the complaint and may enter an order treating the allegations as true.

3. The Director of the Bureau of Construction Codes, or his designee, must approve this consent order and stipulation before it is submitted to the Board for final approval.

4. 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, 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.

5. 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, MCL 15.231 *et seq.*

6. The Board may enter the above consent order, supported by an attorney from the Licensing and Regulation Division may discuss this matter with the Board in order to recommend acceptance of this resolution.

7. The parties considered the following factors in reaching this agreement:

- A. Respondent's willingness to resolve this matter without a hearing has saved the Bureau time and resources.

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

AGREED TO BY:

Eric M. St. Onge
Eric M. St. Onge (P56630)
Assistant Attorney General
Attorney for Complainant
Dated: June 24, 2024

AGREED TO BY:

[Signature]
Brandon D. Jacobsen
Respondent
Dated: 06-19-24

[Signature]
Christopher J. Acklin (P57453)
Attorney for Respondent
Dated: 6-18-24

Bureau of Construction Codes
Approved by:
Andrew Brisbo
Digitally signed by: Andrew Brisbo
DN: CN = Andrew Brisbo email =
Abrisbo@michigan.gov C = US O = Bureau of
Construction Codes OU = Director
Date: 2024.07.03 09:11:02 -0400
Andrew Brisbo, Director

7/3/2024
Date

LF: 2023-0368291-B/Jacobsen, Brandon D., 2100842 (Res Bldr)/Consent – Order and Stipulation – 2024-06-07

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

In the Matter of

BRANDON D. JACOBSEN
Residential Builder
License No. 241900259

Complaint No. 2100842

FORMAL COMPLAINT

Assistant Attorney General Eric M. St. Onge, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), files this formal complaint against Brandon D. Jacobsen (Respondent), alleging upon information and belief as follows:

1. The Board of Residential Builders and Maintenance and Alteration Contractors is an administrative agency established under Article 24 of the Occupational Code, MCL 339.101 *et seq.*
2. Respondent is currently licensed to practice residential building pursuant to the Code.
3. At all times relative to this formal complaint Lifetime Home Products LLC (hereinafter "Lifetime") was a Residential Builder Company doing business in the State of Michigan.
4. At all times relative to this formal complaint Respondent possessed a Michigan Individual Residential Builder license and was listed as Qualifying Officer for Lifetime Home Products LLC.

5. On February 29, 2012, Tracy Antcliff (hereinafter “Antcliff”) was issued a Michigan Individual Residential Builder license. The license was suspended on August 14, 2014. The license thereafter lapsed-suspended on May 31, 2015.

6. After receiving a complaint against Respondent, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.

7. Section 602 of the Code requires the Board to sanction licensees who have violated the Code.

8. Section 604(b) of the Code subjects a licensee to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.

9. Section 604(d) of the Code subjects a licensee to sanction for demonstrating a lack of good moral character, which is defined in MCL 338.41 to mean “the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.”

10. Section 2411(2)(a) of the Code subjects a licensee to sanction for abandonment without excuse of a contract, construction project or operation engaged in or undertaken by the licensee.

11. Section 2411(2)(c) of the Code subjects a licensee to sanction for failure to account for or remit money coming into the person’s possession that belongs to others.

12. Section 2411(2)(j) of the Code subjects a licensee to sanction for aiding or abetting an unlicensed person to evade this article, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, allowing one's license to be used by an unlicensed person, or acting as or being an

ostensible licensed residential builder or licensed residential maintenance and alteration contractor for an undisclosed person who does or shall control or direct, or who may have the right to control or direct, directly or indirectly, the operations of a licensee

13. Section 514 of the Code authorizes the Board to assess penalties against licensees based on an administrative law hearings examiner's hearing report.

FACTUAL ALLEGATIONS

Homeowners BK and JK

14. BK and JK own a home located in Byron Center, Michigan. On or about July 2, 2020, Lifetime and/or Antcliff entered into a contract with BK and JK for replacement of deck steps. The contract amount was \$8,000.00.

15. On October July 2, 2020, BK and JK provided Lifetime and/or Antcliff with a check for \$4,000.00 as a down payment for the project.

16. Despite the above, Lifetime and/or Antcliff never completed any work on the project and refused to refund BK and JK the \$4,000.00 down payment.

COUNT I

24. Respondent's conduct as described above constitutes demonstrating fraud, deceit, or dishonesty in practicing an occupation, in violation of section 604(b) of the Code.

COUNT II

25. Respondent's conduct as described above constitutes demonstrating a lack of good moral character, contrary to section 604(d) of the Code.

COUNT III

26. Respondent's conduct as described above constitutes abandonment without excuse of a contract, construction project or operation engaged in or undertaken by the licensee, contrary to section 2411(2)(a) of the Code.

COUNT IV

27. Respondent's conduct as described above constitutes failure to account for or remit money coming into the person's possession that belongs to others, contrary to section 2411(2)(c) of the Code.

COUNT V

17. Respondent's conduct as described above constitutes aiding or abetting an unlicensed person to evade this article, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, allowing one's license to be used by an unlicensed person, or acting as or being an ostensible licensed residential builder or licensed residential maintenance and alteration contractor for an undisclosed person who does or shall control or direct, or who may have the right to control or direct, directly or indirectly, the operations of a licensee, contrary to section 2411(2)(j) of the Code.

WHEREFORE, Complainant, Department of Licensing and Regulatory Affairs, hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, MCL 24.201 *et seq.* and the Occupational Code 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.

Any written response shall be submitted by regular mail to the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, P.O. Box 30254,

Lansing, MI 48909 or by email to LARA-BCC-RBS-Compliance@michigan.gov, with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

/s/ Eric M. St. Onge
Eric M. St. Onge (P56630]
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Telephone: (517) 335-7569
Facsimile: (517) 241-1997

Dated: April 21, 2023

LF: 2023-0368291-B/Jacobsen, Brandon D., 2100842 (Res Bldr)/Complaint – Formal – 2023-04-20

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE ALTERATION
CONTRACTORS

In the Matter of

CONSTRUCTION CONTRACTORS, LLC
Residential Builder Company
License No. 21-02-207012

Complaint No. 2200757

And

HENRY GIRARD BELL
Residential Builder
License No. 21-01-060064

Complaint No. 2200758

_____/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on September 20, 2023, alleging Construction Contractors, LLC and Henry Girard Bell (collectively referred to as "Respondents," unless otherwise specified) with having violated sections 604(b), (d), (l), 2411(2)(e), and (2)(j) of the Occupational Code, MCL 339.101 *et seq.*

The parties have stipulated that the Board may enter this consent order. 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. Therefore, the Board finds that the allegations of fact contained in the complaint are true and that Respondents have violated sections 604(l) and 2411(2)(j) of the Occupational Code.

Accordingly, for these violations, IT IS ORDERED:

1. Respondents are FINED \$2,500, joint and several, to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 2200757 and 2200758 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 Respondents' responsibility. Respondents shall mail the fine to: Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Compliance Division, P.O. Box 30255, Lansing, Michigan 48909. If Respondents fail to timely pay this fine, their licenses shall be suspended until the fine is paid.

2. Counts I, II, and IV of the complaint, alleging a violation of sections 604(b), (d), and 2411(2)(e) of the Occupational Code, are DISMISSED.

3. Respondents shall direct all communications, except fines, required by the terms of this order to: LARA-BCC-RBS-Compliance@michigan.gov.

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

5. 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.

6. 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.

7. This order shall be effective 30 days from the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on 11-7-21

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

By  _____
Chairperson

STIPULATION

8. Respondents do not contest the allegations of fact and law in the complaint. Respondents understand that, by pleading no contest, Respondents do not admit the truth of the allegations but agree that the Board may treat the allegations as true for resolution of the complaints and may enter an order treating the allegations as true.

9. The Director of the Bureau of Construction Codes, or his designee, must approve this consent order and stipulation before it is submitted to the Board for final approval.

10. Respondents understand and intend that, by signing this stipulation, Respondents are waiving the right under the Occupational Code, rules promulgated under the Occupational Code, 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 to present a defense to the charges. Should the Board reject the proposed consent order, the parties reserve the right to proceed to hearing.

11. 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, MCL 15.231 *et seq.*

12. The Board may enter the above consent order. An attorney from the Licensing and Regulation Division may discuss this matter with the Board in order to recommend acceptance of this resolution.

13. The parties considered the following factors in reaching this agreement:

- A. Respondent Bell has been licensed since 1981 without any prior disciplinary actions.
- B. Respondent Construction Contractors, LLC has been licensed since 2014 without any prior disciplinary actions.
- C. Respondents' willingness to resolve this matter without a hearing has saved the Bureau time and resources.

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

AGREED TO BY:

/s/ Jennifer Fitzgerald
Jennifer Fitzgerald (P60109)
Assistant Attorney General
Attorney for Complainant
Dated: August 12, 2024

AGREED TO BY:

Jenny Bell w/p
Construction Contractors, LLC
Respondent
Dated: 8/12/24

Henry Bell
Henry Gilard Bell
Respondent
Dated: 8-12-24

Goran Antovski
Goran Antovski (P# 75898)
Attorney for Respondents
Dated: 8-12-24

Bureau of Construction Codes

Approved by:

Andrew Brisbo

Digitally signed by: Andrew Brisbo
DN: CN = Andrew Brisbo email =
abisbo@michigan.gov C = US O = Bureau
of Construction Codes OU = Director
Date: 2024.08.12 18:08:01 -0400

8/12/2024

Andrew Brisbo, Director

Date

LB: 2023-0382701-B/Construction Contractors, LLC, 2200757/revise Consent Order and Stipulation - 2024-08-08

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

In the Matter of

CONSTRUCTION CONTRACTORS, LLC
Residential Builder Company
License No. 21-02-07012

Complaint No. 2200757

And

HENRY GIRARD BELL
Residential Builder
License No. 21-01-060064

Complaint No. 2200758

FORMAL COMPLAINT

Assistant Attorney General Jennifer Fitzgerald, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), files this formal complaint against Respondents Construction Contractors, LLC and Henry Bell (referred to individually by name or collectively as “Respondents”), alleging upon information and belief as follows:

1. The Board of Residential Builders and Maintenance and Alteration Contractors is an administrative agency established under Article 24 of the Occupational Code, MCL 339.101 *et seq.*

2. Respondent Bell is individually licensed to practice as a residential builder pursuant to the Code. Respondent Construction Contractors, LLC is licensed to practice as a residential builder-company.

3. At all relevant times to the complaint, both Respondents were duly licensed, and Respondent Bell was Respondent Construction Contractors, LLC’s qualified officer. As such, he was responsible for its compliance with the Code.

4. After receiving a complaint against Respondents, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.

5. Section 604(b) of the Code subjects a licensee to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.

6. Section 604(d) of the Code subjects a licensee to sanction for demonstrating a lack of good moral character, which is defined in MCL 338.41 to mean “the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.”

7. Section 604(l) of the Code subjects a licensee to sanction for aiding or abetting another person in the unlicensed practice of an occupation.

8. 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.

9. Section 2411(2)(j) of the Code subjects a licensee to sanction for aiding or abetting an unlicensed person to evade Article 24 of the Code, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, allowing one's license to be used by an unlicensed person, or acting as or being an ostensible licensed residential builder or licensed residential maintenance and alteration contractor for an undisclosed person who does or shall control or direct, or who may have the right to control or direct, directly or indirectly, the operations of a licensee.

10. Section 10 of the Stille-DeRossett-Hale Single State Construction Act., MCL 125.1501, *et seq* requires a residential builder or maintenance and alteration contractor who applies for a building permit on behalf of a homeowner to be duly

licensed and to include the license number and expiration date of the contractor, builder, or maintenance and alteration contractor who will perform the work.

11. Section 514 of the Code authorizes the Board to assess penalties against licensees based on an administrative law hearings examiner's hearing report.

FACTUAL ALLEGATIONS

12. Under section 601(1) of the Code, a valid license issued by the Michigan Department of Licensing and Regulatory Affairs is required to engage or attempt to engage as a contractor, residential builder, or maintenance and alteration contractor.

13. On or about October 12, 2021, Respondent Bell applied for and obtained a building permit from Macomb Township, Michigan for the construction of an in-ground swimming pool located at 50639 Cheltenham Dr, in Macomb, Michigan.

14. On the permit application, Bell represented that Respondent Construction Contractors, LLC, was the contractor for the project and included its license number and expiration date in the spot for "builder's license number" and "expiration date."

15. Despite what Respondent Bell stated on the permit application, Respondent Construction Contractors, LLC was not the contractor for the project. Neither Respondent was involved in the project, nor did they have a contract with the homeowner.

16. Exigent Landscaping, LLC and its owner, Brandon Heitmann, were the contractors for the project and performed the work. However, neither

Heitmann nor Exigent had Michigan-issued residential builder or maintenance and alteration contractor licenses when they entered the contract with the homeowner and performed the work.

17. Respondent Bell intentionally applied for the permit using Respondent Construction Contractors, LLC's name and information to evade section 10 of the Stille-DeRossett-Hale Single State Construction Act., MCL 125.1501, *et seq.* Under this section, Heitmann and Exigent could not have obtained a permit because they were not licensed.

COUNT I

18. Respondents' conduct as described above constitutes fraud, deceit, or dishonesty in practicing an occupation, in violation of section 604(b) of the Code.

COUNT II

19. Respondents' conduct as described above constitutes a lack of good moral character, in violation of, in violation of section 604(d) of the Code.

COUNT III

20. Respondents' conduct as described above constitutes aiding or abetting another person in the unlicensed practice of an occupation, in violation of section 604(l) of the Code.

COUNT IV

21. Respondents' 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.

COUNT V

22. Respondents' conduct as described above constitutes aiding or abetting an unlicensed person to evade Article 24 of the Code, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, and allowing one's license to be used by an unlicensed person, in violation of section 2411(2)(j) of the Code.

WHEREFORE, Complainant, Department of Licensing and Regulatory Affairs, hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, MCL 24.201 *et seq.* and the Occupational Code 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.

Any written response shall be submitted by regular mail to the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, P.O. Box 30254, Lansing, MI 48909 or by email to LARA-BCC-RBS-Compliance@michigan.gov, with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

/s/ Jennifer Fitzgerald
Jennifer Fitzgerald (P60109)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Telephone: (517) 582-4256
Facsimile: (517) 241-1997

Dated: September 20, 2023

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

In the Matter of

CONSTRUCTION CONTRACTORS, LLC
Residential Builder Company
License No. 21-02-207012

Complaint No. 2200833

And

HENRY GIRARD BELL
Residential Builder
License No. 21-01-060064

Complaint No. 2200834

_____/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on September 22, 2023, alleging Construction Contractors, LLC and Henry Girard Bell (collectively referred to as "Respondents," unless otherwise specified) with having violated sections 604(b), (d), (l), 2411(2)(e), and (2)(j) of the Occupational Code, MCL 339.101 *et seq.*

The parties have stipulated that the Board may enter this consent order. 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. Therefore, the Board finds that the allegations of fact contained in the complaint are true and that Respondents have violated sections 604(l) and 2411(2)(j) of the Occupational Code.

Accordingly, for these violations, IT IS ORDERED:

1. Respondents are FINED \$2,500, joint and several, to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 2200833 and 2200834 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 Respondents' responsibility. Respondents shall mail the fine to: Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Compliance Division, P.O. Box 30255, Lansing, Michigan 48909. If Respondents fail to timely pay this fine, their licenses shall be suspended until the fine is paid.

2. Counts I, II, and IV of the complaint, alleging a violation of sections 604(b), (d), and 2411(2)(e) of the Occupational Code, are DISMISSED.

3. Respondents shall direct all communications, except fines, required by the terms of this order to: LARA-BCC-RBS-Compliance@michigan.gov.

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

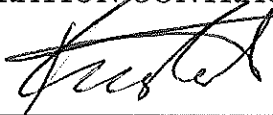
5. Respondents shall be responsible for the timely compliance with the terms of this consent order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this order.

6. 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.

7. This order shall be effective 30 days from the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on 11-9-24

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

By 
Chairperson

STIPULATION

8. Respondents do not contest the allegations of fact and law in the complaint. Respondents understand that, by pleading no contest, Respondents do not admit the truth of the allegations but agrees that the Board may treat the allegations as true for resolution of the complaints and may enter an order treating the allegations as true.

9. The Director of the Bureau of Construction Codes, or his designee, must approve this consent order and stipulation before it is submitted to the Board for final approval.

10. Respondents understand and intend that, by signing this stipulation, Respondents are waiving the right under the Occupational Code, rules promulgated under the Occupational Code, 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 to present a defense to the charges. Should the Board reject the proposed consent order, the parties reserve the right to proceed to hearing.

11. 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, MCL 15.231 *et seq.*

12. The Board may enter the above consent order. An attorney from the Licensing and Regulation Division may discuss this matter with the Board in order to recommend acceptance of this resolution.

13. The parties considered the following factors in reaching this agreement:

- A. Respondent Bell has been licensed since 1981 without any prior disciplinary actions.
- B. Respondent Construction Contractors, LLC has been licensed since 2014 without any prior disciplinary actions.
- C. Respondents' willingness to resolve this matter without a hearing has saved the Bureau time and resources.

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

AGREED TO BY:

/s/ Jennifer Fitzgerald
Jennifer Fitzgerald (P60109)
Assistant Attorney General
Attorney for Complainant
Dated: August 12, 2024

AGREED TO BY:


Construction Contractors, LLC
Respondent

Dated: 8/12/24

Henry Bell w/p

Henry Girard Bell

Respondent

Dated: 8-12-24

Goran Antovski (P 75898)

Attorney for Respondents

Dated: 8-12-24

Bureau of Construction Codes

Approved by:

Andrew Brisbo

Digitally signed by: Andrew Brisbo
DN: CN = Andrew Brisbo email =
brisbo@michigan.gov C = US O = Bureau
of Construction Codes OU = Director
Date: 2024.08.12 16:05:34 -04'00'

8/12/2024

Andrew Brisbo, Director

Date

LR: 2023-0832712-B/Construction Contractors, LLC, 2200833/reviced Consent Order and Stipulation - 2024-08-08

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

In the Matter of

CONSTRUCTION CONTRACTORS, LLC
Residential Builder Company
License No. 21-02-07012

Complaint No. 2200833

And

HENRY BELL
Residential Builder
License No. 21-01-060604

Complaint No. 2200834

_____ /

FORMAL COMPLAINT

Assistant Attorney General Jennifer Fitzgerald, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), files this formal complaint against Respondents Construction Contractors, LLC and Henry Bell (referred to individually by name or collectively as “Respondents”), alleging upon information and belief as follows:

1. The Board of Residential Builders and Maintenance and Alteration Contractors is an administrative agency established under Article 24 of the Occupational Code, MCL 339.101 *et seq.*

2. Respondent Bell is individually licensed to practice as a residential builder pursuant to the Code. Respondent Construction Contractors, LLC is licensed to practice as a residential builder-company.

3. At all relevant times to the complaint, both Respondents were duly licensed, and Respondent Bell served as the qualifying officer for Respondent Construction Contractors, LLC, and as such, was responsible for its compliance with the Code.

4. After receiving a complaint against Respondents, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.

5. Section 604(b) of the Code subjects a licensee to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.

6. Section 604(d) of the Code subjects a licensee to sanction for demonstrating a lack of good moral character, which is defined in MCL 338.41 to mean “the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.”

