

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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200557

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200558

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CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on January 11, 2023, charging All In One Custom Renovations, LLC and Sandra J. Ward (collectively referred to as "Respondents" or individually by name) with having violated sections 2411(2)(a), (2)(c), 604(b), (d), (e) and (g) 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 2411(2)(a), (2)(c), 604(b), (d), (e) and (g) of the Occupational Code.

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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200563

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200564

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CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on January 11, 2023, charging All In One Custom Renovations, LLC and Sandra J. Ward (collectively referred to as "Respondents" or individually by name) with having violated sections 604(b), (d), 2411(2)(a), (2)(b), and (2)(c) 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(b), (d), 2411(2)(a), (2)(b), and (2)(c) of the Occupational Code.

Accordingly, for these violations, IT IS ORDERED:

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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200568<sup>1</sup>

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200567

---

CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on January 11, 2023, charging All In One Custom Renovations, LLC and Saundra J. Ward (collectively referred to as "Respondents" or individually by name) with having violated sections 2411(2)(a), (2)(b), (2)(c), (2)(l), 604(b), and (d) 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.

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<sup>1</sup> As the result of a typographical error, the case numbers were inadvertently switched in the formal complaint and accompanying documents but have been correctly applied here.

Therefore, the Board finds that the allegations of fact contained in the complaint are true and that Respondents have violated sections 2411(2)(a), (2)(b), (2)(c), (2)(l), 604(b), and (d) of the Occupational Code.

Accordingly, for these violations, IT IS ORDERED:

Respondents' licenses are REVOKED. Reinstatement of the licenses is not automatic, and Respondents must petition for reinstatement in accordance with section 411(5) of the Occupational Code as set forth below.

Respondents are FINED \$5,000, jointly and severally, to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 2200567 and 2200568 clearly indicated on the check or money order) and shall be payable prior to petitioning for reinstatement of the revoked licenses. 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.

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

If either Respondent petitions for reinstatement of its license, the petition shall be in accordance with section 411(5) of the Occupational Code. Under this provision, the petitioning Respondent shall 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 it 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 may not file a petition for reinstatement until at least 10 years after the date of revocation.


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.

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 5/16/24

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. 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. Respondents' willingness to resolve this matter without a hearing has saved the Bureau time and resources.
- B. Restitution is not being sought due to the homeowners obtaining credit chargebacks related to the project.

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/ Jason W. Werkema

Jennifer Fitzgerald (P80109)  
Jason W. Werkema (P80850)  
Assistant Attorneys General  
Attorneys for Complainant  
Dated: January 23, 2024

AGREED TO BY:

Sandra J. Ward

Sandra J. Ward  
All in One Custom Renovations LLC  
Respondent

Dated: 12-20-2023

T. P. Phillips

Tyler P. Phillips (P78280)  
Attorney for Respondent

Dated: 1-22-24

Bureau of Construction Codes

Approved by:

Andrew Brisbo

Digitally signed by Andrew Brisbo  
DN: cn = Andrew Brisbo email =  
abrisbo@mtc.state.ga.gov, o = US G - Bureau  
of Construction Codes OU = Director  
Date: 2024.01.24 11:39:07 -0500

Andrew Brisbo, Director

1/24/2024

Date:

LE: 2022-035804-BAM in One Custom Renovations LLC, 9906609 & 2022-035806-10 Ward, Sandra (lisa Bldg, 2210511)  
Consent Order and Stipulation 2024-12-15

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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200567

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200568

---

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 formal complaint against All In One Custom Renovations and Saundra J. Ward (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. Respondents are each currently licensed residential builders pursuant to the Code. At all relevant times, Respondent Ward served as the qualifying officer for Respondent All In One.
3. After receiving a complaint against Respondents, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.



4. Section 339.604(b) of the Code subjects a licensee to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.
5. Section 339.604(d) of the Code subjects a licensee to sanction for demonstrating a lack of good moral character, defined by MCL 338.41 as “the propensity on the part of an individual to serve the public in the licensed area in a fair, honest, and open manner.”
6. Section 339.2411(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.
7. Section 339.2411(2)(b) of the Code subjects a licensee to sanction for “diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes.”
8. Section 339.2411(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.
9. Section 339.2411(2)(l) of the Code subjects a licensee to sanction for failing to pay an obligation as it becomes due in the ordinary course of business.
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 or about June 6, 2021, Respondents contracted with homeowners G.F. and M.F. to provide renovations to their home in Walled Lake, Michigan.

12. G.F. and M.F. paid Respondents over \$30,000.00 for labor and materials. G.F. and M.F. were responsible for demolition in the areas to be renovated.

13. After receiving payment, Respondents installed some kitchen cabinetry on or about June 10, 2022, but never returned to finish work on the contract, leaving construction unfinished and materials not delivered and a kitchen that could not be used.

14. Respondents have not returned the homeowners' calls since approximately June 24, 2022, when Respondents ceased operating.

15. Respondents also failed to pay several subcontractors for work and materials they provided to the project.

16. As its qualifying officer, Respondent Sandra Ward acted on behalf of Respondent All In One 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

17. Respondents' conduct as described above constitutes practicing 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 demonstrates 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 "diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes" in violation of section 2411(2)(b) of the Code.

COUNT V

21. Respondents' conduct as described above constitutes 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.

COUNT VI

22. Respondents' conduct as described above constitutes failing to pay an obligation as it becomes due in the ordinary course of business in violation of section 2411(2)(1) 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](mailto:LARA-BCC-RBS-Compliance@michigan.gov), with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

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

Dated: January 11, 2023

Respondents' licenses are REVOKED. Reinstatement of the licenses is not automatic, and Respondents must petition for reinstatement in accordance with section 411(5) of the Occupational Code as set forth below.

Respondents are FINED \$5,000, jointly and severally, to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 2200563 and 2200564 clearly indicated on the check or money order) and shall be payable prior to petitioning for reinstatement of the revoked licenses. 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

Respondent All in One shall pay \$2,340.35 in RESTITUTION to P.M. and K.M. Restitution shall be payable prior to petitioning for reinstatement of the revoked license. Respondent All in One shall submit satisfactory written proof of timely restitution payment to the Department by email to LARA-BCC-RBS-Compliance@michigan.gov.

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

If either Respondent petitions for reinstatement of its revoked license, the petition shall be in accordance with section 411(5) of the Occupational Code. Under this provision, the petitioning Respondent shall 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 may not file a petition for reinstatement until at least 10 years after the date of revocation.

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 either Respondent violates any term or condition set forth in this order, that 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 5/16/21

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. 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. Respondent Ward is not subject to restitution payment because her debt was discharged in personal bankruptcy in the Eastern District of Michigan. Respondent All in One did not declare bankruptcy and its debts were not discharged.
- B. 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:

AGREED TO BY:

/s/ Jason W. Werkema  
 Jennifer Fitzgerald (P80109)  
 Jason W. Werkema (P80350)  
 Assistant Attorneys General  
 Attorneys for Complainant  
 Dated: January 23, 2024

*Sandra J. Ward*  
 Sandra J. Ward  
 All in One Custom Renovations LLC  
 Respondent

Dated: 12-20-2023

*T. P. R.*  
 Tyler P. Phillips (P78280)  
 Attorney for Respondent  
 Dated: 1-22-24

Bureau of Construction Codes  
 Approved by:  
 Andrew Brisbo  
 Digitally signed by Andrew Brisbo  
 DN: CN = Andrew Brisbo email =  
 abrisbo@miocn.gov C = US O = Bureau  
 of Construction Codes OU = Director  
 Date: 2024.01.24 11:39:37 -0500  
 Andrew Brisbo, Director

1/24/2024  
 Date

LF: 2023-0358638-IV All in One Custom Renovations LLC, 3200669 & 3023-0358638-IV Ward, Sandra (New Hired), 2200664/Consent Order and Stipulation - 2023-12-14



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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200563

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200564

---

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 formal complaint against All In One Custom Renovations (a/k/a All In One Kitchen & Bath) and Saundra J. Ward (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. Respondents are each currently licensed residential builders pursuant to the Code. At all relevant times, Respondent Ward served as the qualifying officer for Respondent All In One.
3. After receiving a complaint against Respondents, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.