7. Section 604(l) of the Code subjects a licensee to sanction for aiding or abetting another person in the unlicensed practice of an occupation.

8. 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.

9. Section 2411(2)(j) of the Code subjects a licensee to sanction for aiding or abetting an unlicensed person to evade Article 24 of the Code, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, allowing one's license to be used by an unlicensed person, or acting as or being an ostensible licensed residential builder or licensed residential

maintenance and alteration contractor for an undisclosed person who does or shall control or direct, or who may have the right to control or direct, directly or indirectly, the operations of a licensee.

10. Section 10 of the Stille-DeRossett-Hale Single State Construction Act., MCL 125.1501, *et seq*, requires a residential builder or maintenance and alteration contractor who applies for a building permit on behalf of a homeowner to be duly licensed and to include the license number and expiration date of the contractor, builder, or maintenance and alteration contractor who will perform the work.

11. Section 514 of the Code authorizes the Board to assess penalties against licensees based on an administrative law hearings examiner's hearing report.

FACTUAL ALLEGATIONS

12. Under section 601(1) of the Code, a valid license issued by the Michigan Department of Licensing and Regulatory Affairs is required to engage or attempt to engage as a contractor, residential builder, or maintenance and alteration contractor.

13. On or about October 6, 2021, Respondent Bell applied for (and later received) a building permit from Macomb Township, Michigan for the construction of an in-ground swimming pool located at 22162 Chaucer Court in Macomb, Michigan.

14. On the permit application, Bell represented that Respondent Construction Contractors, LLC, was the contractor for the project and included its

license number and expiration date in the spot for “builder’s license number” and “expiration date.”

15. Despite what Respondent Bell stated on the permit application, Respondent Construction Contractors, LLC was not the builder for the project. Neither Respondent was involved in the project, nor did they have a contract with the homeowner to construct the pool.

16. Exigent Landscaping, LLC and its owner, Brandon Heitmann, were actually the contractors for the project and performed the construction. However, neither Heitmann nor Exigent held Michigan-issued residential builder or maintenance and alteration contractor licenses when Bell applied for the permit or when the work was performed.

17. Respondent Bell intentionally applied for the permit using Respondent Construction Contractors, LLC’s name and information to evade section 10 of the Stille-DeRossett-Hale Single State Construction Act., MCL 125.1501, *et seq.* Under this section, Heitmann and Exigent could not have obtained a permit because they were not licensed.

COUNT I

18. Respondents’ conduct as described above constitutes fraud, deceit, or dishonesty in practicing an occupation, in violation of section 604(b) of the Code.

COUNT II

19. Respondents’ conduct as described above constitutes a lack of good moral character, in violation of, in violation of section 604(d) of the Code.

COUNT III

20. Respondents' conduct as described above constitutes aiding or abetting another person in the unlicensed practice of an occupation, in violation of section 604(l) of the Code.

COUNT IV

21. Respondents' 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.

COUNT V

22. Respondents' conduct as described above constitutes aiding or abetting an unlicensed person to evade Article 24 of the Code, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, and allowing one's license to be used by an unlicensed person, in violation of section 2411(2)(j) of the Code.

WHEREFORE, Complainant, Department of Licensing and Regulatory Affairs, hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, MCL 24.201 *et seq.* and the Occupational Code 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.

Any written response shall be submitted by regular mail to the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, P.O. Box 30254,

Lansing, MI 48909 or by email to LARA-BCC-RBS-Compliance@michigan.gov, with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

/s/ Jennifer Fitzgerald
Jennifer Fitzgerald (P60109)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Telephone: (517) 582-4256
Facsimile: (517) 241-1997

Dated: September 22, 2023

LF: 2023-0382719-B / Bell, Henry Girard, 2200834 (Res Bldr) / Formal Complaint / 2023-08-23

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE AND ALTERATION CONTRACTORS

In the Matter of

DANIEL D. BARBER
License No. 21-01-143147,
Respondent.

Complaint No. COMPL-LIC 337279¹

CONSENT ORDER

On March 4, 2019, the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Department) executed a Formal Complaint alleging that Respondent violated the Occupational Code.

Respondent admits acting contrary to Admin Code, R 338.1551(5), in violation of MCL 339.604(h).

The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board) has reviewed this Consent Order and Stipulation and agrees that the public interest is best served by resolution of the Formal Complaint as set forth herein.

Therefore, IT IS FOUND that Respondent acted contrary to Admin Code, R 338.1551(5) in violation of MCL 339.604(h). Respondent has acted in violation of the Occupational Code, constituting grounds for the assessment of a penalty, or penalties, as prescribed in MCL 339.602.

Accordingly, IT IS ORDERED that Respondent shall pay a FINE in the amount of \$1,000.00, to be paid to the State of Michigan within 60 days of the mailing date of this Order.

¹ Change in complaint numbering format due to new licensing and complaint database system.

The fine shall be mailed to the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Licensing and Compliance Division, Compliance Section, P.O. Box 30254, Lansing, MI 48909. The fine shall be paid by bank cashier check (check) or money order, made payable to the State of Michigan, and the check or money order shall clearly display the complaint number: COMPL-LIC 337279.

IT IS FURTHER ORDERED that pursuant to MCL 339.604(k), failure to comply with the terms of this Order shall result in a 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 or relicensure until compliance with this Order.

IT IS FURTHER ORDERED that this Order shall be effective on the date of mailing to Respondent.

MICHIGAN BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE AND ALTERATION CONTRACTORS

By: 
Chairperson (or Designee)

Dated: 11-7-24

STIPULATION

1. On February 19, 2018, Respondent, on behalf of Homeowner Services of Michigan LLC, entered into a contract with Dennis and Stephanie Christman (Homeowner) to remove an existing deck and to construct a 12 x 12 deck for a cost of \$3,400.00. At the time of the execution of the contract and the performance of the construction activities, Homeowner Services of Michigan LLC did not possess a builder company license.

2. On or about December August 8, 2018, the Department received a Statement of Complaint filed by the Homeowner, alleging that the deck was not constructed properly, and that Respondent did not obtain a required Building Permit. The Department conducted an investigation of the Complaint.

3. On December 12, 2019, the Department received a Violation Notice from the Washtenaw County Building Inspection Department confirming that the deck was constructed without obtaining a Building Permit, as required by Michigan Residential Code (MRC) R 105.1; and without the inspections, as required by MRC R 109.1 and 109.4.

4. After the issuance of the Formal Complaint, Respondent requested to participate in the Compliance Conference process and Respondent was allowed an opportunity to take corrective actions regarding the violations alleged in the Formal Complaint.

5. On or about August 7, 2019, Homeowner Services of Michigan LLC obtained a builder company license (21-02-222633), and Respondent was designated as the Qualifying Officer.

6. On or about September 24, 2020, Respondent submitted applications for a Zoning Land Use Permit and a Building Permit, which were issued on October 5, 2020. A Footing Inspection and a Final Inspection were completed and approved on October 22, 2020. Accordingly, Respondent corrected the building code violations regarding the failure to obtain a Building Permit and the failure to obtain the inspection approvals.

7. Respondent admits to the alleged violation of the Occupational Code in Count 1 of the Formal Complaint:

COUNT I: Failure to maintain standards of construction in accordance with the Michigan Residential Code, contrary to Admin Code, R 338.1551(5), in violation of MCL 339.604(h).

8. Alleged violations in Counts II and III are dismissed based upon corrective actions undertaken by Respondent, as well as pursuant to the principle of settlement and compromise:

COUNT II: A willful violation of the state building laws, in violation of MCL 339.2411(2)(e).

COUNT III: Acting as agent, partner, or associate for an unlicensed person (entity), in violation of MCL 339.2411(2)(j).

9. Department licensure records indicate that Respondent was issued an individual builder license effective February 18, 1998, and the license is active with an expiration of May 31, 2022. This is the first Formal Complaint and disciplinary action against Respondent's license. Homeowner Services of Michigan LLC obtained a builder company license (21-02-222633) effective August 7, 2019, with an expiration of May 31, 2022.

10. Respondent understands that in the future event that Respondent is found to be in violation of the Occupational Code and associated administrative rules, it is Department policy to pursue increased disciplinary sanctions.

11. 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 allegations set forth in the Formal Complaint by presentation of evidence and legal authority, and Respondent is waiving the right to appear with an attorney and witnesses to present a defense to the allegations.

12. 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 15.231 *et seq.*

13. This Consent Order and Stipulation is approved as to form and substance by Respondent and the Department and may be entered as the final order of the Board in this matter.

14. This proposal is conditioned upon acceptance by the Board, Respondent, and the Department, expressly reserving the right to further proceedings without prejudice should this Consent Order and Stipulation be rejected.

AGREED TO BY:

Keith E. Lambert
Keith E. Lambert, Director
Bureau of Construction Codes
Department of Licensing and Regulatory Affairs

Dated: 3-24-2021

AGREED TO BY:

Daniel D. Barber
Daniel D. Barber, Respondent

Dated: January 8, 2021

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND ALTERATION
CONTRACTORS

In the Matter of

DANIEL D. BARBER,
License No. 21-01-143147,
Respondent.

File No. 21-18-337279

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, 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, the Board is empowered to penalize persons for violations of the Occupational Code.
2. Respondent is currently licensed as an individual residential builder in the state of Michigan.
3. On February 19, 2018, Respondent entered into a contract with Stephanie Christman (Homeowner) to build a deck for \$3,400.00. Respondent entered into the contract on behalf of Homeowner Services of Michigan LLC, which is an unlicensed builder company in the state of Michigan. A copy of the contract, marked Exhibit A, is attached and incorporated.

4. Respondent admitted to the Department's investigator that he failed to pull a permit for the job.

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 aiding or abetting an unlicensed person to evade this article, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, in violation of MCL 339.2411(2)(j).

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 Construction Codes, Department of Licensing and Regulatory Affairs, P.O. Box 30254, 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: March 14, 2019


Dianne Barmes, Manager
Licensing and Compliance Division
Bureau of Construction Codes

Attachment
BB

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE ALTERATION
CONTRACTORS

In the Matter of

KENNETH MEIGS
License No. 21-01-141686

Complaint No. COMPL-LIC 339990

_____/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on November 21, 2022, charging Kenneth Meigs (Respondent) with having violated sections 604(h) and (g) of the Occupational Code, MCL 339.101 *et seq.* and Mich Admin Code, R 338.1533(1), 1551(2), and (5).

The parties have stipulated that the Board may enter this consent order. 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. Therefore, the Board finds that the allegations of fact contained in the complaint are true and that Respondent has violated sections 604(h) and (g) of the Occupational Code and Mich Admin Code, R 338.1533(1), 1551(2), and (5).

Accordingly, for these violations, IT IS ORDERED:

Respondent is FINED Three Thousand and 00/100 Dollars (\$3,000.00) to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint number COMPL-LIC 339990 clearly indicated on the check or money order) and shall be payable within 180 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: Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Compliance Division, P.O. Box 30255, Lansing, Michigan 48909. If Respondent fails to timely pay this fine, his license shall be suspended until the fine is paid.

Within 180 days of the effective date of this order, Respondent shall pay RESTITUTION in the amount of Five Thousand and 00/100 Dollars (\$5,000.00) to MWW. Respondent shall mail restitution to MWW at the address provided to Respondent in a separate document by the Department or Office of Attorney General, Licensing and Regulation Division at the time he signed this stipulation. Respondent shall submit satisfactory written proof of timely restitution payment to the Department by email to LARA-BCC-RBS-Compliance@michigan.gov.

Respondent shall direct all communications, except fines, required by the terms of this order to: LARA-BCC-RBS-Compliance@michigan.gov.

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

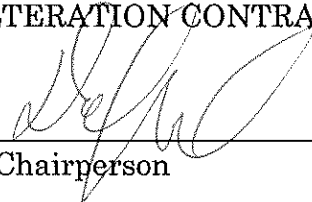
Respondent shall be responsible for the timely compliance with the terms of this consent order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this order.

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 days from the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on _____

MICHIGAN BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND 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 Construction Codes, or his 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, 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, MCL 15.231 *et seq.*

5. The Board may enter the above consent order, supported by Board conferee Kenneth Stahl. Mr. Stahl 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. Stahl and the parties considered the following factors in reaching this agreement:

- A. Respondent renewed his lapsed license in 2023.
- B. Respondent has been licensed since 1997 without any known prior disciplinary actions.
- C. Respondent's willingness to resolve this matter without a hearing has saved the Bureau time and resources.

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

AGREED TO BY:

/s/ Adam G. Masserang

Adam G. Masserang (P76520)

Assistant Attorney General
Attorney for Complainant

Dated: 07/15/2024

Bureau of Construction Codes
Approved by:

Andrew Brisbo, Director

AGREED TO BY:


Kenneth Meigs
Respondent

Dated: 7/12/2024

Date

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE AND ALTERATION CONTRACTORS

In the Matter of

KENNETH MEIGS
License No. 21-01- 141686

COMPL-LIC 339990

Respondent _____ /

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs, Bureau of Construction Codes complaint against KENNETH MEIGS (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.

FACTUAL ALLEGATIONS

2. According to residential builder licensing records maintained by the Department, Respondent Kenneth Meigs was issued a residential builder individual license (21-01-141686), effective October 30, 1997; the license was active through May 31, 2022, when the license expired. A copy of the Verification of Licensure, marked Exhibit 1, is attached and incorporated.

3. On or about November 2018, Respondent Kenneth Meigs entered into an agreement with [REDACTED] (Homeowner) to provide all material and labor required to remove the existing sheathing and shingle roof and install a new sheathing and shingle roof on his home located at [REDACTED] Ave Roscommon, MI 48653, for a total cost of \$22,500. The written agreement was not signed by both parties. A copy of the Agreement, marked Exhibit 2, is attached and incorporated.

4. The Contractor's name was listed as "Ken Meigs Builders." According to business entity records maintained by the Michigan Department of Licensing and Regulatory Affairs, Corporations, Securities and Commercial Licensing Bureau, Ken Meigs Builders is not a registered business entity. Therefore, Ken Meigs Builders does not meet the definition of a person provided in the Occupational Code and licensure is not required.

5. On November 27, 2018, and December 19, 2018, Respondent received two (2) payments from the Homeowner, totaling \$21,500.00 in accordance with the payment schedule outlined in the agreement. A copy of Payments, marked Exhibit 3, are attached, and incorporated.

6. Kenneth Meigs commenced construction work on or about November 2018; and last date of work performed by Kenneth Meigs was on or about December 2018.

7. Prior to completion of the project, the Homeowner had concerns regarding the quality of construction by Kenneth Meigs. Inspections were completed by the Township of Lyon; the Building Inspection Report for an inspection completed on November 07, 2021 cited multiple code violations that had still not been resolved since the construction was completed in 2018. The following violations of the 2015 Michigan Residential Building Code were noted:

- a) Sheathing repair performed with no permit – R105.1
- b) Exhaust boots too close to Valley - R703.4
- c) Insulation Blown into vents/obstruction – R806.1/806.3
- d) Exposed Nails/poor installation – R905.2.1
- e) Ice and water not adhered to sheathing – R905.2
- f) No double layer of Underlayment – R905.1.1

A copy of the Building Inspection Report, marked Exhibit 4, is attached, and incorporated.

8. On April 08, 2019, the Department received a Statement of Complaint, filed by the Homeowner, alleging in part, multiple building code violations. An excerpted copy of the Statement of Complaint, marked Exhibit 5, is attached and incorporated.

9. On or about May 8, 2019, the Department mailed a Notice to Respondent and Proof of Service to the address on record for Kenneth Meigs, requesting a response in writing by May 29, 2019 to confirm or deny the justification of the complaint. The Respondent failed to respond in writing to the complaint.

ALLEGED VIOLATIONS

COUNT I

Respondent failed to make certain that all agreements between a builder, or contractor, and the customer were in writing and signed by the parties of all agreements, and that copies of all agreements were in writing, and provided to the customer, contrary to Mich Admin Code, R 338.1533(1), in violation of MCL 339.604(h).

COUNT II

Respondent's conduct evidences a failure to maintain standards of construction in compliance with the Michigan Residential Code, contrary to Mich Admin code, R 338.1551 (5), in violation of MCL 339.604(h).

COUNT III

Respondent's conduct by, 1) failing to obtain a required Building Permit; and 2) failing to request the required Inspections, evidences incompetence,^[1] in violation of MCL 339.604 (g).

[1] MCL 339.104(9) provides "Incompetence" means a departure from, or failure to conform to, minimal standards of acceptable practice for an occupation.

COUNT IV

Respondent failed to respond to the department within 15 days from receipt of the complaint and failed to confirm or deny the justification of the complaint, contrary to Mich Admin Code, R 338.1551(2), in violation of MCL 339.604(h).

COMMENCEMENT OF ADMINISTRATIVE PROCEEDING

The Department hereby commences a proceeding pursuant to the Administrative Procedures Act, MCL 24.201 *et seq*, and the Occupational Code, to determine whether disciplinary action should be taken by the Department and the Michigan Board of Residential Builders and Maintenance and Alteration Contractors.

Respondent is hereby notified that, pursuant to MCL 339.508(2), Respondent has 15 days from the date of receipt of this Formal 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 a formal administrative hearing. Written notification of Respondent's selection shall be submitted to the Bureau of Construction Codes, Department of Licensing and Regulatory Affairs, P.O. Box 30254, Lansing, MI 48909. If Respondent fails to notify the Department of his decision within 15 days, the Department will proceed with the prosecution of the Formal Complaint and will request the scheduling of a formal administrative hearing by the Michigan Office of Administrative Hearings and Rules (MOAHR). A Notice of Formal Complaint and Compliance Election Form is included with this Formal Complaint.

Date: November 21, 2022

Stella Cortez for Felicia Badger

Felicia Badger, Manager
Residential Builder Section
Bureau of Construction Codes
Department of Licensing and Regulatory Affairs

Attachment -Exhibits

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES

DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS,
BUREAU OF CONSTRUCTION CODES

Complainant,

v

MILLER GARAGE BUILDING COMPANY INC.
License No. 21-02-111719

Complaint No. 339276
Docket No. 24-003422

AND

HOWARD W. JOHNSON
License No. 21-01-132840

Complaint No. 2200932
Docket No. 24-003421

Respondents

_____ /

FINAL ORDER

The Michigan Board of Residential Builders and Maintenance & Alteration Contractors ("Board"), having reviewed the administrative record, considered this matter at a regularly scheduled meeting held in Lansing, Michigan on November 7, 2024, and considered the Finding of Facts and Conclusions of Law in the Hearing Report of Lindsay Wilson, Administrative Law Judge, dated March 7, 2024.

IT IS ORDERED that for violating MCL 339.604 (b) and (d); and MCL 339.2411 (2)(a) and (c), Respondents are jointly and severally liable to pay a FINE in the amount of TEN THOUSAND dollars and 00/100 (\$10,000.00) within ninety (90) days of the effective date of this Order, and mailed to the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Enforcement Section, P.O. Box 30255, Lansing, MI 48909. The fine shall be paid by check or money order, made payable to the State of Michigan, and shall clearly display the complaint numbers **339276 & 2200932**.

IT IS FURTHER ORDERED that Respondents are jointly and severally liable to pay RESTITUTION in the amount of TWO THOUSAND EIGHTY dollars and 65/100 (\$2,080.65) to the homeowner(s) within ninety (90) days of the effective date of this Order.

IT IS FURTHER ORDERED that Respondents shall submit satisfactory evidence of fine and restitution payments within ninety (90) days of the effective date of this Order, mailed to

Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Enforcement Section, P.O. Box 30254, Lansing, MI 48909.

IT IS FURTHER ORDERED that license numbers 2102111719 and 2101132840 shall be and are hereby IMMEDIATELY REVOKED. Respondents may not serve as the Qualifying Officer of any licensed corporate entity while any other Article 24 license held by Respondent is in suspended or revoked status.

IT IS FURTHER ORDERED that Respondents may petition for reinstatement of the license once all Final Orders of the Board have been fully satisfied.

IT IS FURTHER ORDERED that reinstatement of a license which has been revoked is not automatic and in the event that Respondent applies for reinstatement of the license, application shall be in accordance with MCL 339.411(5).

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

This Final Order shall not be construed as limiting the Department of Licensing and Regulatory Affairs, any other agency of the State of Michigan or any individual as to the use of a lawful method of collection of the payment imposed by this Final Order.

This Order shall be effective on the date indicated below.

Given under my hand at Lansing, Michigan, this 12th day of November, 2024.

BY: *Felicia Badger*

Felicia Badger, Manager
Enforcement Section
Bureau of Construction Codes

Effective date: 11/13/2024

**STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

IN THE MATTER OF:

**BUREAU OF CONSTRUCTION CODES,
Petitioner**

v

**HOWARD JOHNSON,
Respondent**

Docket No.: 24-003421

Case No.: 2200932

**Agency: Bureau of Construction
Codes**

**Case Type: BCC Residential
Builders**

Filing Type: Formal Complaint

CERTIFICATION OF RECORD

I, Madeline Kulhanek, certify that the attached file is the original record of the Michigan Office of Administrative Hearings and Rules in the above captioned matter, and that said record consists of those entries shown below.

In Witness Whereof, I have hereunto set my hand and caused the Seal of the Michigan Office of Administrative Hearings and Rules to be hereunto affixed this Friday, March 08, 2024.

<u>Date</u>	<u>Document</u>
1. 03/07/24	Hearing Report
2. 03/06/24	Petitioner BCC's Exhibits 1–9, Offered and Admitted
3. 02/15/24	Petitioner BCC's Witness and Exhibit Lists (<i>Attachments not made part of Certified Record</i>)
4. 02/07/24	Notice of Telephone Hearing with Proof of Service
5. 02/06/24	Request for Hearing



Madeline Kulhanek
Michigan Office of Administrative
Hearings and Rules



**STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

IN THE MATTER OF:

**BUREAU OF CONSTRUCTION CODES,
Petitioner**

v

**HOWARD JOHNSON,
Respondent**

Docket No.: 24-003421

Case No.: 2200932

**Agency: Bureau of
Construction Codes**

**Case Type: BCC Residential
Builders**

Filing Type: Formal Complaint

_____/

IN THE MATTER OF:

**BUREAU OF CONSTRUCTION CODES,
Petitioner**

v

**MILLER GARAGE BUILDING COMPANY
INC,
Respondent**

Docket No.: 24-003422

Case No.: 339276

**Agency: Bureau of
Construction Codes**

**Case Type: BCC Residential
Builders**

Filing Type: Formal Complaint

**Issued and entered
this 7th day of March 2024
by: Lindsay Wilson
Administrative Law Judge**

HEARING REPORT

Procedural History

On December 19, 2023, a First Superseding Formal Complaint was filed by the Department of Licensing and Regulatory Affairs (LARA), Bureau of Construction Codes (Bureau), Petitioner, against Miller Garage Building Company Inc., and Howard Johnson, Respondents, which alleged one or more violations of the Michigan Occupational Code (Code), MCL 339.101 *et seq.*

On February 6, 2024, these matters were referred to the Michigan Office of Administrative Hearings and Rules (MOAHR) to schedule a contested case hearing.

On February 7, 2024, MOAHR issued a Notice of Telephone Hearing, scheduling the hearing to convene on March 6, 2024.

On March 6, 2024, the telephone hearing commenced as scheduled. Administrative Law Judge (ALJ) Lindsay Wilson presided. Jason Werkema, Assistant Attorney General, appeared on behalf of Petitioner.

Neither the Respondents, nor an attorney or authorized representative appeared on the Respondents' behalf. MOAHR has not received any documentation or communication from Respondents requesting an adjournment. The undersigned finds that Respondents were properly served with notice of these proceedings at their last known mailing addresses and email address of record.

After the undersigned waited over 15 minutes from the scheduled hearing time, the hearing proceeded in Respondents' absence pursuant to Section 72(1) of the Administrative Procedures Act (APA) and Rule 134 of the Administrative Hearing Rules, Mich Admin Code, R 792.10134.

Petitioner further moved for a decision by default against Respondents pursuant to Section 78(2) of the APA, MCL 24.278(2), and Rule 134. These statutory provisions and rules state as follows:

Sec. 72. (1) If a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, *may proceed with the hearing and make its decision in the absence of the party.* MCL 24.272(1) (emphasis added.)

Sec. 78. (2) Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, *default* or other method agreed upon by the parties. MCL 24.278(2) (emphasis added.)

Rule 134. (1) If a party fails to attend or participate in a scheduled proceeding after a properly served notice, the administrative law judge may conduct the proceedings without participation of the absent party. The administrative law judge *may issue a default order* or other dispositive order which shall state the grounds for the order.

- (2) Within 7 days after service of a default order, the party against whom it was entered may file a written motion requesting the order be vacated. If the party demonstrates good cause for failing to attend a hearing or failing to comply with an order, the administrative law judge may reschedule, rehear, or otherwise reconsider the matter as required to serve the interests of justice and the orderly and prompt conduct of proceedings. 2015 Mich Admin Code, R 792.10134 (emphasis added.)

Petitioner's motion for default was granted pursuant to Section 78(2) of the APA and Rule 134 and is affirmed in this Hearing Report. Because of the default, the factual and legal allegations contained in the First Superseding Formal Complaint dated December 19, 2023, are deemed true and proven. The above-captioned matters were consolidated for hearing purposes. Homeowner K.D.¹ appeared and testified as a witness on behalf of Petitioner. No other witnesses were called to testify.

The following exhibits were offered by Petitioner and admitted into evidence:

1. Petitioner's Exhibit P-1 is a Residential Builders Statement of Complaint from K.D., dated January 12, 2019.
2. Petitioner's Exhibit P-2 is a Contract between Respondent Miller Garage and K.D., signed on March 23, 2018.
3. Petitioner's Exhibit P-3 is proof of the cleared checks from K.D., dated March 22, 2018 and August 14, 2018.
4. Petitioner's Exhibit P-4 is a copy of a building permit from Chesterfield Township to Respondent Miller Garage, issued on July 2, 2018.
5. Petitioner's Exhibit P-5 is a copy of a letter to the Bankruptcy Court from K.D., dated May 24, 2019; a copy of a check made out to K.D. from the Office of the Chapter 13 Trustee- Detroit for Steven Michael Vandalen, dated December 7, 2022; and a Chapter 13 Plan *In Re: Steven Michael VanDalen*, United States Bankruptcy Court Eastern District of Michigan, Case No. 19-44109, dated March 20, 2019.
6. Petitioner's Exhibit P-6 is a Notice to Respondent Miller Garage Building Company and Proof of Service, dated February 14, 2019.

¹ Initials are used throughout this Hearing Report to protect confidentiality.

7. Petitioner's Exhibit P-7 is a Notice to Respondent Howard Johnson and Proof of Service, dated October 24, 2022.
8. Petitioner's Exhibit P-8 is a Certification of Licensure for Miller Garage Building Company Inc., as of August 30, 2023.
9. Petitioner's Exhibit P-9 is a Certification of Licensure for Howard Johnson, as of August 30, 2023.

Respondents did not appear for the hearing and thus did not offer any exhibits into evidence.

The record was closed at the conclusion of the hearing on March 6, 2024.

Issues and Applicable Law

The issue presented is whether Respondents has violated the Code as alleged in the First Superseding Formal Complaint. More specifically, this matter concerns whether Respondents have violated Sections 604(b); 604(d); 2411(2)(a); and 2411(2)(c) of the Code, as alleged in Counts I through IV of the December 19, 2023 First Superseding Formal Complaint. The referenced Code sections provide as follows:

MCL 339.604 states, in pertinent part:

Sec. 604.

A person who violates 1 or more of the provisions of an article which regulates an occupation or who commits 1 or more of the following shall be subject to the penalties prescribed in section 602:

* * *

(b) Practices fraud, deceit, or dishonesty in practicing an occupation.

* * *

(d) Demonstrates a lack of good moral character.

* * *

MCL 338.41 defines "good moral character" as follows:

Sec. 1.

- (1) The phrase "good moral character", when used as a requirement for an occupational or professional license or when used as a requirement to establish or operate an organization or facility regulated by this state in a statute of this state or administrative rules promulgated under a statute of this state, means the propensity on the part of an individual to serve the public in the licensed area in a fair, honest, and open manner.

MCL 339.2411(2) states, in pertinent part:

- (2) A licensee or applicant who commits 1 or more of the following is subject to the penalties set forth in article 6:
 - (a) Abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee.

* * *

- (c) Failure to account for or remit money coming into the person's possession that belongs to others.

* * *

Additionally, MCL 339.514 provides, in pertinent part:

- (1) Within 60 days after receipt of an administrative law hearings examiner's hearing report, the board receiving the hearing report shall meet and make a determination of the penalties to be assessed under article 6. The board's determination shall be made on the basis of the administrative law hearings examiner's report. A transcript of a hearing or a portion of the transcript shall be made available to a board upon request. If a transcript or a portion of the transcript is requested, the board's determination of the penalty or penalties to be assessed under article 6 shall be made at a meeting within 60 days after receipt of a transcript or portion of the transcript.

* * *

MCL 339.602 states:

Sec. 602.

A person, school, or institution that violates this act or a rule or order promulgated or issued under this act shall be assessed 1 or more of the following penalties:

- (a) Placement of a limitation on a license or certificate of registration for an occupation regulated under articles 8 to 25.
- (b) Suspension of a license or certificate of registration.
- (c) Denial of a license, certificate of registration, or renewal of a license or certificate of registration.
- (d) Revocation of a license or certificate of registration.
- (e) In the case of a person licensed or registered under this act and except as otherwise provided in this act, an administrative fine to be paid to the department of not more than \$10,000.00.
- (f) Censure.
- (g) Probation.
- (h) A requirement that restitution be made, based on proofs submitted to and findings made by the hearing examiner after a contested case.

Findings of Fact

Based upon the evidence submitted by way of a default entered against Respondents, together with the testimony and exhibits admitted in the record, the undersigned finds the following facts by a preponderance of evidence:

1. The Board of Residential Builders and Maintenance and Alteration Contractors (Board) is an administrative agency established by the Code.

2. At all relevant times to the First Superseding Formal Complaint, Respondents were each licensed residential builders pursuant to the Code. Respondent Howard Johnson (Respondent Johnson) served as the qualifying officer for Respondent Miller Garage Building Company Inc. (Respondent Miller Garage). [Pet. Exh. P-8 and P-9].
3. Respondent Miller Garage was licensed as a Residential Builder Company from March 19, 1993 to May 31, 2020. The license is currently lapsed with an expiration date of May 31, 2020. [Pet. Exh. P-8].
4. Respondent Johnson was licensed as an Individual Residential Builder from May 30, 1996 to May 31, 2020. His license is currently lapsed with an expiration date of May 31, 2020. [Pet. Exh. P-9].
5. As its qualifying officer, Respondent Johnson acted on behalf of Respondent Miller Garage and is responsible for exercising supervision and control of its construction operations to secure full compliance with Article 24 of the Code and the rules promulgated thereunder. [Pet. Exh. P-8].
6. Respondent Miller Garage has been the subject of eight (8) prior disciplinary actions between November 20, 1995 to March 19, 2008. [Pet. Exh. P-8].
7. Steven VanDalen previously held a license as a residential builder in Michigan. His license expired on May 31, 1994 and was never renewed. At all times relevant to the First Superseding Complaint, Respondent Miller Garage was a Michigan corporation and Steven VanDalen was its resident agent.
8. On March 23, 2018, Homeowner K.D. entered into an agreement with Respondents to demolish an existing garage, build a new garage, and repair a wooden shed on residential property located in Chesterfield Township, Michigan, for a total of \$23,540.00. K.D. paid Respondent Miller Garage a deposit of 2,300.00 and later, paid \$12,800.00 for work Respondent subcontracted. Steven VanDalen was K.D.'s contact person for Respondent Miller Garage. [Pet. Exh. P-1, p. 2; Pet. Exh. P-2; Pet. Exh. P-3; K.D. Hearing Testimony].
9. Respondents tore down the existing garage and raised the wooden shed so that concrete could be poured by the subcontractor. As of November 2018, only the garage footings and floor had been completed and that work was performed by the subcontractors. [Pet. Exh. P-1, p. 2; K.D. Hrg. Testimony].
10. K.D. attempted to contact Respondents by certified letter and other means for a refund of the \$2,300.00 deposit since Respondents failed to complete the contract.

The letter was returned by USPS due to multiple failed attempts to deliver/ refusal of service. [Pet. Exh. P-1, p. 2; K.D. Hrg. Testimony].

11. According to Chesterfield Township Building Department, Respondent Miller Garage obtained a building permit for the project on July 2, 2018, but it was cancelled after the footing inspection was conducted. [Pet. Exh. P-4].
12. On January 12, 2019, K.D. submitted a Statement of Complaint against Respondent Miller Garage. [Pet. Exh. P-1].
13. On or about March 20, 2019, Steven VanDalen entered into a Chapter 13 Bankruptcy Plan. K.D. subsequently received \$219.35 from the United States Bankruptcy Court. [Pet. Exh. P-5; K.D. Hrg. Testimony].
14. To date, Respondents have not completed the contracted work or provided K.D. a refund for the remainder of her deposit. [K.D. Hrg. Testimony].

Conclusions of Law

Petitioner bears the burden of proving, by a preponderance of evidence, that Respondents violated the Code, as alleged in the First Superseding Formal Complaint. As the Michigan Supreme Court has stated, “[p]roof by a preponderance of the evidence requires that the fact finder believe that the evidence supporting the existence of the contested fact outweighs the evidence supporting its nonexistence.” *Blue Cross and Blue Shield of Michigan v Milliken*, 422 Mich 1; 367 NW2d 1 (1985). A preponderance of evidence is evidence which is of a greater weight or more convincing than evidence offered in opposition to it. It is simply that evidence which outweighs the evidence offered to oppose it. *Martucci v Detroit Commissioner of Police*, 322 Mich 270; 33 NW2d 789 (1948).

Additionally, the principles that govern judicial proceedings also apply to administrative hearings. 8 *Callaghan’s Michigan Pleading and Practice 2nd ed.*, Section 60.48, p 230. A default having been granted against Respondents, the factual and legal allegations set forth in the Formal Complaint, are taken as true and proven. Under Section 72 of the APA, there is no requirement to provide a full evidentiary hearing when all alleged facts are taken as true and proven. *Smith v Lansing School Dist*, 428 Mich 248; 406 NW2d 825 (1987).

By virtue of the default, Petitioner has established its burden of proving, by a preponderance of the evidence, the facts alleged in the First Superseding Formal Complaint.

Accordingly, the undersigned concludes the following:

- 1) Respondents' conduct, as described above, constitutes fraud, deceit, or dishonesty in practicing an occupation, in violation of MCL 339.604(b), as alleged in Count I of the Formal Complaint.
- 2) Respondents' conduct, as described above, constitutes a lack of good moral character, in violation of MCL 339.604(d), as alleged in Count II of the Formal Complaint.
- 3) Respondents' conduct, as described above, constitutes abandonment without legal excuse of a construction project operation engaged in or undertaken by the licensee, in violation of MCL 339.2411(2)(a), as alleged in Count III of the Formal Complaint.
- 4) Respondents' conduct, as described above, constitutes a failure to account for or remit money coming into the person's possession that belongs to others, in violation of MCL 339.2411(2)(c), as alleged in Count IV of the Formal Complaint.

Decision

Petitioner has proven the allegations of fact and violations of the Code as alleged in the First Superseding Formal Complaint dated December 19, 2023.

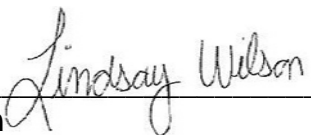
Recommended Sanctions

At the conclusion of the hearing, Petitioner's representative requested that the Board order Respondents to pay restitution to Homeowner K.D. in the amount of \$2,080.65. The amount of restitution is based upon K.D.'s initial deposit of \$2,300.00 minus the \$219.35 she received from the United States Bankruptcy Court. Petitioner further requested the imposition of a \$10,000.00 fine on Respondents and that the Board revoke Respondents' licenses until the restitution and fines have been paid.

The undersigned ALJ recommends that the Board impose the following penalties pursuant to MCL 339.602:

1. That Respondents, jointly and severally, be required to pay restitution in the amount of \$2,080.65, the remaining amount of the deposit received by Respondents from Homeowner K.D. for the work not completed pursuant to contractual obligations.
2. Imposition of a fine the Board may impose on Respondents, jointly and severally, in the amount of \$10,000.00, or another amount deemed appropriate by the Board in accordance with MCL 339.602(e).

3. Revocation of all licenses held by Respondents under the jurisdiction of the Board until the restitution and fine have been paid in accordance with the Board's final order under MCL 339.602(d).
4. Any other penalty the Board deems appropriate pursuant to MCL 339.602.



Lindsay Wilson
Administrative Law Judge

Notice to Agency to Provide MOAHR with Subsequent Agency or Court Orders

The state agency that is a party to this matter, and/or referred this matter to MOAHR, shall serve MOAHR with any subsequent orders entered as a result of this ALJ's decision or proposed decision, including but not limited to the agency's final order, order to remand the matter to MOAHR for further proceedings, or order on appeal, as soon as practicable following entry of the order to:

Michigan Office of Administrative Hearings and Rules, General Adjudication, by **email (preferred)** to: MOAHR-GA@michigan.gov; or **by regular mail** to: MOAHR-GA, P.O. Box 30695, Lansing, Michigan 48909-8195.

See: Mich Admin Code, R 792.10120(2)(i).

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

In the Matter of

MILLER GARAGE BUILDING COMPANY INC Complaint No. 339276
License No. 21-02-111719

AND

HOWARD W. JOHNSON Complaint No. 2200932
Qualifying Officer
License No. 21-01-132840

_____ /

FIRST SUPERSEDING FORMAL COMPLAINT

Assistant Attorneys General Jennifer Fitzgerald and Jason W. Werkema, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), file this first superseding formal complaint against Miller Garage Building Company, Inc. and Howard W. Johnson, qualifying officer (collectively referred to as “Respondents,” unless identified individually by name), alleging upon information and belief as follows:

1. The Board of Residential Builders and Maintenance and Alteration Contractors is an administrative agency established under Article 24 of the Occupational Code, MCL 339.101 *et seq.*
2. After receiving a complaint against Respondents, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.
3. Section 604(b) of the Code subjects a licensee to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.

4. Section 604(d) of the Code subjects a licensee to sanction for demonstrating a lack of good moral character, which is defined by MCL 338.41 as “the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.”

5. Section 2411(2)(a) of the Code subjects a licensee to sanction for abandonment of without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee.

6. Section 2411(2)(c) of the Code subjects a licensee to sanction for failure to account for or remit money coming into the person’s possession that belongs to another.