4. Section 339.604(b) of the Code subjects a licensee to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.
5. Section 339.604(d) of the Code subjects a licensee to sanction for demonstrating a lack of good moral character, defined by MCL 338.41 as “the propensity on the part of an individual to serve the public in the licensed area in a fair, honest, and open manner.”
6. Section 339.2411(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.
7. Section 339.2411(2)(b) of the Code subjects a licensee to sanction for “diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes.”
8. Section 339.2411(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.
9. 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

10. In April 2021, Homeowners P.M. and K.M. contracted with Respondent All In One for renovations to their Milford, Michigan home.

11. On April 29, 2021, P.M. and K.M. paid Respondent All In One a deposit of \$10,000. Between May 2021 to June 2022, P.M. and K.M. paid Respondent All In One an additional \$57,895.29 for the renovations.

12. Respondents began work on the home in and around March 2022, but abruptly stopped work on June 23, 2022. When work stopped, Respondents had not completed work that had been paid for by P.M. and K.M.

13. Since June 23, 2022, P.M. and K.M. have attempted to contact Respondents but haven't received a refund or materials for the incomplete work, despite paying Respondents in full.

14. P.M. and K.M. also discovered Respondents failed to pay several subcontractors who worked on their home even though P.M. and K.M. paid Respondents for the subcontracted work.

15. As its qualifying officer, Respondent Sandra Ward acted on behalf of Respondent All in One 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

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

COUNT II

17. Respondents' conduct described above demonstrates a lack of good moral character in violation of section 604(d) of the Code.

COUNT III

18. Respondents' conduct 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

19. Respondents' conduct described above constitutes "diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes" in violation of section 2411(2)(b) of the Code.

COUNT V

20. Respondents' conduct described above constitutes 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](mailto:LARA-BCC-RBS-Compliance@michigan.gov), with a copy mailed to the undersigned assistant attorneys general.

Respectfully submitted,

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

Dated: January 11, 2023

LF: 2022-0353640-A / All in One Custom Renovations LLC / Formal Complaint / 2022-08-22

Accordingly, for these violations, IT IS ORDERED:

Respondents' licenses are REVOKED. Reinstatement of the licenses are not automatic, and Respondents must petition for reinstatement in accordance with section 411(5) of the Occupational Code as set forth below.

Respondents are FINED \$5,000 jointly and severally, to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 2200557 and 2200558 clearly indicated on the check or money order), and shall be payable prior to petitioning for reinstatement of the revoked licenses. 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.

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

If either Respondent petitions for reinstatement of their revoked licenses, the petition shall be in accordance with section 411(5) of the Occupational Code. Under this provision, the petitioning Respondent shall 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 it 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 may not file a petition for reinstatement until at least 10 years after the date of revocation.

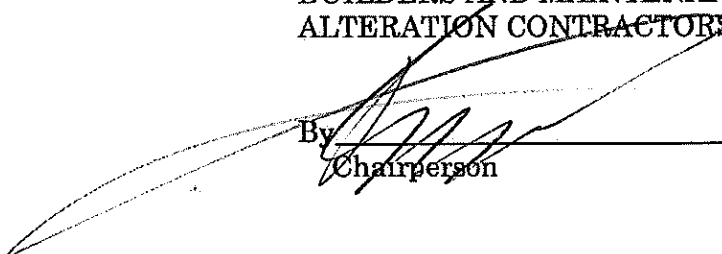
Respondents shall be responsible for all costs and expenses incurred in complying with the terms and conditions of this consent order.

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.

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 5/16/20

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. 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 to recommend acceptance of this resolution.



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

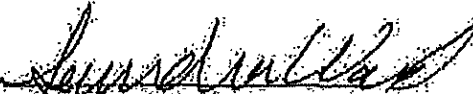
- A. Respondents' willingness to resolve this matter without a hearing saved the Bureau time and resources.
- B. Resitution is not being sought regarding this complaint.

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

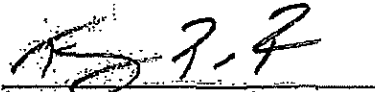
AGREED TO BY:

AGREED TO BY:

/s/ Jason W. Werkema  
Jennifer Fitzgerald (P60109)  
Jason Werkema (P80350)  
Assistant Attorney General  
Attorney for Complainant  
Dated: January 23, 2024

  
Sandra J. Ward  
All in One Custom Renovations LLC  
Respondents

Dated: 1-20-2024

  
Tyler P. Phillips (P78280)  
Attorney for Respondents  
Dated: 1-22-24

**Bureau of Construction Codes**  
Approved by:  
Andrew Brisbo  
Digitally signed by Andrew Brisbo  
DN: cn = Andrew Brisbo email =  
abrisbo@nichigan.gov C = US O = Bureau  
of Construction Codes OU = Director  
Date: 2024.01.24 11:00:05 -0500  
Andrew Brisbo, Director

1/24/2024  
Date

LF 2023-0376010-B & 2023-0363019-D / All in One Custom Renovations LLC, 2200567 & Sandra J. Ward, 2200558 /  
Consent Order and Stipulation / 2023-12-08

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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200557

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200558

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 formal complaint against Respondents All In One Custom Renovations and Saundra J. Ward (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. Respondents are each currently licensed residential builders pursuant to the Code. At all relevant times, Respondent Ward served as the qualifying officer for Respondent All In One.

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

4. 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.

5. 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.

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

7. 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.”

8. Section 604(e) of the Code subjects a licensee to sanction for committing an act of gross negligence in practicing an occupation.

9. Section 604(g) of the Code subjects a licensee to sanction for committing an act which demonstrates incompetence.

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. In February 2021, Homeowners J.I. and D.I. contracted with Respondent All In One Construction for a complete renovation of the first floor of their Highland, Michigan home.

12. Homeowners J.I. and D.I. decided to contract with Respondent All In One based on Respondents' assertions that Respondent All In One handled the entire process of renovating including, but not limited to: measuring, ordering, and installation.

13. During the renovations, numerous issues arose with Respondent All In One's work. In one instance, it measured cabinets incorrectly and Homeowners J.I. and D.I. ended up with fewer cabinets than they paid for. Respondents did not provide a refund for the error. In another instance, Homeowners J.I. and D.I. were required to pay for an additional hood vent after Respondent Sandra Ward ordered the incorrect unit. Again, no refund was provided for the error.

14. As of May 2022, the renovation was incomplete and several issues remained with the work completed by Respondents. Homeowners J.I. and D.I. communicated their concerns and outlined a list of items that needed to be addressed by Respondents.

15. Specifically, J.I. and D.I. advised that cabinets could not be completely opened due to mismeasurement, water was not connected to the sink or refrigerator, installed appliances were not fully accessible due to their proximity to the cabinets, and electrical outlets were not secured or useable.

16. In an email sent by Respondent Saundra Ward on June 20, 2022 to Homeowners J.I. and D.I., she specifically acknowledged numerous items that Respondent All In One was still responsible for completing. Following this email, Respondents ceased communicating with Homeowners J.I. and D.I..

17. Homeowners J.I and D.I. made numerous attempts to contact Respondents to no avail. To date, despite receiving payment, Respondents have failed to complete the project, provide any refunds or outstanding materials, or respond to the homeowners' attempts to contact them.

18. As its qualifying officer, Respondent Saundra Ward acted on behalf of Respondent All In One 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

19. Respondents' conduct as described above constitutes a violation of section 2411(2)(a) of the Code.

#### COUNT II

20. Respondents' conduct as described above constitutes a violation of section 2411(2)(c) of the Code.

#### COUNT III

21. Respondents' conduct as described above constitutes a violation of section 604(b) of the Code.

COUNT IV

22. Respondents' conduct as described above constitutes a violation of section 604(d) of the Code.

COUNT V

23. Respondents' conduct as described above constitutes a violation of section 604(e) of the Code.

COUNT VI

24. Respondents' conduct as described above constitutes a violation of section 604(g) 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.

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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](mailto:LARA-BCC-RBS-Compliance@michigan.gov), with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

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

Dated: January 11, 2023

LF: 2022-0353640-A / All In One Custom RenovationsLLC / Formal Complaint / 2023-01-11

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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200582

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200583

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CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on January 11, 2023, charging All In One Custom Renovations, LLC and Sandra J. Ward (collectively referred to as "Respondents" or individually by name) with having violated section 2411(2)(l) 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 section 2411(2)(l) of the Occupational Code.