7. Section 514 of the Code authorizes the Board to assess penalties against licensees based on an administrative law hearings examiner’s hearing report.

FACTUAL ALLEGATIONS

8. Respondent Miller Garage Building Company, Inc. has an inactive license to practice as a residential builder pursuant to the Code. The license expired as of 5/31/2020 but was active relevant to the events in this complaint.

9. Respondent Howard W. Johnson also has an inactive license to practice as a residential builder pursuant to the Code. His license expired as of 5/31/2020 but was active relevant to the events in this complaint. In addition, during the events alleged in this complaint, Respondent Johnson served as Respondent Miller Garage’s qualifying officer, and as such, was responsible for its compliance with the requirements of Article 24 of the Occupational Code.

10. Respondent Miller Garage has been the subject of 8 prior disciplinary actions between November 20, 1995 to March 19, 2008. (Exhibit 1.)

11. Steven VanDalen previously held a license as a residential builder in Michigan. His license expired on May 31, 1994 and was never renewed. During the events alleged in this complaint, Respondent Miller Garage was a Michigan corporation and Steven VanDalen was its resident agent.

12. On March 23, 2018, K.D. entered into an agreement with Respondents to demolish an existing garage, build a new garage, and repair a wooden shed on residential property located in Chesterfield Township, Michigan, for a total of \$23,540.00. K.D. paid Respondent Miller Garage a deposit of 2,300.00 and later, paid \$12,800 for work Respondent subcontracted. Steven VanDalen was K.D.'s contact person for Respondent Miller Garage.

13. Respondents tore down the existing garage and performed minimal repairs to the wooden shed. As of November 2018, only the garage footings and floor had been completed. That work was performed by subcontractors.

14. K.D. attempted to contact Respondents by certified letter and other means for a refund of the \$2,300 deposit since Respondents failed to complete the contract. The letter was returned by USPS due to multiple failed attempts to deliver / refusal of service.

15. According to Chesterfield Township Building Department, Respondent Miller Garage obtained a building permit for the project on July 2, 2018, but it was cancelled after the footing inspection was conducted.

16. To date, Respondents have not completed the contracted work or provided K.D. a refund.

COUNT I

17. Respondents' conduct as described above constitutes fraud, deceit, or dishonesty in practicing an occupation, in violation of section 604(b) of the Code.

COUNT II

18. Respondents' conduct as described above constitutes a lack of good moral character, in violation of section 604(d) of the Code.

COUNT III

19. Respondents' conduct as described above constitutes abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee, in violation of Section 2411(2)(a) of the Code.

COUNT IV

20. Respondents' conduct as described above constitutes a failure to account for or remit money coming into the person's possession that belongs to another, in violation of section 2411(2)(c).

WHEREFORE, Complainant, Department of Licensing and Regulatory Affairs, hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, MCL 24.201 *et seq.* and the Occupational Code 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.

Any written response shall be submitted by regular mail to the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, P.O. Box 30254, Lansing, MI 48909 or by email to LARA-BCC-RBS-Compliance@michigan.gov, with a copy mailed to the undersigned assistant attorney general.

FURTHER, the formal complaint previously filed against Respondents on December 22, 2022 is hereby WITHDRAWN and replaced in full by this superseding complaint.

Respectfully submitted,

/s/ Jennifer Fitzgerald
Jennifer Fitzgerald (P60109)
Jason W. Werkema (P80350)
Assistant Attorneys General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Telephone: (517) 335-7569
Facsimile: (517) 241-1997

Dated: December 19, 2023

LF: 2023-0384067-A/Miller Garage Building Company Inc., 339276/First Superseding Formal Complaint – 2023-12-19

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES

DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS,
BUREAU OF CONSTRUCTION CODES

Complainant,

v

MILLER GARAGE BUILDING COMPANY INC.
License No. 21-02-111719

Complaint No. 1900353
Docket No. 24-002087

AND

HOWARD W. JOHNSON
License No. 21-01-132840

Complaint No. 2300158
Docket No. 24-002088

Respondents

FINAL ORDER

The Michigan Board of Residential Builders and Maintenance & Alteration Contractors (“Board”), having reviewed the administrative record, considered this matter at a regularly scheduled meeting held in Lansing, Michigan on November 7, 2024, and considered the Finding of Facts and Conclusions of Law in the Hearing Report of Lindsay Wilson, Administrative Law Judge, dated March 7, 2024.

IT IS ORDERED that for violating MCL 339.604 (b), (c), (d), and (h); MCL 339.2411 (2)(a) and (c); and Mich Admin Code R338.1551(2), Respondents are jointly and severally liable to pay RESTITUTION in the amount of TWO THOUSAND FIVE HUNDRED dollars and 00/100 (\$2,500.00) to the homeowner(s) within ninety (90) days of the effective date of this Order.

IT IS FURTHER ORDERED that Respondents shall submit satisfactory evidence of restitution payments within ninety (90) days of the effective date of this Order, mailed to Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Enforcement Section, P.O. Box 30254, Lansing, MI 48909.

IT IS FURTHER ORDERED that license numbers 2102111719 and 2101132840 shall be and are hereby IMMEDIATELY REVOKED. Respondents may not serve as the Qualifying Officer of any licensed corporate entity while any other Article 24 license held by Respondent is in suspended or revoked status.

IT IS FURTHER ORDERED that Respondents may petition for reinstatement of the license once all Final Orders of the Board have been fully satisfied.

IT IS FURTHER ORDERED that reinstatement of a license which has been revoked is not automatic and in the event that Respondent applies for reinstatement of the license, application shall be in accordance with MCL 339.411(5).

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

This Final Order shall not be construed as limiting the Department of Licensing and Regulatory Affairs, any other agency of the State of Michigan or any individual as to the use of a lawful method of collection of the payment imposed by this Final Order.

This Order shall be effective on the date indicated below.

Given under my hand at Lansing, Michigan, this 12th day of November, 2024.

BY: *Felicia Badger* _____

Felicia Badger, Manager
Enforcement Section
Bureau of Construction Codes

Effective date: 11/13/2024 _____

STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

IN THE MATTER OF:

BUREAU OF CONSTRUCTION CODES,
Petitioner

v

MILLER GARAGE BUILDING COMPANY
INC.,
Respondent

Docket No.: 24-002087

Case No.: 1900353

Agency: Bureau of Construction
Codes

Case Type: BCC Residential
Builders

Filing Type: Formal Complaint

CERTIFICATION OF RECORD

I, Madeline Kulhanek, certify that the attached file is the original record of the Michigan Office of Administrative Hearings and Rules in the above captioned matter, and that said record consists of those entries shown below.

In Witness Whereof, I have hereunto set my hand and caused the Seal of the Michigan Office of Administrative Hearings and Rules to be hereunto affixed this Friday, March 08, 2024.

<u>Date</u>	<u>Document</u>
1. 03/07/24	Hearing Report
2. 03/06/24	Petitioner BCC's Exhibits 1-7, Offered and Admitted
3. 02/15/24	Petitioner BCC's Witness and Exhibit Lists (<i>Attachments not made part of Certified Record</i>)
4. 01/25/24	Notice of Telephone Hearing with Proof of Service
5. 01/23/24	Request for Hearing



Madeline Kulhanek
Michigan Office of Administrative
Hearings and Rules



STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

IN THE MATTER OF:

BUREAU OF CONSTRUCTION CODES,
Petitioner

v

HOWARD JOHNSON,
Respondent

Docket No.: 24-002088

Case No.: 2300158

**Agency: Bureau of Construction
Codes**

**Case Type: BCC Residential
Builders**

Filing Type: Formal Complaint

CERTIFICATION OF RECORD

I, Madeline Kulhanek, certify that the attached file is the original record of the Michigan Office of Administrative Hearings and Rules in the above captioned matter, and that said record consists of those entries shown below.

In Witness Whereof, I have hereunto set my hand and caused the Seal of the Michigan Office of Administrative Hearings and Rules to be hereunto affixed this Friday, March 08, 2024.

<u>Date</u>	<u>Document</u>
1. 03/07/24	Hearing Report
2. 03/06/24	Petitioner's Exhibits 1–7, Offered and Admitted
3. 02/15/24	Petitioner BCC's Witness and Exhibit Lists (<i>Attachments not made part of Certified Record</i>)
4. 01/25/24	Notice of Telephone Hearing with Proof of Service
5. 01/23/24	Request for Hearing



Madeline Kulhanek
Michigan Office of Administrative
Hearings and Rules



**STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

IN THE MATTER OF:

**BUREAU OF CONSTRUCTION CODES,
Petitioner**

v

**MILLER GARAGE BUILDING COMPANY
INC,
Respondent**

Docket No.: 24-002087

Case No.: 1900353

**Agency: Bureau of
Construction Codes**

**Case Type: BCC Residential
Builders**

Filing Type: Formal Complaint

IN THE MATTER OF:

**BUREAU OF CONSTRUCTION CODES,
Petitioner**

v

**HOWARD JOHNSON,
Respondent**

Docket No.: 24-002088

Case No.: 2300158

**Agency: Bureau of
Construction Codes**

**Case Type: BCC Residential
Builders**

Filing Type: Formal Complaint

**Issued and entered
this 7th day of March 2024
by: Lindsay Wilson
Administrative Law Judge**

HEARING REPORT

Procedural History

On December 13, 2023, a First Superseding Formal Complaint was filed by the Department of Licensing and Regulatory Affairs (LARA), Bureau of Construction Codes (Bureau), Petitioner, against Miller Garage Building Company Inc., and Howard Johnson, Respondents, which alleged one or more violations of the Michigan Occupational Code (Code), MCL 339.101 *et seq.*, and the Administrative Rules (Rules) promulgated thereunder.

On January 23, 2024, these matters were referred to the Michigan Office of Administrative Hearings and Rules (MOAHR) to schedule a contested case hearing.

On January 25, 2024, MOAHR issued a Notice of Telephone Hearing, scheduling the hearing to convene on March 6, 2024.

On March 6, 2024, the telephone hearing commenced as scheduled. Administrative Law Judge (ALJ) Lindsay Wilson presided. Jason Werkema, Assistant Attorney General, appeared on behalf of Petitioner.

Neither the Respondents nor an attorney or authorized representative appeared on Respondents' behalf. MOAHR has not received any documentation or communication from Respondents requesting an adjournment. The undersigned finds that Respondents were properly served with notice of these proceedings at their last known mailing addresses and email address of record.

After the undersigned waited over 15 minutes from the scheduled hearing time, the hearing proceeded in Respondents' absence pursuant to Section 72(1) of the Administrative Procedures Act (APA) and Rule 134 of the Administrative Hearing Rules, Mich Admin Code, R 792.10134.

Petitioner further moved for a decision by default against Respondents pursuant to Section 78(2) of the APA, MCL 24.278(2), and Rule 134. These statutory provisions and rules state as follows:

Sec. 72. (1) If a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, *may proceed with the hearing and make its decision in the absence of the party.* MCL 24.272(1) (emphasis added.)

Sec. 78. (2) Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, *default* or other method agreed upon by the parties. MCL 24.278(2) (emphasis added.)

Rule 134. (1) If a party fails to attend or participate in a scheduled proceeding after a properly served notice, the administrative law judge may conduct the proceedings without participation of the absent party. The administrative law judge *may issue a default order* or other dispositive order which shall state the grounds for the order.

- (2) Within 7 days after service of a default order, the party against whom it was entered may file a written motion requesting the order be vacated. If the party demonstrates good cause for failing to attend a hearing or failing to comply with an order, the administrative law judge may reschedule, rehear, or otherwise reconsider the matter as required to serve the interests of justice and the orderly and prompt conduct of proceedings. 2015 Mich Admin Code, R 792.10134 (emphasis added.)

Petitioner's motion for default was granted pursuant to Section 78(2) of the APA and Rule 134 and is affirmed in this Hearing Report. Because of the default, the factual and legal allegations contained in the First Superseding Formal Complaint dated December 13, 2023, are deemed true and proven. The above-captioned matters were consolidated for hearing purposes. No witnesses were presented at the hearing in this matter.

The following exhibits were offered by Petitioner and admitted into evidence:

1. Petitioner's Exhibit P-1 is a Residential Builders Statement of Complaint from B.A.¹, dated October 25, 2019.
2. Petitioner's Exhibit P-2 is a copy of the Contract between Respondent Miller Garage and B.A., signed on May 17, 2018.
3. Petitioner's Exhibit P-3 is proof of the cleared deposit check from B.A., dated May 17, 2018.
4. Petitioner's Exhibit P-4 is a Notice to Respondent Miller Garage Building Company and Proof of Service, dated November 5, 2019.
5. Petitioner's Exhibit P-5 is a Notice to Respondent Howard Johnson and Proof of Service, dated February 21, 2023.
6. Petitioner's Exhibit P-6 is a Certification of Licensure for Miller Garage Building Company Inc., as of March 22, 2023.
7. Petitioner's Exhibit P-7 is a Certification of Licensure for Howard Johnson, as of March 22, 2023.

Respondents did not appear for the hearing and thus did not offer any exhibits into evidence.

¹ Initials are used throughout this Hearing Report to protect confidentiality.

The record was closed at the conclusion of the hearing on March 6, 2024.

Issues and Applicable Law

The issue presented is whether Respondents has violated the Code as alleged in the First Superseding Formal Complaint. More specifically, this matter concerns whether Respondents have violated Sections 604(b); 604(c); 604(d); 604(h); 2411(2)(a); and 2411(2)(c) of the Code, and Mich Admin Code R 338.1551(2) as alleged in Counts I through VI of the December 13, 2023 First Superseding Formal Complaint. The referenced Code sections provide as follows:

MCL 339.604 states, in pertinent part:

Sec. 604.

A person who violates 1 or more of the provisions of an article which regulates an occupation or who commits 1 or more of the following shall be subject to the penalties prescribed in section 602:

* * *

(b) Practices fraud, deceit, or dishonesty in practicing an occupation.

(c) Violates a rule of conduct of an occupation.

(d) Demonstrates a lack of good moral character.

* * *

(h) Violates any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.

* * *

MCL 338.41 defines "good moral character" as follows:

Sec. 1.

(1) The phrase "good moral character", when used as a requirement for an occupational or professional license or

when used as a requirement to establish or operate an organization or facility regulated by this state in a statute of this state or administrative rules promulgated under a statute of this state, means the propensity on the part of an individual to serve the public in the licensed area in a fair, honest, and open manner.

MCL 339.2411(2) states, in pertinent part:

(2) A licensee or applicant who commits 1 or more of the following is subject to the penalties set forth in article 6:

(a) Abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee.

* * *

(c) Failure to account for or remit money coming into the person's possession that belongs to others.

* * *

Mich Admin Code R 338.1551(2) provides:

Upon receipt of a valid and written complaint, the department shall assign a complaint number, acknowledge the complaint, and forward a copy of the complaint to the licensee. The licensee shall reply to the department within 15 days from receipt of the complaint and shall confirm or deny the justification for the complaint. If a complaint or a portion of the complaint is not acknowledged by the licensee as being justified, then the department shall notify the complainant of the area of disagreement.

* * *

Additionally, MCL 339.514 provides, in pertinent part:

(1) Within 60 days after receipt of an administrative law hearings examiner's hearing report, the board receiving the hearing report shall meet and make a determination

of the penalties to be assessed under article 6. The board's determination shall be made on the basis of the administrative law hearings examiner's report. A transcript of a hearing or a portion of the transcript shall be made available to a board upon request. If a transcript or a portion of the transcript is requested, the board's determination of the penalty or penalties to be assessed under article 6 shall be made at a meeting within 60 days after receipt of a transcript or portion of the transcript.

* * *

MCL 339.602 states:

Sec. 602.

A person, school, or institution that violates this act or a rule or order promulgated or issued under this act shall be assessed 1 or more of the following penalties:

- (a) Placement of a limitation on a license or certificate of registration for an occupation regulated under articles 8 to 25.
- (b) Suspension of a license or certificate of registration.
- (c) Denial of a license, certificate of registration, or renewal of a license or certificate of registration.
- (d) Revocation of a license or certificate of registration.
- (e) In the case of a person licensed or registered under this act and except as otherwise provided in this act, an administrative fine to be paid to the department of not more than \$10,000.00.
- (f) Censure.
- (g) Probation.
- (h) A requirement that restitution be made, based on proofs submitted to and findings made by the hearing examiner after a contested case.

Findings of Fact

Based upon the evidence submitted by way of a default entered against Respondents, together with the exhibits admitted in the record, the undersigned finds the following facts by a preponderance of evidence:

1. The Board of Residential Builders and Maintenance and Alteration Contractors (Board) is an administrative agency established by the Code.
2. At all relevant times to the First Superseding Formal Complaint, Respondents were each licensed residential builders pursuant to the Code. Respondent Howard Johnson (Respondent Johnson) served as the qualifying officer for Respondent Miller Garage Building Company Inc. (Respondent Miller Garage). [Pet. Exh. P-6 and P-7].
3. Respondent Miller Garage was licensed as a Residential Builder Company from March 19, 1993 to May 31, 2020. The license is currently lapsed with an expiration date of May 31, 2020. [Pet. Exh. P-6].
4. Respondent Johnson was licensed as an Individual Residential Builder from May 30, 1996 to May 31, 2020. His license is currently lapsed with an expiration date of May 31, 2020. [Pet. Exh. P-7].
5. As its qualifying officer, Respondent Johnson acted on behalf of Respondent Miller Garage and is responsible for exercising supervision and control of its construction operations to secure full compliance with Article 24 of the Code and the rules promulgated thereunder. [Pet. Exh. P-6].
6. Respondent Miller Garage has been the subject of eight (8) prior disciplinary actions between November 20, 1995 to March 19, 2008. [Pet. Exh. P-6].
7. On or about May 17, 2018, Respondents contracted with Homeowner B.A. to construct a new garage for his Royal Oak, Michigan home. The cost of the project was approximately \$22,415.00 plus permit costs. [Pet. Exh. P-2].
8. On or about May 17, 2018, Homeowner B.A. paid Respondent Miller Garage a deposit of \$2,500.00. [Pet. Exh. P-3].
9. After months of delays with no work commencement, Homeowner B.A. contacted Respondent Miller Garage to determine when work would be started. When Respondent failed to appear as advised, Homeowner B.A. requested a refund of the fees paid, at which time he was advised that the deposit would be returned 4 to 5 days after the funds cleared. [Pet. Exh. P-1].

10. Following the 4-to-5-day period, Respondent Miller Garage ceased communicating with Homeowner B.A. and did not respond to his attempts of contact. [Pet. Exh. P-1].
11. To date, Respondents have failed to return the deposit to Homeowner B.A. or supply any materials for the project.
12. On October 25, 2019, B.A. submitted a Statement of Complaint against Respondent Miller Garage. [Pet. Exh. P-1].
13. On November 5, 2019, Petitioner sent a Notice to Respondent Miller Garage, informing Respondent that a Statement of Complaint had been filed and that a response must be received by Respondent Miller Garage in writing by December 9, 2019. [Pet. Exh. P-4].
14. On February 21, 2023, Petitioner sent a Notice to Respondent Johnson, informing him that a Statement of Complaint had been filed and that response must be received in writing by March 8, 2023. [Pet. Exh. P-5].
15. Respondents failed to respond to the notice of the filing of a Statement of Complaint within 15 days as required by Mich Admin Code, R 338.1551(2). [Pet. Exh. P-4 and Pet. Exh. P-5].

Conclusions of Law

Petitioner bears the burden of proving, by a preponderance of evidence, that Respondents violated the Code, as alleged in the First Superseding Formal Complaint. As the Michigan Supreme Court has stated, “[p]roof by a preponderance of the evidence requires that the fact finder believe that the evidence supporting the existence of the contested fact outweighs the evidence supporting its nonexistence.” *Blue Cross and Blue Shield of Michigan v Milliken*, 422 Mich 1; 367 NW2d 1 (1985). A preponderance of evidence is evidence which is of a greater weight or more convincing than evidence offered in opposition to it. It is simply that evidence which outweighs the evidence offered to oppose it. *Martucci v Detroit Commissioner of Police*, 322 Mich 270; 33 NW2d 789 (1948).

Additionally, the principles that govern judicial proceedings also apply to administrative hearings. 8 *Callaghan’s Michigan Pleading and Practice 2nd ed.*, Section 60.48, p 230. A default having been granted against Respondents, the factual and legal allegations set forth in the Formal Complaint, are taken as true and proven. Under Section 72 of the APA, there is no requirement to provide a full evidentiary hearing when all alleged facts are taken as true and proven. *Smith v Lansing School Dist*, 428 Mich 248; 406 NW2d 825 (1987).

By virtue of the default, Petitioner has established its burden of proving, by a preponderance of the evidence, the facts alleged in the First Superseding Formal Complaint.

Accordingly, the undersigned concludes the following:

- 1) Respondents' conduct, as described above, constitutes fraud, deceit, or dishonesty in practicing an occupation, in violation of MCL 339.604(b), as alleged in Count I of the Formal Complaint.
- 2) Respondents' conduct, as described above, constitutes a lack of good moral character, in violation of MCL 339.604(d), as alleged in Count II of the Formal Complaint.
- 3) Respondents' conduct, as described above, constitutes a failure to respond, contrary to Mich Admin Code, R 338.1551(2), in violation of MCL 339.604(c), as alleged in Count III of the Formal Complaint.
- 4) Respondents' conduct, as described above, constitutes a failure to respond, contrary to Mich Admin Code, R 338.1551(2), in violation of MCL 339.604(h), as alleged in as alleged in Count IV of the Formal Complaint.
- 5) Respondents' conduct, as described above, constitutes abandonment without legal excuse of a construction project operation engaged in or undertaken by the licensee, in violation of MCL 339.2411(2)(a), as alleged in Count V of the Formal Complaint.
- 6) Respondents' conduct, as described above, constitutes a failure to account for or remit money coming into the person's possession that belongs to others, in violation of MCL 339.2411(2)(c), as alleged in Count VI of the Formal Complaint.

Decision

Petitioner has proven the allegations of fact and violations of the Code and/or administrative rules as alleged in the First Superseding Formal Complaint dated December 13, 2023.

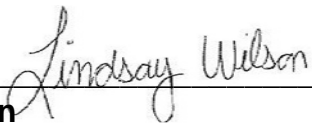
Recommended Sanctions

At the conclusion of the hearing, Petitioner's representative requested that the Board order Respondents to pay restitution to Homeowner B.A. in the amount of his deposit, \$2,500.00, and requested the imposition of a \$10,000.00 fine on Respondents. Petitioner

further requested that the Board revoke Respondents' licenses until the restitution and fines have been paid.

The undersigned ALJ recommends that the Board impose the following penalties pursuant to MCL 339.602:

1. That Respondents, jointly and severally, be required to pay restitution in the amount of \$2,500.00, the total amount of money received by Respondents from Homeowner B.A. for work not completed pursuant to contractual obligations.
2. Imposition of a fine the Board may impose on Respondents, jointly and severally, in the amount of \$10,000.00, or another amount deemed appropriate by the Board in accordance with MCL 339.602(e).
3. Revocation of all licenses held by Respondents under the jurisdiction of the Board until the restitution and fine have been paid in accordance with the Board's final order under MCL 339.602(d).
4. Any other penalty the Board deems appropriate pursuant to MCL 339.602.



Lindsay Wilson
Administrative Law Judge

Notice to Agency to Provide MOAHR with Subsequent Agency or Court Orders

The state agency that is a party to this matter, and/or referred this matter to MOAHR, shall serve MOAHR with any subsequent orders entered as a result of this ALJ's decision or proposed decision, including but not limited to the agency's final order, order to remand the matter to MOAHR for further proceedings, or order on appeal, as soon as practicable following entry of the order to:

Michigan Office of Administrative Hearings and Rules, General Adjudication, by **email (preferred)** to: MOAHR-GA@michigan.gov; or **by regular mail** to: MOAHR-GA, P.O. Box 30695, Lansing, Michigan 48909-8195.

See: Mich Admin Code, R 792.10120(2)(i).

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

In the Matter of

Miller Garage Building Company Inc.
Residential Builder Company
License No. 21-02-111719 (lapsed)

Complaint No. 1900353

AND

Howard Johnson
Individual Residential Builder
License No. 21-01-132840 (lapsed)

Complaint No. 2300158

_____ /

FIRST SUPERSEDING FORMAL COMPLAINT

Assistant Attorneys General Jennifer Fitzgerald and Jason W. Werkema, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), files this first superseding formal complaint against Miller Garage Building Company Inc. and Howard Johnson (referred to individually by name or collectively as “Respondents”), alleging upon information and belief as follows:

1. The Board of Residential Builders and Maintenance and Alteration Contractors is an administrative agency established under Article 24 of the Occupational Code, MCL 339.101 *et seq.*

2. At all times relevant to the factual allegations in the complaint, Respondents were each licensed residential builders pursuant to the Code. At all relevant times, Respondent Johnson served as the qualifying officer for Respondent Miller Garage.

3. Respondent Miller Garage was issued a residential builder company license on March 19, 1993. Its' license is currently Lapsed with an expiration date of May 31, 2020.

4. Respondent Johnson was issued a residential builder individual license on May 30, 1996. His license is currently Lapsed with an expiration date of May 31, 2020.

5. Respondent Miller Garage has been the subject of 8 prior disciplinary actions between November 20, 1995 to March 19, 2008. *See* attached Exhibit 1.

6. After receiving a complaint against Respondents, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.

7. Section 604(b) of the Code subjects a licensee to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.

8. Section 604(c) of the Code subjects a licensee to sanction for violation of a rule of conduct of an occupation.

9. Section 604(d) of the Code subjects a licensee to sanction for demonstrating a lack of good moral character, which is defined in MCL 338.41 to mean "the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner."

10. Section 604(h) of the Code subjects a licensee to sanction who violates any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.

11. Mich Admin Code, R 338.1551(2) provides that a “licensee shall reply to the department within 15 days from receipt of the complaint and shall confirm or deny the justification for the complaint.”

12. Section 2411(2)(a) of the Code subjects a licensee to sanction for abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee.

13. Section 2411(2)(c) of the Code subjects a licensee to sanction for failure to account for or remit money coming into the person’s possession that belongs to others.

14. Section 514 of the Code authorizes the Board to assess penalties against licensees based on an administrative law hearings examiner’s hearing report.

FACTUAL ALLEGATIONS

15. On or about May 17, 2018, Respondents contracted with Homeowner B.A.¹ to construct a new garage for his Royal Oak, Michigan home. The cost of the project was approximately \$22,415.00 plus permit costs.

16. On or about May 17, 2018, Homeowner B.A. paid Respondent Miller Garage a deposit of \$2500.

¹ Designation used to protect confidentiality.

17. After months of delays with no work commencement, Homeowner B.A. contacted Respondent Miller Garage to determine when work would be started. When the Respondent failed to show as advised, Homeowner B.A. requested a refund of the fees paid, at which time he was advised that the deposit would be returned 4-5 days after the funds cleared.

18. Following the 4-5 day period, Respondent Miller Garage ceased communicating with Homeowner B.A. and did not respond to his attempts of contact.

19. To date, Respondents have failed to return the deposit or supply any materials for the project.

20. Respondents failed to respond to the Department after receiving notice of the complaint within 15 days as required by Mich Admin Code, R 338.1551(2).

21. As its qualifying officer, Respondent Howard Johnson acted on behalf of Respondent Miller Garage and is responsible for exercising supervision and control of its construction operations to secure full compliance with Article 24 of the Occupational Code.

COUNT I

22. Respondents' conduct as described above constitutes fraud, deceit, or dishonesty in practicing an occupation, in violation of section 604(b) of the Code.

COUNT II

23. Respondents' conduct as described above constitutes a lack of good moral character, in violation of section 604(d) of the Code.

COUNT III

24. Respondents' conduct as described above constitutes a failure to respond, contrary to Mich Admin Code, R 338.1551(2), in violation of section 604(c) of the Code.

COUNT IV

25. Respondents' conduct as described above constitutes a failure to respond, contrary to Mich Admin Code, R 338.1551(2), in violation of section 604(h) of the Code.

COUNT V

26. Respondents' conduct as described above constitutes abandonment without legal excuse of a construction project engaged in or undertaken by the licensee, in violation of section 2411(2)(a) of the Code.

COUNT VI

27. Respondents' conduct as described above constitutes a failure to account for or remit money coming into the person's possession that belongs to others, in violation of section 2411(2)(c) of the Code.

WHEREFORE, Complainant, Department of Licensing and Regulatory Affairs, hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, MCL 24.201 *et seq.* and the Occupational Code 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.

Any written response shall be submitted by regular mail to the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, P.O. Box 30254, Lansing, MI 48909 or by email to LARA-BCC-RBS-Compliance@michigan.gov, with a copy mailed to the undersigned assistant attorneys general.

FURTHER, the formal complaint previously filed against Respondents on March 22, 2023 is hereby WITHDRAWN and replaced in full by this superseding complaint.

Respectfully submitted,

/s/ Jennifer Fitzgerald
Jennifer Fitzgerald (P60109)
Jason W. Werkema (P80350)
Assistant Attorneys General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Telephone: (517) 335-7569
Facsimile: (517) 241-1997

Dated: December 13, 2023

LF: 2023-0384071-A/Miller Garage Building Company Inc., 1900353/First Superseding Formal Complaint – 2023-12-13

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE
AND ALTERATION CONTRACTORS

In the Matter of

THE S. WYNN CONSTRUCTOR'S COMPNAY
Residential Builder Company
License No. 21-02-182130

Complaint No. 2300413

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on March 4, 2024, charging The S. Wynn Constructor's Company (Respondent) with having violated sections 604(b), (d), (h), 2411(2)(a), and 2411(2)(h) of the Occupational Code, MCL 339.101 *et seq* and Mich Admin Code, R 338.1533(1).

The parties have stipulated that the Board may enter this consent order. 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. Therefore, the Board finds that the allegations of fact contained in the complaint are true and that Respondent has violated sections 604(b), (d), (h), 2411(2)(a), and 2411(2)(h) of the Occupational Code and Mich Admin Code, R 338.1533(1).

Accordingly, for these violations, IT IS ORDERED:

Respondent is FINED \$1,500.00 to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint number 2300413 clearly indicated on the check or money order) and shall be payable within

180 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: Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Compliance Division, P.O. Box 30255, Lansing, Michigan 48909.

Within 360 days of the effective date of this order, Respondent shall pay RESTITUTION in the amount of \$10,000.00 to E.C. Respondent shall mail restitution to E.C. at the address provided to Respondent in a separate document by the Department or Office of Attorney General, Licensing and Regulation Division at the time it signed this stipulation.

If Respondent fails to timely pay the fine or restitution, his license shall be suspended until the fine and restitution are paid. Payment of the fine and restitution shall be joint and several with Scott Elbert Wynn in complaint number 2300414.

Respondent shall submit satisfactory written proof of timely restitution payment to the Department by email to LARA-BCC-RBS-Compliance@michigan.gov.

Respondent shall direct all communications, except fines, required by the terms of this order to: LARA-BCC-RBS-Compliance@michigan.gov.

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

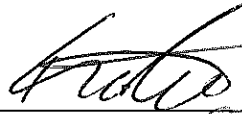

Respondent shall be responsible for the timely compliance with the terms of this consent order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this order.

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 days from the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on 11-17-24

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE
AND 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 Construction Codes, or his 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, it is waiving the right under the Occupational Code, rules promulgated under the Occupational Code, 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 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, MCL 15.231 *et seq.*

5. The Board may enter the above consent order, supported by Board conferee Kenneth Stahl. Conferee Stahl 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. Conferee Stahl and the parties considered the following factors in reaching this agreement:

A. Regarding the fine amount, the conferee believed lowering the fine in favor of Respondent's owner paying restitution was appropriate here.

B. During a compliance conference, Respondent's owner advised that all of the money he received for the project was spent fulfilling the contract and he denied spending the money he received from the homeowner on any other jobs. Further, Respondent's owner advised that he has never received a complaint from a customer about his work in his entire career as a residential builder and that his only goal here was to help out a family member.

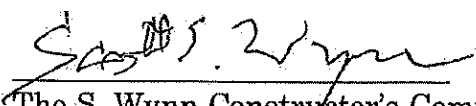
C. Respondent's owner advised that a portion of the money he received went towards him completing additional work, not part of the contract. Respondent's owner acknowledged that any changes to his contract with the homeowner should have been put in writing and agreed upon by both parties.

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

AGREED TO BY:

AGREED TO BY:

/s/ DeAnthony D. Shaw
DeAnthony D. Shaw (P82292)
Assistant Attorney General
Attorney for Complainant
Dated: September 24, 2024


The S. Wynn Constructor's Company
Residential Builder Company
By: Scott Elbert Wynn
Its: Owner
Respondent
Dated: 09/20/24

Bureau of Construction Codes
Approved by:

Andrew Brisbo
Digitally signed by: Andrew Brisbo
DN: CN = Andrew Brisbo email =
brisboa@michigan.gov C = US O = Bureau of
Construction Codes OU = Director
Date: 2024.09.25 09:26:46 -04'00'
Andrew Brisbo, Director

9/25/2024

Date

LF: 2023-0392052-B\S Wynn Constructor's Company, The, 2300413\Pleading -- Consent Order -- 2024-09-19

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE
AND ALTERATION CONTRACTORS

In the Matter of

SCOTT ELBERT WYNN
Residential Builder
License No. 21-01-193284

Complaint No. 2300414

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on March 4, 2024, charging Scott Elbert Wynn (Respondent) with having violated sections 604(b), (d), (h), 2411(2)(a), and 2411(2)(h) of the Occupational Code, MCL 339.101 *et seq* and Mich Admin Code, R 338.1533(1).

The parties have stipulated that the Board may enter this consent order. 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. Therefore, the Board finds that the allegations of fact contained in the complaint are true and that Respondent has violated sections 604(b), (d), (h), 2411(2)(a), and 2411(2)(h) of the Occupational Code and Mich Admin Code, R 338.1533(1).

Accordingly, for these violations, IT IS ORDERED:

Respondent is FINED \$1,500.00 to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint number 2300414 clearly indicated on the check or money order) and shall be payable within

180 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: Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Compliance Division, P.O. Box 30255, Lansing, Michigan 48909.

Within 360 days of the effective date of this order, Respondent shall pay RESTITUTION in the amount of \$10,000.00 to E.C. Respondent shall mail restitution to E.C. at the address provided to Respondent in a separate document by the Department or Office of Attorney General, Licensing and Regulation Division at the time he signed this stipulation.

If Respondent fails to timely pay the fine or restitution, his license shall be suspended until the fine and restitution are paid. Payment of the fine and restitution shall be joint and several with The S. Wynn Constructor's Company in complaint number 2300413.

Respondent shall submit satisfactory written proof of timely restitution payment to the Department by email to LARA-BCC-RBS-Compliance@michigan.gov.

Respondent shall direct all communications, except fines, required by the terms of this order to: LARA-BCC-RBS-Compliance@michigan.gov.

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

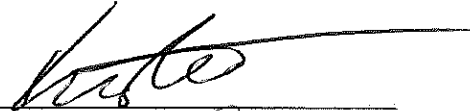

Respondent shall be responsible for the timely compliance with the terms of this consent order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this order.

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 days from the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on 11-7-24

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE
AND 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 Construction Codes, or his 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, 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, MCL 15.231 *et seq.*

5. The Board may enter the above consent order, supported by Board conferee Kenneth Stahl. Conferee Stahl 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. Conferee Stahl and the parties considered the following factors in reaching this agreement:

A. During a compliance conference, Respondent advised that all of the money he received for the project was spent fulfilling the contract and he denied spending the money he received from the homeowner on any other jobs. Further, Respondent advised that he has never received a complaint from a customer about his work in his entire career as a residential builder and that his only goal here was to help out a family member.

B. Respondent advised that a portion of the money he received went towards him completing additional work, not part of the contract. Respondent acknowledged that any changes to his contract with the

homeowner should have been put in writing and agreed upon by both parties.

C. Respondent has been licensed since 2009 without any prior disciplinary actions being taken against his license.

D. Regarding the fine amount, the conferee believed lowering the fine in favor of Respondent paying restitution was appropriate here.

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

AGREED TO BY:

AGREED TO BY:

/s/ DeAnthony D. Shaw
DeAnthony D. Shaw (P82292)
Assistant Attorney General
Attorney for Complainant
Dated: September 24, 2024

Scott Elbert Wynn
Scott Elbert Wynn
Residential Builder
Respondent
Dated: 09/24/24

Bureau of Construction Codes
Approved by:

Andrew Brisbo
Digitally signed by: Andrew Brisbo
DN: CN = Andrew Brisbo email =
andrisbo@michigan.gov C = US O = Bureau of
Construction Codes OU = Director
Date: 2024.09.25 09:25:30 -0400
Andrew Brisbo, Director

9/25/2024

Date

LF: 2023-0392055-B\Wynn, Scott, (Res Bldr), 2300414\Pleading – Consent Order – 2024-09-19

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

In the Matter of

THE S. WYNN CONSTRUCTOR'S COMPANY
Residential Builder Company
License No. 21-02-182130

Complaint No. 2300413

FORMAL COMPLAINT

Assistant Attorney General DeAnthony D. Shaw, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), files this formal complaint against The S. Wynn Constructor's Company (Respondent), alleging upon information and belief as follows:

1. The Board of Residential Builders and Maintenance and Alteration Contractors is an administrative agency established under Article 24 of the Occupational Code, MCL 339.101 *et seq.*
2. Respondent is currently licensed to practice as a residential builder company pursuant to the Code. At all relevant times, Scott Elbert Wynn¹ served as the owner and qualifying officer for Respondent.
3. After receiving a complaint against Respondent, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.
4. Section 604(b) of the Code subjects a licensee to sanction for demonstrating fraud, deceit, or dishonesty in practicing an occupation.
5. Section 604(d) of the Code subjects a licensee to sanction for demonstrating a lack of good moral character, which is defined in MCL 338.41 to

¹ Scott Elbert Wynn is subject to a Formal Complaint in case no. 2300414 for the underlying conduct set forth herein.

mean “the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.”

6. Section 604(h) of the Code subjects a licensee to sanction for violating any other provision of the Code or a rule promulgated under the Code for which a penalty is not otherwise prescribed.

7. Section 2411(2)(a) of the Code subjects a licensee to sanction for abandonment without excuse of a contract, construction project or operation engaged in or undertaken by the licensee.