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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200632

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200633

---

CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on January 11, 2023, charging All In One Custom Renovations, LLC and Sandra J. Ward (collectively referred to as "Respondents" or individually by name) with having violated sections 2411(2)(a), (2)(b), (2)(c), (2)(l), 604(b), and (d) 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 2411(2)(a), (2)(b), (2)(c), (2)(l), 604(b), and (d) of the Occupational Code.

Accordingly, for these violations, IT IS ORDERED:

Respondents' licenses are REVOKED. Reinstatement of the licenses is not automatic, and Respondents must petition for reinstatement in accordance with section 411(5) of the Occupational Code as set forth below.

Respondents are FINED \$5,000, jointly and severally, to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 2200632 and 2200633 clearly indicated on the check or money order) and shall be payable prior to petitioning for reinstatement of the revoked licenses. 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.

Respondent All in One shall pay \$ 2,271 in RESTITUTION to S.C. and L.C. Restitution shall be payable prior to petitioning for reinstatement of the revoked license. Respondent All in One shall submit satisfactory written proof of timely restitution payment to the Department by email to LARA-BCC-RBS-Compliance@michigan.gov..

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

If either Respondent petitions for reinstatement of its revoked licenses, the petition shall be in accordance with section 411(5) of the Occupational Code. Under this provision, the petitioning Respondent shall 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 it 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 may not file a petition for reinstatement until at least 10 years after the date of revocation.

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, that 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 5/16/24

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. 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. Respondents' willingness to resolve this matter without a hearing has saved the Bureau time and resources.
- B. Respondent Ward is not subject to restitution payment because her debt was discharged in personal bankruptcy in the Eastern District of Michigan, Respondent All in One did not declare bankruptcy and its debts were not discharged.

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/ Jason W. Werkema  
Jennifer Fitzgerald (P80109)  
Jason W. Werkema (P80360)  
Assistant Attorneys General  
Attorney for Complainant  
Dated: January 23, 2024

AGREED TO BY:

Sandra J. Ward  
Sandra J. Ward  
All in One Custom Renovations LLC  
Respondent

Dated: 12-20-2023

T. P. A.  
Tyler P. Phillips (P79280)  
Attorney for Respondents  
Dated: 1-22-24

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: 2024.01.24 11:38:03 -0500

Andrew Brisbo, Director

1/24/2024

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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200632

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200633

---

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 formal complaint against All In One Custom Renovations and Saundra J. Ward (referred to singly 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. Respondents are each currently licensed residential builders pursuant to the Code. At all relevant times, Respondent Ward served as qualifying officer for Respondent All In One.
3. After receiving a complaint against Respondent, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.

4. Section 339.604(b) of the Code subjects a licensee to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.
5. Section 339.604(d) of the Code subjects a licensee to sanction for demonstrating a lack of good moral character, defined by MCL 338.41 as “the propensity on the part of an individual to serve the public in the licensed area in a fair, honest, and open manner.”
6. Section 339.2411(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.
7. Section 339.2411(2)(b) of the Code subjects a licensee to sanction for “diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes.”
8. Section 339.2411(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.
9. Section 339.2411(2)(l) of the Code subjects a licensee to sanction for failing to pay an obligation as it becomes due in the ordinary course of business.
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 or about July 8, 2021, Respondents entered into a construction contract for over \$40,000 with homeowners L.C and S.C. Per the contract, Respondents were to renovate L.C. and S.C.'s home in Williamston, Michigan.

12. L.C. and S.C. paid Respondents all but the last \$871.63 of the contracted price. The last amount was not due until the final walk through on the project.

13. Respondents never contacted L.C. or S.C. to finish the punch list items that needed to be finished or corrected before the walk through and the project could be considered complete. L.C. and S.C. attempted to contact Respondents to complete the project but were unable to reach them.

14. Respondents never completed the construction project and at least one supplier or subcontractor has contacted L.C. and S.C., stating Respondents did not pay them for supplies or services provided to the project.

15. As its qualifying officer, Respondent Sandra Ward acted on behalf of Respondent All in One 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

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



COUNT II

17. Respondents' conduct described above demonstrates a lack of good moral character in violation of section 604(d) of the Code.

COUNT III

18. Respondents' conduct 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

19. Respondents' conduct described above constitutes "diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes" in violation of section 2411(2)(b) of the Code.

COUNT V

20. Respondents' conduct described above constitutes 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.

COUNT VI

21. Respondents' conduct described above constitutes a failure to pay an obligation as it becomes due in the ordinary course of business, in violation of section 339.2411(2)(l) 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](mailto:LARA-BCC-RBS-Compliance@michigan.gov), with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

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

Dated: January 11, 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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200663

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200664

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CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on January 11, 2023, charging All In One Custom Renovations, LLC and Saundra J. Ward (collectively referred to as "Respondents" or individually by name) with having violated sections 604(b), (d), 2411(2)(a), (2)(b), and (2)(c) 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), (2)(b), and (2)(c) of the Occupational Code.

Accordingly, for these violations, IT IS ORDERED:

Respondents' licenses are REVOKED. Reinstatement of the revoked licenses is not automatic, and Respondents must petition for reinstatement in accordance with section 411(5) of the Occupational Code as set forth below.

Respondents are FINED \$5,000, jointly and severally, to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 2200663 and 2200664 clearly indicated on the check or money order), and shall be payable prior to petitioning for, or obtaining automatic reinstatement of the revoked licenses. 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

Respondent All in One shall pay \$3,492.59 in RESTITUTION to homeowner L.P. Restitution shall be payable prior to petitioning for reinstatement of the revoked license. Respondent All in One shall submit satisfactory written proof of timely restitution payment to the Department by email to LARA-BCC-RBS-Compliance@michigan.gov.

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

If either Respondent petitions for reinstatement of its revoked license, the petition shall be in accordance with section 411(5) of the Occupational Code. Under this provision, the petitioning Respondent shall 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 it 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 may not file a petition for reinstatement until at least 10 years after the date of revocation.

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 either Respondent violates any term or condition set forth in this order, that 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 5/14/24

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. 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. Respondent Ward is not subject to restitution payment because her debt was discharged in bankruptcy. Respondent All in One did not file bankruptcy.
- B. 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/ Jason W. Werkema  
Jennifer Fitzgerald (P80109)  
Jason W. Werkema (P80350)  
Assistant Attorneys General  
Attorneys for Complainant  
Dated: January 23, 2024

AGREED TO BY:

Sandra J. Ward  
Sandra J. Ward  
All in One Custom Renovations LLC  
Respondent

Dated: 12-20-2023

Tyler P. Phillips  
Tyler P. Phillips (P78280)  
Attorney for Respondent  
Dated: 1-22-24

Bureau of Construction Codes  
Approved by:

Andrew Brisbo  
Digitally signed by Andrew Brisbo  
DN: cn = Andrew Brisbo email =  
abrisbo@mtc.state.gov C = US O = Bureau  
of Construction Codes OU = Director  
Date: 2024.01.24 11:37:26 -0500

Andrew Brisbo, Director

1/24/2024

Date

LF: 2023-0353870-2/All in One Custom Renovations LLC, 2500683 & 2023-0353870-2/Ward, Sandra, (aka Blair)  
2200664/Consent Order and Stipulation, 2023-12-14

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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200663

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200664

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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 formal complaint against Respondents All In One Custom Renovations and Saundra J. Ward (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. Respondents are each currently licensed residential builders pursuant to the Code. At all relevant times, Respondent Ward served as the qualifying officer for Respondent All In One.
3. After receiving a complaint against Respondents, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.



4. Section 339.604(b) of the Code subjects a licensee to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.

5. Section 339.604(d) of the Code subjects a licensee to sanction for demonstrating a lack of good moral character, defined by MCL 338.41 as “the propensity on the part of an individual to serve the public in the licensed area in a fair, honest, and open manner.”

6. Section 339.2411(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.

7. Section 339.2411(2)(b) of the Code subjects a licensee to sanction for “diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes.”

8. Section 339.2411(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.

9. 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

10. On July 9, 2021, Respondents entered into a contract to remodel L.P.'s home in Milford, Michigan. The contract for the renovations exceeded \$60,000.