8. Section 2411(2)(h) of the Code subjects a licensee to sanction for failing to deliver to the purchaser the entire agreement of the parties including any finance or other charge arising out of or incidental to the agreement if the agreement involves repair, alteration, or addition to, subtraction from, improvement of, wrecking of, or demolition of a residential structure, building of a garage, laying of concrete on residential property, or manufacture, assembly, construction, sale, or distribution of a residential structure that is prefabricated, preassembled, precut, packaged, or shell housing.

9. Mich Admin Code, R 338.1533(1) provides that all agreements and changes to the agreements between a builder, or contractor, and the customer shall be in writing and signed by the parties and copies of all agreements and changes to agreements shall be in writing and provided to the customer.

10. Section 514 of the Code authorizes the Board to assess penalties against licensees based on an administrative law hearings examiner’s hearing report.

FACTUAL ALLEGATIONS

11. On January 25, 2022, Mr. Wynn, on behalf of Respondent, entered into a contract with homeowners E.C. and I.M. to reconstruct the property following fire damage. The property is located in Inkster, Michigan.

12. Mr. Wynn, E.C., and I.M. are all related to one another.

13. At the time of entering the contract, Mr. Wynn was aware that I.M. had passed away in 2018. Both E.C. and Mr. Wynn decided to add I.M.'s name to their January 25th contract because I.M. was the insurance policy holder for the property and Mr. Wynn was concerned that the insurer would not honor an insurance claim without I.M. E.C. resided with I.M. at the property as her primary caregiver prior to I.M.'s death and remained at the property after I.M. passed away.

14. E.C. submitted an insurance claim with the insurer, State Farm, to pay Mr. Wynn and Respondent for the fire damage repairs to the property.

15. On or about March 14, 2022, State Farm issued a check to I.M., co-payable to Respondent for \$181,346.44. Prior to commencing work, Mr. Wynn provided E.C. with an August 2022 completion date.

16. Mr. Wynn commenced work on the property on or about late March 2022.

17. On or about April 1, 2022, several appliances and pieces of furniture were removed from the property and never returned. The appliances and furniture included a dining room table, washing machine, refrigerator, stove, drying machine, two dressers, a bed, and a painting. When confronted by E.C. about the missing items, Mr. Wynn claimed the items were stolen by other people.

18. On or about June 4, 2022, Mr. Wynn submitted an insurance claim to State Farm for debris removal at the property, using the same claim number² as the fire damage insurance claim. State Farm subsequently issued a check for \$5,038.70 to I.M. and Respondent. Mr. Wynn endorsed the check signing both his and I.M.'s name.

19. Mr. Wynn worked on the property until about late August 2022, then stopped working and failed to return to the property or make any additional repairs. Mr. Wynn also failed to remove all the debris from the property prior to stopping work.

20. From September 2022 to February 2023, E.C. made multiple attempts to speak with Mr. Wynn and ascertain a status update on the project, that still had not been completed, but Mr. Wynn was largely non-responsive.

21. On February 24, 2023, after consulting with the City of Inkster building inspector, E.C. removed Mr. Wynn's building permit for the property.

22. Due to Mr. Wynn and Respondent's unfinished work, E.C. has been unable to return to the property because it is still uninhabitable.

23. In Mr. Wynn's May 26, 2023 written answer, Mr. Wynn admitted to being aware of the fact that I.M. was deceased, yet decided to go forward with the contract. Further, Mr. Wynn admitted to agreeing to perform trade-off work at the property that was not a part of the original contract but failed to put any of the additional work in writing. The additional work included termite destroyed framing, replacing rotten wood, replacing older pipes and rotted plumbing, and the removal of a ramp.

² Insurance claim no. 22-29Q5-98V.

COUNT I

24. Respondent's conduct, as described above, constitutes demonstrating fraud, deceit, or dishonesty in practicing an occupation, in violation of section 604(b) of the Code.

COUNT II

25. Respondent's conduct, as described above, constitutes demonstrating a lack of good moral character, contrary to section 604(d) of the Code.

COUNT III

26. Respondent's conduct, as described above, constitutes abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee, in violation of section 339.2411(2)(a) of the Code.

COUNT IV

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

COUNT V

28. Respondent's conduct, as described above, constitutes 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 and copies of all agreements and changes to agreements in writing, and provided to the customer, contrary to Mich Admin Code, R 338.1533(1), 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, MCL 24.201 *et seq.* and the Occupational Code 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.

Any written response shall be submitted by regular mail to the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, P.O. Box 30254, Lansing, MI 48909 or by email to LARA-BCC-RBS-Compliance@michigan.gov, with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

/s/ DeAnthony D. Shaw
DeAnthony D. Shaw (P82292)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Telephone: (517) 335-7569
Facsimile: (517) 241-1997

Dated: March 4, 2024

LF: 2023-0392052-A\S Wynn Constructor's Company, The, 2300413\Formal Complaint – 2024-03-04

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

In the Matter of

SCOTT ELBERT WYNN
Residential Builder
License No. 21-01-193284

Complaint No. 2300414

_____ /

FORMAL COMPLAINT

Assistant Attorney General DeAnthony D. Shaw, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), files this formal complaint against Scott Elbert Wynn (Respondent), alleging upon information and belief as follows:

1. The Board of Residential Builders and Maintenance and Alteration Contractors is an administrative agency established under Article 24 of the Occupational Code, MCL 339.101 *et seq.*
2. Respondent is currently licensed to practice as a residential builder pursuant to the Code. At all relevant times, Respondent served as the owner and qualifying officer for the S. Wynn Constructor's Company, which has a related formal administrative complaint in case number 2300413.
3. After receiving a complaint against Respondent, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.
4. Section 604(b) of the Code subjects a licensee to sanction for demonstrating fraud, deceit, or dishonesty in practicing an occupation.
5. Section 604(d) of the Code subjects a licensee to sanction for demonstrating a lack of good moral character, which is defined in MCL 338.41 to

mean “the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.”

6. Section 604(h) of the Code subjects a licensee to sanction for violating any other provision of the Code or a rule promulgated under the Code for which a penalty is not otherwise prescribed.

7. Section 2411(2)(a) of the Code subjects a licensee to sanction for abandonment without excuse of a contract, construction project or operation engaged in or undertaken by the licensee.

8. Section 2411(2)(h) of the Code subjects a licensee to sanction for failing to deliver to the purchaser the entire agreement of the parties including any finance or other charge arising out of or incidental to the agreement if the agreement involves repair, alteration, or addition to, subtraction from, improvement of, wrecking of, or demolition of a residential structure, building of a garage, laying of concrete on residential property, or manufacture, assembly, construction, sale, or distribution of a residential structure that is prefabricated, preassembled, precut, packaged, or shell housing.

9. Mich Admin Code, R 338.1533(1) provides that all agreements and changes to the agreements between a builder, or contractor, and the customer shall be in writing and signed by the parties and copies of all agreements and changes to agreements shall be in writing and provided to the customer.

10. Section 514 of the Code authorizes the Board to assess penalties against licensees based on an administrative law hearings examiner’s hearing report.

FACTUAL ALLEGATIONS

11. On January 25, 2022, Respondent and his company, the S. Wynn Constructor's Company, entered into a contract with homeowners E.C. and I.M. to reconstruct the property following fire damage. The property is located in Inkster, Michigan.
12. Respondent, E.C., and I.M. are all related to one another.
13. At the time of entering the contract, Respondent was aware that I.M. had passed away in 2018. Both E.C. and Respondent decided to add I.M.'s name to their January 25th contract because I.M. was the insurance policy holder for the property and Respondent was concerned that the insurer would not honor an insurance claim without I.M. E.C. resided with I.M. at the property as her primary caregiver prior to I.M.'s death and remained at the property after I.M. passed away.
14. E.C. submitted an insurance claim with the insurer, State Farm, to pay Respondent for the fire damage repairs to the property.
15. On or about March 14, 2022, State Farm issued a check to I.M., co-payable to Respondent's company for \$181,346.44. Prior to commencing work, Respondent provided E.C. with an August 2022 completion date.
16. Respondent commenced work on the property on or about late March 2022.
17. On or about April 1, 2022, several appliances and pieces of furniture were removed from the property and never returned. The appliances and furniture included a dining room table, washing machine, refrigerator, stove, drying machine, two dressers, a bed, and a painting. When confronted by E.C. about the missing items, Respondent claimed the items were stolen by other people.

18. On or about June 4, 2022, Respondent submitted an insurance claim to State Farm for debris removal at the property, using the same claim number¹ as the fire damage insurance claim. State Farm subsequently issued a check for \$5,038.70 to I.M. and Respondent's company. Respondent endorsed the check signing both his and I.M.'s name.

19. Respondent worked on the property until about late August 2022, then stopped working and failed to return to the property or make any additional repairs. Respondent also failed to remove all the debris from the property prior to stopping work.

20. From September 2022 to February 2023, E.C. made multiple attempts to speak with Respondent and ascertain a status update on the project, that still had not been completed, but Respondent was largely non-responsive.

21. On February 24, 2023, after consulting with the City of Inkster building inspector, E.C. removed Respondent's building permit for the property.

22. Due to Respondent's unfinished work, E.C. has been unable to return to the property because it is still uninhabitable.

23. In Respondent's May 26, 2023 written answer, Respondent admitted to being aware of the fact that I.M. was deceased, yet decided to go forward with the contract. Further, Respondent admitted to agreeing to perform trade-off work at the property that was not a part of the original contract but failed to put any of the additional work in writing. The additional work included termite destroyed framing, replacing rotten wood, replacing older pipes and rotted plumbing, and the removal of a ramp.

¹ Insurance claim no. 22-29Q5-98V.

COUNT I

24. Respondent's conduct, as described above, constitutes demonstrating fraud, deceit, or dishonesty in practicing an occupation, in violation of section 604(b) of the Code.

COUNT II

25. Respondent's conduct, as described above, constitutes demonstrating a lack of good moral character, contrary to section 604(d) of the Code.

COUNT III

26. Respondent's conduct, as described above, constitutes abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee, in violation of section 339.2411(2)(a) of the Code.

COUNT IV

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

COUNT V

28. Respondent's conduct, as described above, constitutes 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 and copies of all agreements and changes to agreements in writing, and provided to the customer, contrary to Mich Admin Code, R 338.1533(1), 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, MCL 24.201 *et seq.* and the Occupational Code 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.

Any written response shall be submitted by regular mail to the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, P.O. Box 30254, Lansing, MI 48909 or by email to LARA-BCC-RBS-Compliance@michigan.gov, with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

/s/ DeAnthony D. Shaw
DeAnthony D. Shaw (P82292)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Telephone: (517) 335-7569
Facsimile: (517) 241-1997

Dated: March 4, 2024

LF: 2023-0392055-A\Wynn, Scott, (Res Bldr), 2300414\Formal Complaint – 2024-03-04

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE ALTERATION
CONTRACTORS

In the Matter of

WILLIAM WESLEY MORLAND,
License No. 21-01-158187

Complaint No. 2000100

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on May 9, 2023, charging William Wesley Morland (Respondent) with having violated sections 604(h), (b), (d), 2411(2)(j), (a), (b), (c), and (l) of the Occupational Code, MCL 339.101 *et seq.* and Mich Admin Code, R 338.1551(2) and R 338.1534.

The parties have stipulated that the Board may enter this consent order. 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. Therefore, the Board finds that the allegations of fact contained in the complaint are true and that Respondent has violated sections 604(h), (b), (d), 2411(2)(j), (a), (b), (c), and (l) of the Occupational Code and Mich Admin Code, R 338.1551(2) and R 338.1534.

Accordingly, for these violations, IT IS ORDERED:

Respondent's license is **SUSPENDED** for a period of one (1) year. The license shall be automatically reinstated upon completion of the suspension period and upon the Department's receipt of satisfactory written evidence that Respondent has successfully complied with all terms of the consent order and stipulation are satisfied.

Respondent is **FINED** Ten Thousand and 00/100 Dollars (\$10,000.00) to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint number 2000100 clearly indicated on the check or money order), and shall be payable within 180 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: Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Compliance Division, P.O. Box 30255, Lansing, Michigan 48909. If Respondent fails to timely pay this fine, his license shall be suspended until the fine is paid.

Respondent shall direct all communications, except fines, required by the terms of this order to: LARA-BCC-RBS-Compliance@michigan.gov.

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

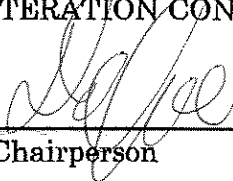
Respondent shall be responsible for the timely compliance with the terms of this consent order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this order.

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 days from the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on _____

MICHIGAN BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE AND ALTERATION CONTRACTORS

By  _____
Chairperson

STIPULATION

The parties stipulate as follows:

1. Respondent does not contest the allegations of fact and law in the complaint. Respondent understands that, by pleading no contest, does not admit the truth of the allegations but agrees that the Board may treat the allegations as true for resolution of the complaint and may enter an order treating the allegations as true.
2. The Director of the Bureau of Construction Codes, or his 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, 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, MCL 15.231 *et seq.*

5. The Board may enter the above consent order, supported by Board conferee Kenneth Stahl. Mr. Stahl 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. Stahl and the parties considered the following factors in reaching this agreement:

A. Respondent took full responsibility for his actions in this matter. He indicated that he now recognizes that he got into a deal that was outside the scope of what he was capable of.

B. Prior to this administrative action Respondent agreed to an arbitration settlement award in the amount of \$400,000.00 on behalf of the complainant homeowners.

CONTINUES ON NEXT PAGE

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

AGREED TO BY:

AGREED TO BY:

Eric M. St. Onge
Eric M. St. Onge (P56630)
Assistant Attorney General
Attorney for Complainant
Dated: March 7, 2024

DocuSigned by:
[Signature]
P28325761004402
William Wesley Morland
Respondent
Dated: 3/5/2024

[Signature]
Kristyn R. Mattern (P77548)
Attorney for Respondent
Dated: 3/7/2024

Bureau of Construction Codes
Approved by:
Andrew Brisbo
Digitally signed by: Andrew Brisbo
DN: CN = Andrew Brisbo email =
brisbo@michigan.gov C = US O = Bureau
of Construction Codes OU = Director
Date: 2024.05.17 15:25:17 -04'00'
Andrew Brisbo, Director

5/17/2024
Date

LF: 2023-0379170-A/Morland, William Wesley, 2000100 (Res Bldr)/Consent – Order and Stipulation – 2024-03-06

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE AND ALTERATION CONTRACTORS

In the Matter of

WILLIAM WESLEY MORLAND
License No. 21-01-158187

Complaint No. 2000100

Respondent

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Complainant (Department), based upon information and belief, files this Formal Complaint against WILLIAM WESLEY MORLAND (Respondent) alleging violations of the Michigan Occupational Code, MCL 339.101 *et seq.*, as follows:

1. The Department has conducted a complaint investigation pursuant to Article 5 of the Occupational Code, which substantiated evidence of violations of the Occupational Code. MCL 339.502-504; and 508.

2. The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board) is an administrative agency established by the Occupational Code. Pursuant to MCL 339.307, 309, 508, and 514, the Board is empowered to impose disciplinary sanctions for violations of the Occupational Code, as set forth in MCL 339.602.

FACTUAL ALLEGATIONS

3. According to residential builder licensing records maintained by the Department, William Wesley Morland was issued a residential builder individual license (21-01-158187), effective June 1, 2001; the license Lapsed effective May 31, 2008; was Relicensed effective November 21,

2017; and is currently Lapsed with an expiration date of May 31, 2020. A copy of the Verification of Licensure, marked Exhibit 1, is attached and incorporated.

4. According to business entity records maintained by the Michigan Department of Licensing and Regulatory Affairs, Corporations, Securities, and Commercial Licensing Bureau, Morland Property Services LLC is a Domestic Limited Liability Company, organized September 24, 2015, and is currently in existence but not in good standing as of March 01, 2022. The Resident Agent on file is William Morland with an address on record at 777 Pathway Drive, Howell, Michigan 48843. The Registered Office mailing address is 777 Pathway Drive, Howell, Michigan 48843. The Articles of Organization list William Morland as the only Member. William Morland filed for resignation of Resident Agent on May 2, 2019. A copy of the Business Entity Records, marked Exhibit 2, is attached and incorporated.

5. William Morland and Morland Property Services LLC presented the Homeowners [REDACTED] with a written agreement (Montclair Estates Building & General Specifications Addendum) for the new construction of a home at [REDACTED], Milford, Michigan 48381 ([REDACTED]). The total cost for the construction project was to be \$975,000.00, with \$170,000.00 to cover the cost for the real property, and \$80,000.00 covering the cost of lumber and supplies to start the project. The Homeowners had purchased the property prior to construction of the home, as the property was part of a development which would otherwise normally remain the property of the development company (JJ Development Inc) until completion of the project and closing. The Homeowners signed and accepted the written agreement on or about June 17, 2019.

6. The payment schedule included the following: a \$35,000.00 deposit upon reservation to include architecture, land balancing, tree work, and permits; \$50,000.00 upon execution of purchase agreement; \$250,000.00 at closing of real property, to include land, excavating, foundation, additional permits, additional lumber package and steel package; \$200,000.00 at framing commencement, to include framing, roof, siding, windows and doors, heat plan, heating and cooling,

rough electrical, and rough plumbing; \$200,000.00 at drywall commencement, to include drywall installed and taped, insulation, paint primer, floors, cabinets, and stonework; \$190,000.00 at trim and interior commencement, to include painting, trim, interior doors, countertop, tile, plumbing fixtures, light fixtures and interior finishing; \$25,000.00 due at substantial completion, after walk through and before Punch List Work; and, \$25,000.00 due at closing. A copy of the Purchase Agreement and Addendum, marked Exhibit 3, is attached and incorporated.

7. Between February 18, 2019, and June 20, 2019, William Morland and Morland Property Services LLC received three (3) payments, totaling \$335,000.00.

8. On or about July 6, 2019, William Morland and Morland Property Services LLC presented the Homeowners with a Change Order for the addition of a barn, porch, and approximately 500 sq. feet bonus area. The Homeowners approved the Change Order on or about July 6, 2019, and paid William Morland and Morland Property Services LLC an additional \$119,711.00.

9. On or about July 26, 2019, William Morland and Morland Property Services LLC requested another payment of \$200,000.00, which was paid by the Homeowners.

10. By July 26, 2019, William Morland and Morland Property Services LLC had received five (5) payments from the Homeowners, totaling \$654,000.00. A copy of the five (5) Payments, marked Exhibit 4, is attached and incorporated.

11. Construction work commenced on or about June 2019, and the last date work was provided was on or about November 2019, which was to move equipment out of the way for DTE to install power to the property.

12. During framing of the house, the framers walked off the project, stating that William Morland and Morland Property Services LLC had a balance due of \$18,000.00. The roofers also left the project before finishing the roof, and no windows or doors were installed.

13. William Morland advised the Homeowners that the windows and doors had been ordered; however, the Homeowners contacted the supplier directly in December 2019, and Michigan Window & Doors (supplier) verified that the doors and windows were never ordered for their property, and that no funds had been paid by William Morland and Morland Property Services LLC.

14. On or about December 18, 2019, an attorney representing the Homeowners drafted a letter to William Morland, Morland Property Services LLC, and Jeffrey Amburgy with Real Estate One, Inc. The letter addressed multiple concerns, including: the length of time it has taken to complete the project; the failure of William Morland and Morland Property Services LLC to provide Sworn Statements and copies of all lien waivers for work performed and materials provided, as required per the contract; concerns that windows were never ordered despite having been paid for by the Homeowners; concerns that payment was received for construction of a barn, porch and bonus room, none of which were constructed; and, concerns that subcontractors had not been paid and that monies for the project have been used for other purposes, in violation of the Michigan Builders' Trust Fund Act.