11. On or about June 6, 2022, L.P. paid Respondents for a faucet on order.
12. L.P. made the final payment for construction to Respondents on June 14, 2022.
13. On June 22, 2022, Respondents informed L.P. via an email that they had gone out of business.
14. When Respondents informed L.P. they were no longer in business, they had not finished construction in L.P.'s home and had not delivered or installed the faucet referred to in paragraph 11, nor did they offer to refund any money to L.P. for materials allegedly ordered and not provided, or for work that was paid for but not complete.
15. In order to complete construction on his home, L.P. had to hire another builder to complete the work at an additional cost beyond what he paid Respondents.
16. As its qualifying officer, Respondent Saundra Ward acted on behalf of Respondent All in One 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

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

COUNT II

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

COUNT III

19. Respondents' conduct 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 described above constitutes "diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes" in violation of section 2411(2)(b) of the Code.

COUNT V

21. Respondents' conduct described above constitutes 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](mailto:LARA-BCC-RBS-Compliance@michigan.gov), with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

/s/ Jennifer Fitzgerald

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

Dated: January 13, 2023

LF: 2022-0353640-A / All in One Custom Renovations LLC / Formal Complaint / 2022-08-22

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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200848

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200849

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CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on January 11, 2023, charging All In One Custom Renovations, LLC and Sandra J. Ward (collectively referred to as "Respondents" or individually by name) with having violated sections 604(b), (d), 2411(2)(a), (2)(b), and (2)(c) 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), (2)(b), and (2)(c) of the Occupational Code.

Accordingly, for these violations, IT IS ORDERED:

Respondents' licenses are REVOKED. Reinstatement of the revoked licenses is not automatic, and Respondents must petition for reinstatement in accordance with section 411(5) of the Occupational Code as set forth below.

Respondents are FINED \$5,000.00, jointly and severally, to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 2200848 and 2200849 clearly indicated on the check or money order) and shall be payable prior to petitioning for reinstatement of the revoked licenses. 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.

Respondent All in One Custom Renovations, LLC shall pay \$4,951.81 in RESTITUTION to J.D. and L.D. Restitution shall be payable prior to petitioning for reinstatement of the revoked license and Respondent All in One shall submit satisfactory written proof of timely restitution payment to the Department by email to [LARA-BCC-RBS-Compliance@michigan.gov](mailto:LARA-BCC-RBS-Compliance@michigan.gov).

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

If either Respondent petitions for reinstatement of its revoked licenses, the petition shall be in accordance with section 411(5) of the Occupational Code. Under this provision, the petitioning Respondent shall 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 it 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 may not file a petition for reinstatement until at least 10 years after the date of revocation.

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

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

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

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

Signed on 5/14/24

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. 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. Respondent Ward is not subject to restitution payment because her debt was discharged in bankruptcy. Respondent All in One did not file bankruptcy, so its debts were not discharged.
- B. The amount of restitution Respondent All in One is ordered to pay reflects credit chargebacks J.D. and L.D. received related to the project.
- 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/ Jason W. Werkema  
Jennifer Fitzgerald (P80109)  
Jason W. Werkema (P80350)  
Assistant Attorneys General  
Attorneys for Complainant  
Dated: January 23, 2024

AGREED TO BY:

Saundra J. Ward  
Saundra J. Ward  
All in One Custom Renovations LLC  
Respondent

Dated: 12-20-2023

Tyler P. Phillips  
Tyler P. Phillips (P78280)  
Attorney for Respondent  
Dated: 1-22-24

Bureau of Construction Codes

Approved by:

Andrew Brisbo  
Digitally signed by Andrew Brisbo  
DN: CN = Andrew Brisbo email =  
abrisbo@michigan.gov O = US O = Bureau  
of Construction Codes OU = Director  
Date: 2024.01.24 11:38:48 -0500

Andrew Brisbo, Director

1/24/2024

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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200848

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200849

---

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 formal complaint against Respondents All In One Custom Renovations and Saundra J. Ward (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. Respondents are currently licensed to practice as residential builders pursuant to the Code. At all relevant times, Respondent Saundra J. Ward served as the qualifying officer for Respondent All in One Custom Renovations, LLC.
3. After receiving a complaint against Respondents, the Bureau investigated the allegations of the complaint pursuant to section 502 of the Code.

4. Section 339.604(b) of the Code subjects a licensee to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.

5. Section 339.604(d) of the Code subjects a licensee to sanction for demonstrating a lack of good moral character, defined by MCL 338.41 as “the propensity on the part of an individual to serve the public in the licensed area in a fair, honest, and open manner.”

6. Section 339.2411(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.

7. Section 339.2411(2)(b) of the Code subjects a licensee to sanction for “diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes.”

8. Section 339.2411(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.

9. 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

10. On or around April 30, 2021, Respondents entered into a contract to remodel two bathrooms and the kitchen in J.D.'s home in Brighton, Michigan. J.D. paid Respondents in excess of \$50,000 for the renovations.

11. Construction began in May 2022 in one of the bathrooms and continued until Respondents failed to show up to the home on June 22, 2022.

12. At the time, the bathroom Respondents were working on was unfinished and no work had begun on the other bathroom or the kitchen.

13. Despite receiving payment in full, Respondents never returned to complete the project nor did another contractor perform any work on Respondent's behalf.

14. J.D. attempted to contact Respondents and was unable to reach them. Further, on June 27, 2022, J.D. received a letter from Respondents indicating that they were permanently closing their business.

15. Between May 27, 2022 and June 15, 2022, J.D. made payments to Respondents totaling \$11,500, only days prior to the closing of Respondent All In One.

16. Since advising J.D. of closing its doors, Respondents have not provided any refunds or materials to J.D. despite being paid in full.

17. As its qualifying officer, Respondent Saundra Ward acted on behalf of Respondent All In One and is responsible for exercising supervision and control of its construction operations to secure full compliance with Article 24 or the Occupational Code.

COUNT I

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

COUNT II

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

COUNT III

20. Respondents' conduct 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

21. Respondents' conduct described above constitutes "diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes" in violation of section 2411(2)(b) of the Code.

COUNT V

22. Respondents' conduct described above constitutes 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](mailto:LARA-BCC-RBS-Compliance@michigan.gov), with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

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

Dated: January 11, 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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2201030

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2201029

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CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on January 11, 2023, charging All In One Custom Renovations, LLC and Saundra J. Ward (collectively referred to as “Respondents” or individually by name) with having violated sections 604(b), (d), 2411(2)(a), (2)(b), and (2)(c) 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), (2)(b), and (2)(c) of the Occupational Code.

Accordingly, for these violations, IT IS ORDERED:

Respondents' licenses are REVOKED. Reinstatement of the revoked licenses is not automatic, and Respondents must petition for reinstatement in accordance with section 411(5) of the Occupational Code as set forth below.

Respondents are FINED \$5,000, jointly and severally, to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 2201030 and 2201029 clearly indicated on the check or money order), and shall be payable prior to petitioning for reinstatement of the revoked licenses. 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.

Respondents shall pay \$21,909.12 RESTITUTION to M.B. and L.B. in a manner, amount, and time consistent with the consent judgment Respondent Ward entered into with M.B. and J.B. in the Eastern District of Michigan Bankruptcy Court (█). Respondents shall submit satisfactory written proof of timely restitution payment to the Department by email to [LARA-BCC-RBS-Compliance@michigan.gov](mailto:LARA-BCC-RBS-Compliance@michigan.gov).

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

If either Respondent petitions for reinstatement of its license, the petition shall be in accordance with section 411(5) of the Occupational Code. Under this provision, the petitioning Respondent shall 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 it 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 may not file a petition for reinstatement until at least 10 years after the date of revocation.

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.

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 5/16/21

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. 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 factor in reaching this agreement:
  - A. Respondents' willingness to resolve this matter without a hearing 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/ Jason W. Werkema  
Jennifer Fitzgerald (P60109)  
Jason J. Werkema (P80350)  
Assistant Attorney General  
Attorney for Complainant  
Dated: January 23, 2024

AGREED TO BY:

Saundra J. Ward  
Saundra J. Ward  
All in One Custom Renovations LLC  
Respondent

Dated: 12-20-2023

Tyler P. Phillips  
Tyler P. Phillips (P78280)  
Attorney for Respondent  
Dated: 1-22-24

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: 2024.01.24 11:36:10 -0500

Andrew Brisbo, Director

1/24/2024

Date

LF: 2023-0304654-B/all in One Custom Renovations LLC, 2201030 & 2023-0304056-B/Ward, Saundra, 2301029/Consent Order and Stipulation - 2023-12-12

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

ALL IN ONE CUSTOM RENOVATIONS, LLC      Complaint No. 2201030  
Residential Builder Company  
License No. 26-20-00799

and

SAUNDRA J. WARD      Complaint No. 2201029  
Residential Builder  
License No. 24-20-00569

\_\_\_\_\_ /

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 formal complaint against All In One Construction, LLC and Sandra J. Ward (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. Respondents are currently licensed to practice as residential builders pursuant to the Code. At all relevant times, Respondent Ward served as the qualifying officer for Respondent All in One Custom Renovations, LLC.

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

4. Section 339.604(b) of the Code subjects a licensee to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.

5. Section 339.604(d) of the Code subjects a licensee to sanction for demonstrating a lack of good moral character, defined by MCL 338.41 as “the propensity on the part of an individual to serve the public in the licensed area in a fair, honest, and open manner.”

6. Section 339.2411(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.

7. Section 339.2411(2)(b) of the Code subjects a licensee to sanction for “diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes.”

8. Section 339.2411(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.

9. 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

10. On or about March 11, 2022, Respondents entered into a contract to remodel the kitchen in M.B. and L.B.'s (the Homeowners) home in Fowlerville, Michigan.

11. The Homeowners paid Respondents roughly \$22,000 for the renovations. The amount represented a required 60% deposit of the total contract price, plus one change order.

12. In late July, 2022, in a letter addressed to the Homeowners, Respondents stated All in One was closing its doors and ceasing operations. Respondents claimed they were "working with" their "vendors and other contractors to mitigate the effects of our closure as much as possible." Included in the letter was the name of a residential builder who purportedly could complete the Homeowners' construction.

13. Except for creating a computer drawing of the project and taking measurements, Respondents had not done any work on the Homeowners' project when All in One shut its doors.

14. Respondents did not refund the Homeowners their deposit or provide them any materials that were purportedly ordered with their deposit.

15. The Homeowners contacted the residential builder referred to in Respondents' letter. He informed the Homeowners that Respondents had not ordered any materials with their down payment.

16. As its qualifying officer, Respondent Saundra Ward acted on behalf of Respondent All In One and is responsible for exercising supervision and control of its construction operations to secure full compliance with Article 24 or the Occupational Code.

#### COUNT I

17. Respondents' conduct as described above constitutes practicing 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 demonstrates 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 described above constitutes "diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a

construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes” in violation of section 2411(2)(b) of the Code.

COUNT V

21. Respondents’ conduct described above constitutes 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](mailto:LARA-BCC-RBS-Compliance@michigan.gov), with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

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

Dated: January 13, 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

DAVON SMITH  
Residential Builder  
License No. 21-01-213266

Complaint No. 2300815

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint dated November 14, 2023 was filed with the Board of Residential Builders and Maintenance and Alteration Contractors, charging Davon Smith (Respondent) with violating sections 604(a), (b), (d), and (k) of the Occupational Code, MCL 339.101 *et seq.*

Based on the formal complaint and an accompanying affidavit from Alaysha Oviedo, the Department summarily suspended Respondent's license to practice as a residential builder by order dated November 15, 2023.

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 section 604(k) of the Occupational Code.

Accordingly, for this violation, IT IS ORDERED:

The order of summary suspension previously issued is DISSOLVED.

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

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.

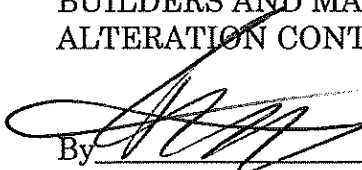
If Respondent violates any term or condition set forth in this order, Respondent will be in violation of section 604(k) of the Occupational Code.

Respondent is currently subject to the terms of a Final Order entered by the Board in case number 340227 on September 1, 2022, which imposed an administrative fine and restitution, and revoked Respondent's license. The September 1, 2022 order remains in full force and effect, and Respondent must comply with those terms in addition to the terms of this order. Respondent may not petition for reinstatement of the license until the terms of the September 1, 2022 Final Order have been complied with.

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

Signed on 5/16/24

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. 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. Respondent represented that he was unaware of the underlying action that led to the revocation of his license because he had moved. He acknowledged that he was required to update his mailing address with the Bureau and had not.
- B. Respondent has been licensed since 2017 without any prior disciplinary actions, except for the underlying action.
- C. Respondent's willingness to accept responsibility and 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: February 7, 2024

Bureau of Construction Codes

Approved by:  
 Andrew Brisbo  
 Andrew Brisbo, Director

Digitally signed by: Andrew Brisbo  
 DN: CN = Andrew Brisbo, email =  
 BrisboA@Michigan.gov, C = US, O = Bureau of  
 Construction Codes, OU = Director  
 Date: 2024.02.08 09:02:47 -0500

AGREED TO BY:

Davon Smith  
 Davon Smith  
 Respondent  
 Dated: 02/07/2024

2/8/2024  
 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

Davon Smith  
Residential Builder  
License No. 21-01213266

Complaint No. 2300815

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FORMAL COMPLAINT

Assistant Attorney General Jennifer Fitzgerald, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, files this formal complaint against Respondent Davon Smith, alleging upon information and belief as follows:

1. The Board of Residential Builders and Maintenance and Alteration Contractors (Board) 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.
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(a) of the Code subjects a licensee to sanction for practicing fraud or deceit in obtaining a license.
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 section 104(8) of the Code and MCL 338.41 as “the propensity on the part of an individual to serve the public in the licensed area in a fair, honest, and open manner.”

7. Section 604(k) of the Code subjects a licensee to sanction for violating or failing to comply with a final order issued by a board, in violation of section 604(k) of the Code.

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

9. Section 505 of the Code permits the summary suspension of a license to practice an occupation where an imminent threat to the public health, safety, and welfare exists.

### FACTUAL ALLEGATIONS

10. Respondent’s residential builder’s license was revoked by the Board effective September 01, 2022 after an administrative hearing. (Exhibit 1, Formal Complaint and Hearing Report.) The revocation was based on Respondent’s operation of an unlicensed roofing company, failure to obtain a required building permit, installation of lesser quality shingles than contracted and paid for, and substandard work.

11. The terms of the Final Order revoking Respondent’s license required him to pay a \$10,000.00 fine to the Bureau and \$5,900.00 restitution to the owners

of the residential structure that was the subject of the complaint. (Exhibit 2, Final Order.) Both payments were to be made within 90 days of the effective date of the Final Order. Respondent was also required to provide the Bureau satisfactory evidence of paying restitution.

12. In addition, per the Final Order, Respondent was required to petition the Board to have his license returned to good standing in accordance with MCL 339.411(5) and could only do so if the terms of the Final Order were fully satisfied.

13. The Final Order was served on Respondent at his address of record on file with the Bureau on September 2, 2022.

14. Respondent applied to renew his license on August 31, 2023. At the time, Respondent had not complied with any of the terms of the Final Order.

15. Due to a software error, Respondent's license was not flagged as "revoked" in the Bureau's license management system and Respondent's license was renewed on September 6, 2023.

16. To date, Respondent has not complied with any of the terms of the Final Order.

### COUNT I

17. Respondent's conduct as described above constitutes practicing fraud or deceit in obtaining a license, in violation of section 604(a) of the Code.

COUNT II

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

COUNT III

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

COUNT IV

20. Respondent's conduct as described above constitutes violating or failing to comply with a final order issued by a board, in violation of section 604(k) of the Code.

FURTHER, Complainant requests that pending the hearing and final determination Respondent's license to practice as a residential builder in the State of Michigan continue to be summarily suspended pursuant to section 92 of the Administrative Procedures Act of 1969 and section 505 of the Occupational Code for the reason that, based upon the allegations set forth herein, an imminent threat to the public health, safety, or welfare exists which requires emergency action.