15. The Homeowners requested an accounting of all project monies, including evidence that the money was currently in an account and available to the construction project, and had not been used for other purposes. William Morland and Morland Property Services LLC failed to respond to the letter or provide the requested information. A copy of the Letter, marked Exhibit 5, is attached and incorporated.

16. On or about January 6, 2020, Fenton Poured Walls, Inc. filed a Construction Lien against the property, alleging that the last day of providing material/labor was on October 15, 2019, and that William Morland and Morland Property Services LLC had an unpaid balance due of \$75,606.71. A copy of the Construction Lien, marked Exhibit 6, is attached and incorporated.

17. On or about January 9, 2020, M.C. Gutherie Lumber Co filed a Construction Lien against the property, alleging that the last day of providing material/labor was on October 30, 2019,

and that William Morland and Morland Property Services LLC had an unpaid balance due of \$93,043.79. A copy of the Construction Lien, marked Exhibit 7, is attached and incorporated.

18. As part of the contract terms, a scheduled mediation took place on or about January 29, 2020. However, William Morland failed to appear to the mediation and had provided his counsel with limited information and documentation.

19. On or about January 31, 2020, the Homeowners drafted a letter to William Morland and Morland Property Services LLC, terminating the contract agreement. The letter addressed the concerns and outlined the multiple reasons for the cancellation of the contract, including that William Morland and Morland Property Services LLC received \$654,711.00 but had provided "a defective, bare-bones skeleton of a house, liened property, and an understanding that a tremendous amount of money did not go into this project." A copy of the Letter, marked Exhibit 8, is attached and incorporated.

20. Section 2401(a) of the Occupational Code provides: "Residential builder" means any of the following: (i) A person¹¹(includes business entities such as a corporation or a limited liability company) engaged in the construction of a residential structure that ... undertakes with another or offers to undertake, or purports to have the capacity to undertake with another, for the erection, construction, replacement, repair, alteration, or addition to, subtraction from, improvement, wrecking of, or demolition of, a residential structure."

21. Morland Property Services LLC, a Domestic Limited Liability Company engaged in the practice of residential building; however, Morland Property Services LLC does not possess a Residential Builder Company License required by Article 24 of the Occupational Code. A Certification of Non-Licensure, marked Exhibit 9, is attached and incorporated.

22. On or about February 20, 2020, the Department received a Statement of Complaint, signed/dated by the Homeowners on January 31, 2020, alleging in part: abandonment of the project, diversion of funds, failure to pay obligations resulting in multiple liens being placed on the

property, and failure to account for or remit money belonging to the Homeowners, subcontractors, and/or suppliers. A copy of the Statement of Complaint (excerpt), marked Exhibit 10, is attached and incorporated.

23. On or about February 24, 2020, a Notice to Respondent was mailed to William Morland and Morland Property Services LLC, requesting a written response to confirm or deny the justification for the complaint. William Morland failed to respond to the Notice to Respondent. A copy of the Notice to Respondent, marked Exhibit 11, is attached and incorporated.

24. Between February 7, 2020, and March 20, 2020, the Homeowners paid another \$48,378.07 to Michigan Windows & Doors, for windows and doors to the home, despite having already paid William Morland funds which was to cover the cost of these items. A copy of the Payment and Invoice, marked Exhibit 12, is attached and incorporated.

25. On or about February 5, 2020, the Homeowners paid \$2,704.50 to DTE Energy due to non-payment by William Morland for installation of power to the property. A copy of the Payment and Invoice, marked Exhibit 13, is attached and incorporated.

26. On or about April 13, 2020, the Homeowners hired Crane Construction Inc (21-02-115480) and Stephen Crane (21-01-050898) to complete construction of the home. Crane Construction Inc received five (5) payments from the Homeowners to complete construction of the home to the extent that it could be sold, in the amount of \$377,482.04. A copy of the Contract with Crane Construction Inc. and Payments, marked Exhibit 14, is attached and incorporated.

27. On or about May 5, 2020, MAH Construction LLC filed a Construction Lien against the property, alleging that the last day of providing material/labor was on February 28, 2020, and that JJ Development Inc (property development company) had an unpaid balance due of \$22,950.00. A copy of the Construction Lien, marked Exhibit 15, is attached and incorporated.

28. On or about July 27, 2020, the Homeowners negotiated the balance due to Fenton Poured Walls, Inc. down from \$75,606.71 to \$50,000.00 regarding the Construction Lien filed on or about January 6, 2020. In response to the payment made by the Homeowners, Fenton Poured Walls, Inc. filed a Discharge of Lien on or about July 28, 2020. A copy of the Discharge of Lien and Payment, marked Exhibit 16, is attached and incorporated.

29. On or about August 20, 2020, an attorney representing the Homeowners drafted a letter to MAH Construction LLC regarding the Construction Lien filed against the property, requesting a signed Discharge of Lien. In response, MAH Construction LLC filed a Discharge of Lien. A copy of the Letter and Discharge of Lien, marked Exhibit 17, is attached and incorporated.

30. On or about November 12, 2020, the Homeowners negotiated the balance due to M.C. Guthrie Lumber Co. down from \$93,043.79 to \$89,400.00 regarding the Construction Lien filed by M.C. Guthrie Lumber Co on or about January 9, 2020. In response to the payment made by the Homeowners, M.C. Guthrie Lumber Co. filed a Release and Discharge of Construction Lien on or about November 16, 2020. A copy of the Discharge of Lien and Payment, marked Exhibit 18, is attached and incorporated.

31. On or about January 26, 2021, the Homeowners filed a civil suit ([REDACTED]) in the Oakland County Circuit Court against multiple parties, including William Wesley Morland and Morland Property Services LLC.

32. On or about March 21, 2022, William Morland gave a deposition. In the deposition, William Morland admitted that an unspecified portion of the funds paid by the Homeowners for the construction project of their home, was knowingly diverted to the construction of another home for Joe (Joseph) Trupiano without the Homeowners' consent. Joseph (JJ) Trupiano is affiliated with JJ Development Inc., the development company for Montclair Properties, where the Homeowners' home was being constructed. An excerpted copy of the Deposition, marked Exhibit 19, is attached and incorporation.

33. On or about April 19, 2022, William Morland and Morland Property Services LLC signed and agreed to a Settlement Agreement, stipulating to an Arbitration Agreement in the Homeowner's favor of \$400,000.00. A copy of the Stipulation and Arbitration Agreement, marked Exhibit 20, is attached and incorporated.

34. On or about August 2, 2022, the Oakland County Circuit Court issued a Civil Judgement in favor of the Homeowners and against William Morland and Morland Property Services LLC, in the amount of \$400,000.00. A copy of the Civil Judgment, marked Exhibit 21, is attached and incorporated.

35. On or about April 28, 2023, the Homeowners provided the Department with a copy of William Morland's ledger, showing that William Morland logged payments as fees paid towards construction of their home (Lot 2). However, Fenton Poured Walls verified with the Homeowners that the \$40,000.00 check logged was not paid towards the construction of their home (as evident by the Construction Lien they placed on the property) but advised the Homeowners that the payment was used towards another property located at [REDACTED] in Fowlerville, Michigan.

36. There was also a payment documented to Michigan Window & Doors regarding the Homeowner's property ([REDACTED]); however, windows were never delivered to the Homeowner's property, and the Homeowner had already verified with Michigan Window & Doors that William Morland had never ordered windows and doors for their home. A copy of the Ledger, marked Exhibit 22, is attached and incorporated.

37. A search of BS&A Online shows that the current owners of [REDACTED], Fowlerville, Michigan 48836, the address provided by Fenton Poured Walls, are [REDACTED]. BS&A Online records for [REDACTED] show that a Building Permit was issued to [REDACTED] on April 29, 2019, for the construction of a new home including poured foundation walls. A copy of BS&A records for the property, marked Exhibit 23, is attached and incorporated.

38. Having incurred an approximate cost in excess of \$1,000,000.00 to complete construction of the home (not including attorney representation fees): \$654,711.00 paid to William Morland and Morland Property Services LLC; \$139,400.00 to satisfy two (2) of the Construction Liens placed on the property; \$48,378.07 to Michigan Window & Doors; \$2,704.50 to DTE Energy; and, the \$377,482.04 paid to Crane Construction Inc. to complete construction of the home to the extent that it could be sold; the Homeowners were forced to list the home for sale after construction was completed, and sold the home at a loss.

39. To date, William Morland has failed to satisfy the Civil Judgement issued in favor of the Homeowners in the amount of \$400,000.00, nor has William Morland made any payments towards the Civil Judgement.

40. Rule 803 of the Michigan Administrative Hearing System,¹ Administrative Hearing Rules, Part 8 provides that: [i]n determining a violation of, or compliance with, the licensing law, a rule promulgated pursuant to the licensing law, or an order issued pursuant to the licensing law, the determination shall be made on the basis of compliance or violation at the time of the alleged violation. Mich Admin Code R 792.10803.

41. Rule 805 of the Michigan Administrative Hearing System, Administrative Hearing Rules, Part 8 provides that: [p]roof of adjudication of misconduct in a civil or disciplinary proceeding or of a judgment of guilt in a criminal proceeding may be used as evidence when relevant to establishing a violation of the licensing law, a rule promulgated pursuant to the licensing law, or an order issued pursuant to the licensing law, consistent with the occupational license for former offenders act, MCL 338.41 to MCL 338.47. Mich Admin Code R 792.10805.

¹ The Michigan Administrative Hearing System (MAHS) is now known as the Michigan Office of Administrative Hearings and Rules (MOAHR).

ALLEGED VIOLATIONS

COUNT I

Respondent's conduct evidences a failure to reply to the department within 15 days of receipt of the complaint to confirm or deny the justification of the complaint, contrary to Mich Admin Code R338.1551(2), in violation of MCL 339.604(h).

COUNT II

Respondent's conduct evidences a failure to keep and maintain a complete, accurate set of books and records, contrary to Mich Admin Code R 338.1534, in violation of MCL 339.604(h).

COUNT III

Respondent's conduct evidences aiding or abetting an unlicensed person² to evade this article, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, allowing one's license to be used by an unlicensed person, or acting as or being an ostensible licensed residential builder or licensed residential maintenance and alteration contractor for an undisclosed person who does or shall control or direct, or who may have the right to control or direct, directly or indirectly, the operations of a licensee, in violation of MCL 339.2411(2)(j).

COUNT IV

Respondent's conduct evidences abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee, in violation of MCL 339.2411(2)(a).

² Section 2401(a) of the Occupational Code provides: "Residential builder" means any of the following: (i) A person¹(includes business entities such as a corporation or a limited liability company) engaged in the construction of a residential structure that ... undertakes with another or offers to undertake, or purports to have the capacity to undertake with another, for the erection, construction, replacement, repair, alteration, or addition to, subtraction from, improvement, wrecking of, or demolition of, a residential structure."

COUNT V

Respondent's conduct evidences diversion of funds from the \$654,711.00 received for completion of Homeowner's construction project, which was used for other construction projects or operations, obligations, or purposes, in violation of MCL 339.2411(2)(b).

COUNT VI

Respondent's conduct evidences a failure to account for or remit money coming into the person's possession that belongs to others, as evident in the multiple Construction Liens placed against the Homeowner's property in excess of \$100,000.00, as well as the Respondent's failure to satisfy a Civil Judgment, in violation of MCL 339.2411(2)(c).

COUNT VII

Respondent's conduct evidences a failure to satisfy a Civil Judgment and Construction Liens, and failure to pay an obligation as it becomes due in the ordinary course of business, in violation of MCL 339.2411(2)(l).

COUNT VIII

Respondent's conduct, by diverting funds from the \$654,711.00 paid by the Homeowners for construction of their home; abandoning the construction project without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee; failing to account for or remit money coming into his possession that belonged to others, resulting in multiple liens being placed on the property in excess of \$100,000.00; failing to satisfy those liens, resulting in additional costs being incurred by the Homeowners to satisfy them; failing to keep accurate books and records by documenting payments as related to the construction of the Homeowner's home, that were in fact not used for the construction of the home; and failing to satisfy a Civil Judgment issued in favor of the Homeowners in the amount of \$400,000.00, evidences practicing fraud, deceit, or dishonesty in practicing an occupation, in violation of MCL 339.604(b).

COUNT IX

Respondent's conduct, by diverting funds from the \$654,711.00 paid by the Homeowners for construction of their home; abandoning the construction project without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee; failing to account for or remit money coming into his possession that belonged to others, resulting in multiple liens being placed on the property in excess of \$100,000.00; failing to satisfy those liens, resulting in additional costs being incurred by the Homeowners to satisfy them; failing to keep accurate books and records by documenting payments as related to the construction of the Homeowner's home, that were in fact not used for the construction of the home; and failing to satisfy a Civil Judgment issued in favor of the Homeowners in the amount of \$400,000.00, evidences demonstrating a lack of good moral character³, in violation of MCL 339.604(d).

DISCIPLINARY SANCTIONS

Section 604 of the Occupational Code provides:

A person who violates 1 or more of the provisions of an article which regulates an occupation or who commits 1 or more of the following shall be subject to the penalties prescribed in section 602.

Section 2411(2) of the Occupational Code provides:

A licensee or applicant who commits 1 or more of the following is subject to the penalties set forth in article 6 [MCL 339.602]:

Section 602 of the Occupational Code prescribes the potential penalties (disciplinary sanctions) that may be assessed for violations of the Occupational Code:

A person, school, or institution that violates this act or a rule or order promulgated or issued under this act shall be assessed 1 or more of the following penalties:

³ MCL 339.104(8) provides "Good moral character" means good moral character as defined in section 1 of 1974 PA 381, MCL 338.41, which defines "Good moral character" as construed to mean the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.

- (a) Placement of a limitation on a license or certificate of registration for an occupation regulated under articles 8 to 25.
 - (b) Suspension of a license or certificate of registration.
 - (c) Denial of a license, certificate of registration, or renewal of a license or certificate of registration.
 - (d) Revocation of a license or certificate of registration.
 - (e) In the case of a person licensed or registered under this act and except as otherwise provided in this act, an administrative fine to be paid to the department of not more than \$10,000.00.
 - (f) Censure.
 - (g) Probation.
 - (h) A requirement that restitution be made, based on proofs submitted to and findings made by the hearing examiner after a contested case.
- MCL 339.602(a)-(h)

The Department alleges that Respondent has acted in violation of the Occupational Code, constituting grounds for the assessment of a penalty, or penalties, as prescribed in MCL 339.602(a)-(h).

COMMENCEMENT OF ADMINISTRATIVE PROCEEDING

The Department hereby commences a proceeding pursuant to the Administrative Procedures Act, MCL 24.201 *et seq*, and the Occupational Code, to determine whether disciplinary action should be taken by the Department and the Michigan Board of Residential Builders and Maintenance and Alteration Contractors.

Respondents are hereby notified that, pursuant to MCL 339.508(2), Respondents have 15 days from the date of receipt of this Formal Complaint to notify the Department of Respondents' decision to either negotiate a settlement of this matter, to demonstrate compliance with the Occupational Code, or to request a formal administrative hearing. Written notification of Respondents' selection shall be submitted to the Bureau of Construction Codes, Department of Licensing and Regulatory Affairs, P.O. Box 30254, Lansing, MI 48909. If Respondents fail to notify the Department of their decision within 15 days, the Department will proceed with the prosecution of the Formal Complaint and will request the scheduling of a formal administrative hearing by the Michigan Office of

Administrative Hearings and Rules (MOAHR). A Notice of Formal Complaint and Compliance Election Form is included with this Formal Complaint.

Date: May 9, 2023

Alexandria McGoren for Felicia Badger

Felicia Badger, Manager
Residential Builder Section
Bureau of Construction Codes
Department of Licensing and Regulatory Affairs

Attachment - Exhibits

Therefore, the Board finds that the allegations of fact contained in the complaint are true and that Respondents have violated sections 604(b), (d), (g), (h), 2404(a), and 2411(2)(e) of the Occupational Code and Mich Admin Code, R 338.1533(2) and 1551(5).

Accordingly, for these violations IT IS ORDERED:

Respondents are FINED FOUR THOUSAND AND 00/100 DOLLARS (\$4,000.00) jointly and severally, to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 1900450 and 1900449 clearly indicated on the check or money order). The fine shall be paid within 90 days of the effective date of this order. Timely payment of the fine shall be Respondents' responsibility. Respondents shall mail the fine to: Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Compliance Division, P.O. Box 30255, Lansing, Michigan 48909. If Respondents fail to timely pay this fine, their licenses shall be suspended until the fine is paid.

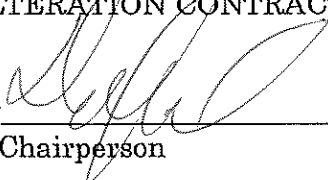
Respondents shall direct communications, except fines, concerning the terms of this order to: LARA-BCC-RBS-Compliance@michigan.gov.

If Respondents violate any term or condition set forth in this order, they will be in violation of section 604(k) of the Occupational Code.

This order shall be effective 30 days from the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on _____

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

By  _____
Chairperson

STIPULATION

The parties stipulate as follows:

1. Respondents do not contest the allegations of fact and law in the complaint. Respondents understand that, by pleading no contest, they do not admit the truth of the allegations but agree that the Board may treat the allegations as true for resolution of the complaints and may enter an order treating the allegations as true.
2. The Director of the Bureau of Construction Codes, or his 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, 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, MCL 15.231 *et seq.*

5. The Board may enter the above consent order, supported by Board conferee Kenneth Stahl. Mr. Stahl 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. Stahl and the parties considered the following factors in reaching this agreement:

- A. During a compliance conference attended by Mr. Stahl and Assistant Attorney General Sharon Park, Respondent Rossi represented that he was relatively new to the residential builder's business at the time of the allegations listed in the formal complaint and was unaware of every requirement of Occupational Code. He stated he has since familiarized himself with the Occupational Code.
- B. Respondent Rossi also indicated he was unaware that Respondent Artistic Construction & Design, LLC's license was lapsed at the time of the allegations in the formal complaint. He has since renewed its license and it is in good standing.

C. Respondents have been licensed since 2016 without any prior disciplinary action.

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

AGREED TO BY:

/s/ Jennifer Fitzgerald
Jennifer Fitzgerald (P60109)
Assistant Attorney General
Attorney for Complainant
Dated: November 4, 2024

AGREED TO BY:

C Rossi
Craig Rossi
Artistic Construction & Design, LLC
Respondents
Dated: 11-1-24

Michael C. Decker
Michael C. Decker (P75374)
Attorney for Respondents
Dated: NOVEMBER 4, 2024

Bureau of Construction Codes
Approved by:

Andrew Brisbo
Digitally signed by: Andrew Brisbo
DN: CN = Andrew Brisbo email =
brisboa@michigan.gov C = US O = Bureau
of Construction Codes OU = Director
Date: 2024.11.04 19:28:14 -0500

Andrew Brisbo, Director

11/4/2024

Date

LF: 2023-0383661-A/Rossi, Craig Stevens, 1900449 (Res Bldr)/revised Consent Order and Stipulation – 2024-10-31

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE AND ALTERATION CONTRACTORS

In the Matter of

ARTISTIC CONSTRUCTION & DESIGN LLC
License No. 21-02-213100
Respondent

Complaint No. 1900450

AND

CRAIG ROSSI
Qualifying Officer
License No. 21-01-210955
Respondent

Complaint No. 1900449

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Complainant (Department), based upon information and belief, files this Formal Complaint against ARTISTIC CONSTRUCTION & DESIGN LLC (Respondent) and CRAIG ROSSI (Respondent) alleging violations of the Michigan Occupational Code, MCL 339.101 *et seq.*, as follows:

1. The Department has conducted a complaint investigation pursuant to Article 5 of the Occupational Code, which substantiated evidence of violations of the Occupational Code. MCL 339.502-504; and 508.
2. The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board) is an administrative agency established by the Occupational Code. Pursuant to MCL 339.307, 309, 508, and 514, the Board is empowered to impose disciplinary sanctions for violations of the Occupational Code, as set forth in MCL 339.602.