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](mailto: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: November 14, 2023

LF: 2023-0387543-A/BCC/Revocation Correction - Residential Builder/Formal Complaint – 2023-11-14

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

DIANA JEAN SPEROW  
a/k/a DIANA JEAN COLOMBO  
Residential Builder  
License No. 21-01-207111

Complaint No. 1900263

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed with the Board of Residential Builders and Maintenance and Alteration Contractors on April 26, 2023, charging Diana Jean Sperow (Respondent) with having violated sections 604(b), (d), (h), 2411(2)(a), (2)(h), and (2)(j) of the Occupational Code, MCL 339.101 *et seq* and Mich Admin Code, R 338.1533(1) and (2).

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), (2)(h), and (2)(j) of the Occupational Code and Mich Admin Code, R 338.1533(1) and (2).

Accordingly, for these violations, IT IS ORDERED:

Respondent is placed on PROBATION for a minimum period of 1 day, not to exceed 6 months, commencing on the effective date of this order. At the conclusion

of the minimum 1-day period of probation, Respondent shall be automatically discharged from probation upon the Department's receipt of satisfactory written evidence of Respondent's successful compliance with the terms and conditions provided below, provided compliance occurs within 6 months. If Respondent fails to complete any term or condition of probation as set forth in this order within 6 months of the effective date of this order, Respondent will be in violation of section 604(k) of the Occupational Code. The terms and conditions of the probation are as follows:

- A. COMPLIANCE WITH THE OCCUPATIONAL CODE. Respondent shall comply with all applicable provisions of the Occupational Code and rules promulgated under the Occupational Code.
- B. UNLICENSED ACTIVITY. Within 60 days of the effective date of this order, Respondent shall provide to the Department written proof that Respondent has dissolved the business entity **MESA Remodeling and Contracting, Inc.** or has applied for a residential builder and maintenance and alterations contractor license in Michigan for **MESA Remodeling and Contracting, Inc.** Respondent shall submit written proof to the Department by email at LARA-BCC-RBS-Compliance@michigan.gov.

Any violation of the Occupational Code by Respondent during the period of probation shall be deemed a violation of probation and constitute grounds for further disciplinary action.

Respondent is FINED \$3,000.00 to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint number 1900263 clearly indicated on the check or money order) and shall be payable within 60 days of the effective date of this order. The timely payment of the fine shall be Respondent's responsibility. Respondent shall mail the fine to: 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, her 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 5/16/21

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, she 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. 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. During a January 31, 2024 compliance conference, Respondent advised that she sub-contracted work to her former colleague, through his company Vimabe Framing, Inc., and rather than complete the work, the subcontractor left with the property owner's money. Respondent advised that she filed a police report against the subcontractor, but to date no charges have

been filed. Respondent further advised that the homeowner filed a civil lawsuit against the subcontractor and Respondent cooperated with the police in their investigation into this incident.

- B. Respondent provided documentation indicating that Respondent reached a settlement with the property owners in April 2023 pursuant to their civil lawsuit regarding this incident. Further, Respondent provided proof she paid the property owners \$25,000 restitution as part of settlement.
- C. The Department received a certificate of dissolution for Vimabe Framing, Inc. on October 19, 2018.
- D. Respondent has been licensed since 2014 without any prior disciplinary actions.
- E. Respondent wishes to resolve this matter without the need for a contested case.

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/ DeAnthony D. Shaw  
DeAnthony D. Shaw (P82292)  
Assistant Attorney General  
Attorney for Complainant  
Dated: February 27, 2024

AGREED TO BY:

D. Sperow  
Diana Jean Sperow,  
Residential Builder  
Respondent  
Dated: 2/22/24

Harry Ingleson, II  
Harry Ingleson, II (P26096)  
Attorney for Respondent  
Dated: 2/23/24

Bureau of Construction Codes  
Approved by:

Andrew Brisbo  
Digital signed by: Andrew Brisbo  
CN = Andrew Brisbo email = brisbo@mtc.tn.gov  
OU = Bureau of Construction Codes OU = Director  
Date: 2024.02.28 15:12:24 -0500  
Andrew Brisbo, Director

3/6/2024

Date

L.P. 2023-0329775 II - Cabante, Diana Jean (Sperow), 1909264 (Res Bldr)\Pleading - Consent Order (Ord) - 2023-10-20

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

DIANA JEAN SPEROW  
a/k/a DIANA JEAN COLOMBO  
Residential Builder  
License No. 21-01-207111

Complaint No. 1900263

---

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 Diana Jean Sperow (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 resident agent and incorporator of an unlicensed residential builder company, MESA Remodeling and Contracting, Inc, and as the resident agent of a second unlicensed residential builder company, Vimabe Framing, Inc. Both unlicensed companies share the same address in Allendale, Michigan.

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

4. Section 339.604(b) of the Code subjects a licensee to sanction for practicing fraud, deceit, or dishonesty in practicing an occupation.

5. Section 339.604(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 339.604(h) of the Code subjects a licensee 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 339.2411(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.

8. Section 339.2411(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. Section 339.2411(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.

10. 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.

11. Mich Admin Code, R 338.1533(2) provides that the builder or contractor shall make certain that the written agreements clearly state the terms of the transaction, including specifications, and when construction is involved, both plans and specifications, including cost, the type and amount of work to be done, and the type and quality of materials to be used.

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. On June 5, 2018, Respondent and her company, MESA Remodeling and Contracting, Inc., entered into a contract with the property owner to construct an 11,300 square foot barn on commercial property<sup>1</sup> for the agreed upon price of \$121,500.00.

14. The June 5, 2018 agreement only contained Respondent's signature and not the property owner's signature. Further, the terms of the agreement failed to specify the type and amount of work to be done and failed to include the type and quality of materials to be used.

15. At the time of entering the agreement with the property owner, MESA Remodeling and Contracting, Inc. was not licensed in the State of Michigan as a residential builder or maintenance and alteration contractor.

16. As part of the June 5, 2018 agreement, Respondent and the property owner agreed to a draw schedule in which Respondent would be compensated in increments of five payments based on completed work benchmarks, but Respondent failed to adhere to the agreed upon draw schedule.

17. On June 20, 2018, the property owner completed a wire transfer of \$28,300.00 to Respondent.

18. On July 17, 2018, Respondent wired \$47,021.00 from the property owner's Northern Economic Initiatives Corporation (Northern Initiatives) account to a Bank of America account for Respondent's subcontractor, Vimabe Framing, Inc.

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<sup>1</sup> Property located in Frederic, Michigan.

The property owner never agreed to make any wire transfers directly to Vimabe Framing, Inc.

19. At the time of entering the agreement with the property owner, Vimabe Framing, Inc. was not licensed in the State of Michigan as a residential builder or maintenance and alteration contractor.

20. On August 2, 2018, Respondent wired \$29,260.00 from the property owner's Northern Initiative account to a Bank of America account for MESA Remodeling and Contracting, Inc.

21. On December 19, 2018, the property owner sent an email to Respondent requesting an update on the status of the barn construction project, that still had not been completed. Respondent never replied to the property owner's December 19<sup>th</sup> email.

22. On July 5, 2019, the property owner's attorney sent a letter to Respondent inquiring about the status of the barn construction project. Prior to the July 5<sup>th</sup> letter, Respondent had informed the property owner that the reason the construction project had not been completed was because a person named [REDACTED], who had been working for Vimabe Framing, stole funds from Respondent's company. In the July 5<sup>th</sup> letter, the attorney requested Respondent's cooperation in recovering the stolen funds, but Respondent never replied to the letter.

23. The property owner paid Respondent a total of \$104,581.00 for the construction of the barn, but Respondent never completed the barn and she never returned any of the property owner's money.

COUNT I

24. Respondent's conduct, as described above, constitutes practicing fraud, deceit, or dishonesty in practicing an occupation, in violation of section 339.604(b) of the Code.

COUNT II

25. Respondent's conduct, as described above, demonstrates a lack of good moral character, in violation of section 339.604(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 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, in violation of section 339.2411(2)(j) of the Code.

COUNT VI

29. 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.

COUNT VII

30. Respondent's conduct, as described above, constitutes a failure to make certain that the written agreement clearly states the terms of the transaction, including specifications, and when construction is involved, both plans and specifications, including cost, the type and amount of work to be done, and the type and quality of materials to be used, contrary to Mich Admin Code, R 338.1533(2), 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](mailto: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: April 26, 2023

LF: 2023-0369775-A\Colombo, Diana Jean (Sperow), 1900263 (Res Bldr)\Pleading – Formal Complaint w/PS – 2023-04-26

Accordingly, for this violation, IT IS ORDERED:

Respondents' licenses are REVOKED. Reinstatement of the licenses is not automatic, and Respondents must petition for reinstatement in accordance with section 411(5) of the Occupational Code as set forth below.

Respondents are FINED \$5,000, jointly and severally, to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 2200582 and 2200583 clearly indicated on the check or money order) and shall be payable prior to petitioning for reinstatement of the revoked licenses. 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.

Respondent All in One shall pay \$40,186.57 in RESTITUTION to F.D. Hayes Electric Company. Restitution shall be payable prior to petitioning for reinstatement of the revoked license. Respondent All in One shall submit satisfactory written proof of timely restitution payment to the Department by email to LARA-BCC-RBS-Compliance@michigan.gov.

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

If either Respondent petitions for reinstatement of its revoked licenses, the petition shall be in accordance with section 411(5) of the Occupational Code. Under this provision, the petitioning Respondent shall 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 it 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 may not file a petition for reinstatement until at least 10 years after the date of revocation.

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, that 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 5/16/24

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. 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. Respondent Ward is not subject to restitution payment because her debt was discharged in personal bankruptcy in the Eastern District of Michigan. Respondent All in One did not declare bankruptcy and its debts were not discharged.
- B. 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/ Jason W. Werkema  
Jennifer Fitzgerald (P80109)  
Jason W. Werkema (P80350)  
Assistant Attorneys General  
Attorney for Complainant  
Dated: January 23, 2024

AGREED TO BY:

Saundra J. Ward  
Saundra J. Ward  
All in One Custom Renovations LLC  
Respondent

Dated: 12-20-2025

Tyler P. P.  
Tyler P. Phillipa (P78280)  
Attorney for Respondent  
Dated: 1-22-24

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: 2024.01.24 11:38:34 -0500

Andrew Brisbo, Director

1/24/2024

Date

LF: 2022-0350636-0/All in One Custom Renovations LLC, 2203852 & 2022-0350636-0/Ward, Saundra (filed Hld).  
2203853/Consent Order and Stipulation - 2023-12-14

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

ALL IN ONE CUSTOM RENOVATIONS LLC  
Residential Builder Company  
License No. 26-20-00799

Complaint No. 2200582

AND

SAUNDRA J. WARD  
Residential Builder  
License No. 24-20-00569

Complaint No. 2200583

\_\_\_\_\_/

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 formal complaint against Respondents All in One Custom Renovations and Saundra J. Ward (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. Respondents are each currently licensed residential builders pursuant to the Code. At all relevant times, Respondent Ward served as the qualifying officer for Respondent All in One, and as such, was responsible for Respondent All In One's compliance with Article 24 of the Code.

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

4. Section 2411(2)(l) of the Code subjects licensees to sanction for failing to pay an obligation as it becomes due in the ordinary course of business.

5. 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

6. In and around 2021 and 2022, Respondent All In One was the builder on eight residential construction projects in Ingham, Livingston, and Oakland counties. It hired F.D. Hayes Electric Co. to perform electrical work on the projects.

7. F.D. Hayes performed the work as contracted and submitted invoices to Respondent All In One in April, May, and June of 2022 for payment within 30 days but was not paid. F.D. Hayes submitted follow up requests to Respondent All In One for payment and was not paid. To date, Respondent All In One still hasn't paid F.D. Hayes for the work it performed.

### COUNT I

8. Respondents' conduct as described above constitutes failing to pay an obligation as it becomes due in the ordinary course of business, in violation of section 2411(2)(l) 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](mailto:LARA-BCC-RBS-Compliance@michigan.gov), with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

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

Dated: January 11, 2023

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

In the Matter of

FOUNDATION SPECIALIST LLC  
License No. 21-02-212972  
Respondent

Complaint No. 340450

and

BRYAN ALLEN FOSTER  
Qualifying Officer  
License No. 21-01-212513  
Respondent

Complaint No. 2300083

Consent Order and Stipulation

---

CONSENT ORDER

On August 11, 2023, the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Department) issued a Formal Complaint alleging that Foundation Specialist LLC and Bryan Foster, Qualifying Officer (Respondents) violated the Occupational Code. Respondents have agreed to a Consent Order and Stipulation with the Department that resolves the violations alleged in the Formal Complaint.

Respondents admit acting contrary to: Mich Admin Code, R 338.1536 and R 338.1551(5), in violation of MCL 339.604(c).

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

Therefore, IT IS FOUND that Respondents acted contrary to Mich Admin Code, R 338.1536 and R 338.1551(5), in violation of MCL 339.604(c). Respondents 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).

Accordingly, IT IS ORDERED that:

Respondents shall pay a FINE in the amount of \$1,250.00, jointly and severally, payable to the State of Michigan within 90 days of the effective date of the Order (mailing date).


The Fine shall be mailed to the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Enforcement Section, Sanction Monitoring, P.O. Box 30255, 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 Numbers: 340450 & 2300083.

Failure to comply with the terms of this Order shall result in a Suspension of all licenses held by Respondents under Article 24 of the Occupational Code, and in the denial of any license renewal or relicensure until compliance with the Consent Order is achieved. If the licenses are Suspended, and the compliance with the terms of the Consent Order is achieved after the license expiration date, Respondent must apply for relicensure in accordance with MCL 339.411.

If Respondents violate any term or condition set forth in this Order, Respondents shall be in violation of MCL 339.604(k) of the Occupational Code and may be subject to further disciplinary action.

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

MICHIGAN BOARD OF RESIDENTIAL BUILDERS AND  
MAINTENANCE AND ALTERATION CONTRACTORS

By:   
Chairperson (or Designee)

Date: 5/16/21

## STIPULATION

1. The Department and Respondents agree that the public interest is served by resolution of the Formal Complaint as set forth in the Consent Order and Stipulation.

2. The Department issued a Formal Complaint against Respondents, dated August 11, 2023. Upon receipt of the Formal Complaint Respondents elected to participate in the Compliance Conference process. The Department and Respondents subsequently communicated via emails regarding clarification of the alleged violations and efforts to achieve future compliance.

3. A Compliance Conference (electronic) was held on April 3, 2024. Bryan Foster participated on behalf of Respondents. Respondents have determined to resolve the Formal Complaint via a Consent Order and Stipulation.

4. Respondents initially contested the violations alleged in the Formal Complaint; however, Respondents decided to resolve and settle the case rather than proceed to the Formal Administrative Hearing stage.

5. Respondents stated that Spencer Perkins is a Project Manager and typically does not perform Builder Salesperson activities. Spencer Perkins has applied for a Builder Salesperson License, and he must still take and pass the licensing examination.

6. Complaint No. 340449, against Spencer Perkins, regarding acting as an Unlicensed Builder Salesperson, is hereby dismissed and closed. Complaints regarding "Unlicensed" activity are referred to the Department of Attorney General, Criminal Division, for action in the Civil Court system. The complaint against Spencer Perkins is not being referred to the Department of Attorney General, Criminal Division, because Respondents are being held responsible to ensure that a person acting as a Builder Salesperson on their behalf has the proper licensure as a Builder Salesperson, and Spencer Perkins has commenced the license application process.



7. Respondents have history of one (1) prior disciplinary action for similar violations in Complaint No. 340182; however, the violations occurred essentially in the same time period. The Complaint No. 340182 project occurred in 2017-2018; the Formal Complaint was issued June 23, 2021; the First Superseding Formal Complaint was filed March 22, 2022, and the Consent Order and Stipulation was issued August 30, 2022 (\$1,000 fine). In this case, the project occurred in November 2018; and the Formal Complaint was issued August 11, 2023.

8. Respondent Bryan Foster was issued a Residential Builder Individual license effective July 8, 2016; and the license is currently active (expiration: May 31, 2025). Respondent Foundation Specialist LLC was issued a Residential Builder Company license effective August 2, 2016; and the license is currently active (expiration: May 31, 2025). There is history of one (1) prior complaint and disciplinary action against the licenses.