FACTUAL ALLEGATIONS

3. According to residential builder licensing records maintained by the Department, Artistic Construction & Design LLC was issued a residential builder company license (21-02-213100), effective August 24, 2016; the license lapsed on May 31, 2019, and was relicensed effective April 06, 2022; with an expiration date of May 31, 2025. Craig Rossi was designated as the Qualifying Officer of Artistic Construction & Design LLC, effective August 24, 2016. A copy of the Verification of Licensure, marked Exhibit 1, is attached and incorporated.

4. According to residential builder licensing records maintained by the Department, Craig Rossi was issued a residential builder individual license (21-01-210955), effective March 11, 2016; the license was renewed effective April 06, 2022, with an expiration date of May 31, 2025. Pursuant to MCL 339.2405(1), Craig Rossi, designated as the Qualifying Officer of Artistic Construction & Design LLC, is responsible for exercising the supervision or control of the building or construction operations of Artistic Construction & Design LLC necessary to secure full compliance with Article 24 of the Occupational Code and the rules promulgated thereunder. A copy of the Verification of Licensure, marked Exhibit 2, is attached and incorporated.

5. On or about April 25, 2019, and August 20, 2019, Respondent presented two (2) separate "Proposals" to [REDACTED] (Homeowners) to perform renovation work to the master bathroom of their home, located at [REDACTED] Rochester Hills, MI 48307. The "Proposals" contained the name (letterhead): "Artistic Construction and Design LLC;" Address: 35788 Stoerker St., Harrison Twp., MI 48045; and statement: "Artistic Construction and Design LLC is a Michigan licensed residential builder LIC # 210115110."

6. The first Proposal, dated April 25, 2019, involved work to be completed for a master bathroom renovation, including the demolition, removal, and installation of the vanity, sinks, tub, and toilet – and – all items associated with the new rebuild; installation of all rough plumbing and electrical to all locations; and all mechanical, plumbing, and electrical discussed (including all piping

replaced with pvc and pex). The renovations were to address safety concerns as the Homeowners are both elderly, and to make the bathroom handi-cap accessible, as [REDACTED] is a 100% disabled Vietnam veteran and very limited in walking. [REDACTED] cannot walk without a walker or a wheelchair.

7. The first Proposal provided a total fee for the master bathroom renovation in the amount of \$30,800.00. Payments were to be made according to the following payment schedule provided on the Proposal: \$10,000.00 down, payments as needed. \$1,000.00 balance due when contractor completes the job. The time frame provided for the job was approximately 3-4 weeks with a start date of May/June 2019. A copy of the Proposal provided was not signed by the parties. The license number provided on the Proposal for Artistic Construction and Design LLC is not the correct license number for the company or the Qualifying Officer of the company. The listed license number, 21-01-151110, is the license of James Wulbrecht, licensed effective July 27, 1999, and active through May 31, 2023. A copy of the Proposal, marked Exhibit 3, is attached and incorporated.

8. Between May 20, 2019, and July 09, 2019, five (5) payments were received by Craig Rossi and Artistic Construction & Design LLC for work completed, totaling \$27,000.00. A copy of the Payments, marked Exhibit 4, is attached and incorporated.

9. A Change Order, dated August 20, 2019, involved charges for extra work completed for the master bathroom renovation. The extra charges included framing and drywalling a new wall; the installation of locking hardware for the office and bedroom; and worked quoted under falling criteria. This work included framing and waterproofing new areas in the toilet room, installing extra grab bars, wall tiling, and installation of an anti-scald pipe protection guard for the vanity.

10. The Change Order provided a total fee in the amount of approximately \$3,824.00. Payments were to be made according to the following payment schedule provided: \$10,000.00 down, \$5,000.00 (end of the first week), \$4,000.00 on 06/04, payments as needed. \$1,000.00 balance due when contractor completes job. The change order noted a balance due from

main contract as of August 20, 2019, for a new total amount due of \$7,624.00. A copy of the change order provided was not signed by the parties. The license number provided on the change order for Artistic Construction and Design LLC is not the correct license number for the company or the Qualifying Officer of the company. The listed license number, 21-01-151110, is the license of James Wulbrecht, licensed effective July 27, 1999, and active through May 31, 2023. A copy of the Change Order, marked Exhibit 5, is attached and incorporated.

11. Craig Rossi and Artistic Construction & Design LLC commenced construction work on or about May 20, 2019. According to the Homeowners, the work was still not completed as of September 27, 2019.

12. Respondent Artistic Design and Construction LLC was a licensed residential builder company from August 24, 2016, until May 31, 2019, when the license lapsed. The company was unlicensed¹ until April 06, 2022, when the company became relicensed. Therefore, Artistic Construction & Design LLC engaged in the practice of residential building; however, Artistic Construction & Design LLC did not possess a residential builder company license required by Article 24 of the Occupational Code.

13. On or about September 27, 2019, the Department received a Statement of Complaint, filed by the Homeowners, signed/dated September 27, 2019, alleging in part: failed to obtain a Building Permit; construction delays; paid for work not completed/materials not used; and concerns regarding the quality of construction. An excerpted copy of the Statement of Complaint, marked Exhibit 6, is attached and incorporated.

¹ Section 601.3 (3) provides that "Subject to section 411, a person whose license or registration is suspended, revoked, or lapsed, as determined by the records of the department, is considered unlicensed or unregistered."

14. An inspection was completed on October 04, 2019, by the City of Rochester Hills, Building Department, at the request of the Homeowners. The following Building, Plumbing, Mechanical, and Electrical code violations of the 2015 Michigan Residential Code were cited:

Building Code Violations:

- Contractor did not obtain permits for work done on home, contrary to R105.1.
- Contractor failed to have the proper inspections for the work that was completed, contrary to R109.1, MRC 2015

Plumbing Code Violations:

- Work was covered without inspection, contrary to P2503.2.
- Contractor did not obtain permits for work done on home, contrary to R105.1.
- Cannot have horizontal dry vent at lavatory, contrary to P3104.5.
- Provide proper vent at lavatory, contrary to P3105.1.
- Improper use of sanitary tee for shower, should be y, contrary to P3005.1.
- Unused bathtub waste line is uncapped, contrary to R105.1.

Mechanical Code Violations:

- A new bath exhaust fan was installed; a toe kick heat register relocated. Work was done, contrary to R105.1 (no permit).

Electrical Code Violations:

- Electrical work done without a permit, contrary to R105.1.
- No inspection prior to concealment, contrary to R109.1.2.
- New electrical parts of existing affected requires inspections, contrary to E3403.2.
- Receptacles require grounding, contrary to E4002.2.

A copy of the Building Inspection Report, marked Exhibit 7, is attached and incorporated.

15. The scope of work detailed in the two (2) Proposals, as well as the subsequent work performed by Craig Rossi and Artistic Construction & Design LLC, clearly required applying for and obtaining the required Permit(s), including Building, Electrical, Plumbing, and Mechanical, pursuant to Section R105.1 of the 2015 Michigan Residential Code (MRC), which states:

SECTION R105 PERMITS

R105.1 Required. Any owner or owner's authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the *building official* and obtain the required *permit*.

16. Craig Rossi and Artistic Construction & Design LLC, failed to apply for and obtain the required Building Permit from the City of Rochester Hills, Building Division.

17. Craig Rossi and Artistic Construction & Design LLC did not: 1) hire a licensed Electrician to apply for and obtain an Electrical Permit and to perform the regulated Electrical work; 2) or hire a licensed Plumber to apply for and obtain a Plumbing Permit and to perform the regulated Plumbing work; 3) or hire a licensed Mechanical Contractor to apply for and obtain a Mechanical Permit and to perform the regulated Mechanical work.

18. Craig Rossi and Artistic Construction & Design LLC performed: 1) regulated Electrical work without possessing an Electrician license; 2) regulated Plumbing work without possessing a Plumbing license; and 3) regulated Mechanical work without possessing a Mechanical Contractor license; in violation of the Michigan Skilled Trades Regulation Act.

19. Craig Rossi and Artistic Construction & Design LLC failed to apply for and obtain the required Building Permit and failed to ensure that the required Electrical; Plumbing; and Mechanical Permits were obtained, and therefore no required Inspections for Building, Electrical, Plumbing, and Mechanical were conducted by the Rochester Hills, Building Department, as required by Section R109 of the 2015 Michigan Residential Code (MRC), which states.

SECTION R109 INSPECTIONS

R109.1 Types of inspections. For on-site construction, from time to time the *building official*, upon notification from the *permit* holder or his agent, shall make or cause to be made any necessary inspections and shall either approve that portion of the construction as completed or shall notify the *permit* holder or his or her agent wherein the same fails to comply with this code.

R109.3 Inspection requests. It shall be the duty of the *permit* holder or their agent to notify the *building official* that such work is ready for inspection. It shall be the duty of the person requesting any inspections required by this code to provide access to and means for inspection of such work.

R109.4 Approval required. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official upon notification shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or agent of the permit holder wherein portion of the construction fails to comply with this code. The notification shall include specific reference to the code chapter and section numbers in violation in writing. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

20. A Notice to Respondent and Proof of Service was mailed to the Respondents on or about December 09, 2019. A response was received on or about January 15, 2020. The Respondents wrote a letter to the Department initially stating that they did not know that permits were required for the job and stated that the Homeowners asked them not to pull permits. Finally, the Respondents acknowledged not pulling permits and advised that they "will pull all the permits on the [REDACTED] job if a substantial payment is made." A copy of the Respondents' Letter, marked Exhibit 8, is attached and incorporated.

21. Section R 101.2 of the Michigan Residential Code (MRC; a/k/a residential building code) prescribes the "scope" of the Code, and Section R 101.3 prescribes the "intent" of the

Code:

Formal Complaint
Complaint No. 1900449, 1900450

SECTION R101 GENERAL

R101.1 Title. These provisions shall be known and cited as the Michigan residential code for 1- and 2-family dwellings and will be referred to as "the code."

R 408.30501

R101.2 Scope. The provisions of the Michigan residential code for 1- and 2-family dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached 1- and 2-family dwellings and townhouses not more than 3 stories above grade plane in height with a separate means of egress and their accessory structures.

R101.3 Intent. The purpose of this code is to establish minimum requirements to safeguard the public safety, health and general welfare through affordability, structural strength, means of egress facilities, stability, sanitation, light and ventilation, energy conservation and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

22. Based on the years of licensure of Craig Rossi, and the renewal requirements, Craig Rossi is expected, and required, to be knowledgeable regarding the Michigan Residential Code. Craig Rossi was issued a residential builder individual license effective March 11, 2016; the license was renewed effective April 06, 2022; with an expiration date of May 31, 2025.

23. Section 2404b(c) of the Occupational Code provides that beginning June 1, 2008, an applicant must not receive an initial builder license unless he or she successfully completed 60 hours of approved relicensure courses that include at least 6 hours in each of the following areas of competency:

- (i) Business management, estimating, and job costing.
- (ii) Design and building science.
- (iii) Contracts, liability, and risk management.
- (iv) Marketing and sales.
- (v) Project management and scheduling.
- (vi) The current Michigan residential code.

(vii) Construction safety standards promulgated under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094. [*Emphasis added*]. MCL 339.2404b(c)

24. Section 2404b(2) of the Occupational Code provides for “continuing competency” requirements:

A person originally licensed after January 1, 2009, is required to complete the following every 3 years for the first 6 years of licensure:

- A minimum of 3 hours each year
- A total of 21 hours within the first 3 years of licensure and an additional 21 hours during the second 3-year license cycle consisting of:
 - 1 hour covering building codes and laws related to the licensed occupation
 - 1 hour covering safety
 - 1 hour covering changes in construction and business management laws
 - 18 hours of "other topics" [listed in administrative rules]

25. Rule 64 of the Residential Builder Administrative Rules provides a list of the “other topics” referenced in Section 2404b(2) of the Occupational Code:

Courses and activities must be relevant to the licensed occupation and may include any of the following:

- Business management, estimating, and job costing
- Design and building science
- Contracts, liability, and risk management
- Marketing and sales
- Project management and scheduling
- Carpentry; concrete; swimming pool installation; waterproofing a basement; excavation; insulation work; masonry work; painting and decorating; roofing; siding and gutters; screen or storm sash insulation; tile and marble work; or house wrecking
- Accounting and safekeeping for monies received from a customer, including the requirements of a building contract fund (MCL 570.151)
- Accounting, finance, and taxes
- Personnel management
- Communication and customer service
- Environmental or land use analysis
- Life safety
- "Green" building

- o Zoning and governance policies and procedures
 - o Mold, lead, asbestos, or other hazardous material mitigation
- Mich Admin Code R 338.1564

Section 2404(6) of the Occupational Code provides:

An applicant for renewal of a residential builder or maintenance and alteration contractor license shall state to the department that he or she has a current copy of the Michigan residential code and meets the appropriate requirements regarding continuing competency described in this article or rules promulgated under this article. [*Emphasis added*]
MCL 339.2404(6)

26. Rule 803 of the Michigan Administrative Hearing System,² Administrative Hearing Rules, Part 8 provides that: [i]n determining a violation of, or compliance with, the licensing law, a rule promulgated pursuant to the licensing law, or an order issued pursuant to the licensing law, the determination shall be made on the basis of compliance or violation at the time of the alleged violation. Mich Admin Code R 792.10803.

27. Article 6, Section 731(1) of the Michigan Skilled Trades Regulation Act, provides that a person shall not engage in electrical wiring work unless that person is a licensed Electrician. MCL 339.5731(1).

28. Article 6, Section 1107(1) of the Michigan Skilled Trades Regulation Act, provides that a person shall not engage in plumbing work unless that person is a licensed Plumber. MCL 339.6107(1).

29. Article 6, Section 809(1) of the Michigan Skilled Trades Regulation Act, provides that a person shall not engage in Mechanical work unless that person is a licensed Mechanical Contractor. MCL 339.5809(1).

² The Michigan Administrative Hearing System (MAHS) is now known as the Michigan Office of Administrative Hearings and Rules (MOAHR).
Formal Complaint
Complaint No. 1900449, 1900450

ALLEGED VIOLATIONS

COUNT I

Respondents failed to make certain that the written agreements (Proposals) and changes to the agreements between a builder, or contractor, and the customer shall be signed by the parties, contrary to Mich Admin Code, R 338.1533(2), in violation of MCL 339.604(h).³

COUNT II

Respondents failed to provide information on the contract (Proposal) relating to his individual license and to any license issued to that person as a qualifying officer of another entity, contrary to MCL 339.2404(a), in violation of MCL 339.604(h).

COUNT III

Respondents' conduct evidences a failure to maintain standards of construction in compliance with the Michigan Residential Code, contrary to Mich Admin Code, R 338.1551(5), in violation of MCL 339.604(h).

COUNT IV

Respondents' conduct 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(e).

COUNT V

Respondents' conduct demonstrates committing an act which demonstrates incompetence.⁴

³ Certain sections of the Occupational Code, and the associated Administrative Rules, do not provide for the imposition of a disciplinary sanction in the event of a violation of the section or the rule; however, MCL 339.604 provides: A person who violates 1 or more of the provisions of an article which regulates an occupation or who commits 1 or more of the following shall be subject to the penalties prescribed in section 602 [MCL 339.602]: (h) Violates any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed. MCL 339.604(h).

⁴ Section 104 (9) provides that "incompetence" means a departure from, or a failure to conform to, minimal standards of acceptable practice for an occupation.

COUNT VI

Respondents' conduct demonstrates practicing fraud, deceit, or dishonesty in practicing an occupation, in violation of MCL 339.604(b).

COUNT VII

Respondents' conduct demonstrates a lack of good moral character⁵, in violation of MCL 339.604(d).

DISCIPLINARY SANCTIONS

Section 604 of the Occupational Code provides:

A person who violates 1 or more of the provisions of an article which regulates an occupation or who commits 1 or more of the following shall be subject to the penalties prescribed in section 602.

Section 2411(2) of the Occupational Code provides:

A licensee or applicant who commits 1 or more of the following is subject to the penalties set forth in article 6 [MCL 339.602]:

Section 602 of the Occupational Code prescribes the potential penalties (disciplinary sanctions) that may be assessed for violations of the Occupational Code:

A person, school, or institution that violates this act or a rule or order promulgated or issued under this act shall be assessed 1 or more of the following penalties:

- (a) Placement of a limitation on a license or certificate of registration for an occupation regulated under articles 8 to 25.
- (b) Suspension of a license or certificate of registration.
- (c) Denial of a license, certificate of registration, or renewal of a license or certificate of registration.
- (d) Revocation of a license or certificate of registration.
- (e) In the case of a person licensed or registered under this act and except as otherwise provided in this act, an administrative fine to be paid to the department of not more than \$10,000.00.
- (f) Censure.
- (g) Probation.

⁵ Section 1 (1) provides that "good moral character" means the propensity on the part of an individual to serve the public in the licensed area in a fair, honest, and open manner. [MCL 338.41]

(h) A requirement that restitution be made, based on proofs submitted to and findings made by the hearing examiner after a contested case. MCL 339.602(a)-(h)

The Department alleges that the Respondents have acted in violation of the Occupational Code, constituting grounds for the assessment of a penalty, or penalties, as prescribed in MCL 339.602(a)-(h).

COMMENCEMENT OF ADMINISTRATIVE PROCEEDING

The Department hereby commences a proceeding pursuant to the Administrative Procedures Act, MCL 24.201 *et seq*, and the Occupational Code, to determine whether disciplinary action should be taken by the Department and the Michigan Board of Residential Builders and Maintenance and Alteration Contractors.

Respondents are hereby notified that, pursuant to MCL 339.508(2), Respondents have 15 days from the date of receipt of this Formal Complaint to notify the Department of Respondents' decision to either negotiate a settlement of this matter, to demonstrate compliance with the Occupational Code, or to request a formal administrative hearing. Written notification of Respondents' selection shall be submitted to the Bureau of Construction Codes, Department of Licensing and Regulatory Affairs, P.O. Box 30254, Lansing, MI 48909. If Respondents fail to notify the Department of their decision within 15 days, the Department will proceed with the prosecution of the Formal Complaint and will request the scheduling of a formal administrative hearing by the Michigan Office of Administrative Hearings and Rules (MOAHR). A Notice of Formal Complaint and Compliance Election Form is included with this Formal Complaint.

Date: December 02, 2022

Alexandria McGeron for Felicia Badger
Felicia Badger, Manager
Residential Builder Section
Bureau of Construction Codes
Department of Licensing and Regulatory Affairs

Attachment - Exhibits