9. The project involved Respondents installing a sump pump and liner/crock in a crawlspace in a rental home, owned by P & S Real Estate LLC, located in the city of Lansing, for the contract cost of \$1,820.00. After completion of the project, it was discovered that Respondents did not apply for/obtain a Building Permit and a Plumbing Permit (R 105.1), and therefore no Permit Inspections (R 109.4) were conducted. Upon notification, Respondents obtained a Building Permit and obtained Inspection approval. The Homeowner retained a licensed Plumber to obtain a Plumbing Permit and obtained Inspection approval. Respondents acknowledged that they have changed their procedure to contact the Building Department to determine if a Permit is required for the particular scope of work to be completed.

10. In settlement of the Formal Complaint, Respondents admit to the following violations of the Occupational Code:

COUNT II

Failure to maintain standards of construction in accordance with the Michigan

Residential Code, contrary to Mich Admin Code, R 338.1551(5), in violation of MCL

339.604(c).

COUNT III (Added at Compliance/Settlement Conference)

Acceptance or performance of a contract procured by a salesperson not licensed under a builder or contractor, in violation of Mich Admin Code, R 338.1536, in violation of MCL 339.604(c).

11. Respondents acknowledge, accept, consent, and agree that the Formal Complaint was amended during the Compliance Conference held on April 3, 2024, to add Count III, acting contrary to Administrative Rule 36.

12. Pursuant to the principle of "settlement and compromise," all other violations, as alleged in Count I [willful violations of the building laws; Sec. 2411(2)(e)], are dismissed.

13. Respondents acknowledge that they 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).

14. Respondents acknowledge that the associated Consent Order imposes a Fine in the amount of \$1,250.00, due within 90 days after the mailing date of the Order. Respondents acknowledge that if Respondents fail to pay the \$1,250.00 Fine within 90 days after the mailing date of the Order, the Department shall Suspend all licenses held by Respondents under Article 24 of the Occupational Code, and shall deny any license, renewal, or relicensure, until compliance with the Order is achieved. In the event of failure to comply with the Order after the expiration of the license, an application for relicensure will be necessary, in accordance with MCL 339.411.

15. Respondents understand that if Respondents' licenses are placed in Suspension status by the Department, Respondents must cease all residential construction activities, including marketing, soliciting, contracting for, and performing residential construction

work. If Respondents' licenses are placed in Suspension status, Respondents may contract with another licensed residential builder(s) to complete work previously contracted by Respondents.

16. The sanction of Restitution is not applicable in this matter.

17. Respondents understand that in the future event that Respondents are found to be in violation of the Occupational Code and associated administrative rules, it is Department policy to impose increased disciplinary sanctions.

18. Respondents agree that William Wilhelm, Administrative Law Specialist, Enforcement Section, Bureau of Construction Codes, or an Assistant Attorney General, Licensing and Regulation Division, may discuss this matter and the Consent Order and Stipulation with the Board, to recommend and support the acceptance of the Consent Order and Stipulation.

19. Respondents understand and intend that by signing this Stipulation, Respondents are 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 Respondents are waiving the right to appear with an attorney and witnesses to present a defense to the allegations.

20. This Consent Order and Stipulation is approved as to form and substance by Respondents and the Department and may be entered as the Final Order of the Board in this matter.

21. 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.*, as well as Section 2411a of the Occupational Code, MCL 339.2411a.

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

23. Respondents acknowledge that they have thoroughly read, and understand, the terms of the Consent Order and Stipulation.

AGREED TO BY:

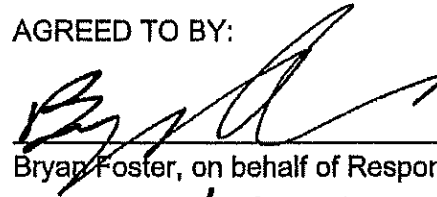
Andrew Brisbo

Digitally signed by Andrew Brisbo  
DN: cn = Andrew Brisbo, email =  
brisboa@michigan.gov, c = US, o = Bureau  
of Construction Codes OU = Director  
Date: 2024.04.18 13:39:28 -0400

Andrew Brisbo, Director  
Bureau of Construction Codes  
Department of Licensing and Regulatory Affairs

Date: 4/18/2024

AGREED TO BY:



Bryan Foster, on behalf of Respondents

Date: 4/16/24

*Drafted: William Wilhelm, Administrative Law Specialist, Enforcement Section, Bureau of Construction Codes (4/16/24)*

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

Bryan Allen Foster  
License No. 21-01-212513

File No. 2300083

AND

Foundation Specialist LLC  
License No. 21-02-212972

File No. 340450

AND

Spencer Perkins  
Unlicensed

File No. 340449

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, Bryan Foster, is currently licensed in the State of Michigan as an Individual Residential Builder with an expiration date of May 31, 2025. Respondent is the designated qualifying officer of Foundation Specialist LLC and is responsible for compliance. At the time relevant to this complaint, Respondent held an active Individual Residential Builder license.

3. Respondent, Foundation Specialist LLC, is currently licensed in the State of Michigan as a Residential Builder Company with an expiration date of May 31, 2025. At the time relevant to this complaint, Respondent held an active Residential Builder Company license.

4. Respondent, Bryan Foster, was previously disciplined in file number 21-19-340182 for violating MCL 339.604(c) and (h); MCL 339.2404a; Mich Admin Code, R 338.1551(5); and International Builders Code, R 105.1 and 602.3.2. On August 30, 2022, the Residential Builders and Maintenance and Alteration Contractors Board approved Consent Order relating to file number 21-19-340182. It was ordered that Respondent was jointly and severally liable with Foundation Specialist LLC to pay a fine of \$1,000.00 to the State of Michigan. Respondent complied with all terms of the Order and the matter was closed.

5. Respondent, Spencer Perkins, is currently unlicensed as an Individual Residential Builder or Maintenance & Alteration Contractor in the State of Michigan.

6. On or about November 29, 2018, Complainant, [REDACTED], entered into a contract with Respondents to install a sump pump in the crawl space of a residential property for a total of \$1,820.00, marked as Exhibit A, pg. 1-2.

7. Complainant notified Respondents that the property would be utilized as a rental unit and would need the appropriate permits pulled that are required by the City of Lansing's Building Department.

8. On or about November 30, 2018, Complainant paid Respondent a deposit of \$910.00, marked as Exhibit A, pg. 3.

9. On or about December 13, 2018, Complainant paid Respondent the remaining balance of \$910.00, marked as Exhibit A, pg. 4.

10. After the project was complete, Complainant discovered that Respondents failed to obtain required permits from the local building authority prior to commencing work.

11. The scope of work detailed in the Proposal required applying for and obtaining the required Permit(s): Building or Mechanical, and Plumbing, 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*.

12. Due to Respondents' failure to apply for and obtain the required permits prior to commencing work, the required inspections were not conducted by the City of Lansing's Building Department, as required by Section R109 of the 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.

13. Complainant contacted Respondents to inquire about the lack of permits pulled. Complainant was advised that an additional fee of \$250.00 would be assessed to obtain a building permit. Complainant was informed that Respondents are not licensed to perform plumbing work and that he would have to find a plumber to pull the plumbing permit.

14. 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).

15. On or about January 15, 2019, Complainant paid Respondent \$250.00 for the permit, marked as Exhibit A, pg. 5-7.

16. On or about January 22, 2019, Respondent submitted a building permit application to the City of Lansing Building Safety Office, marked as Exhibit A, pg. 8-9.

17. On February 8, 2019, a building permit was issued. The final inspection was completed and approved on March 15, 2019, marked as Exhibit A, pg. 10.

18. On or about March 22, 2019, Complainant paid \$119.00 to a plumber to correct the work that was completed by Respondent. The plumber was able to add the sump pump onto an existing permit the plumber previously pulled, marked as Exhibit A, pg. 11-12.

#### COUNT I

Respondent's conduct, as described above, a willful violation of the building laws of the state, contrary to MCL 339.2411(2)(e).

#### COUNT II

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

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: August 11, 2023

Attachments- Exhibits

*Alaysha Oviedo for Felicia Badger*

Felicia Badger, Manager  
Residential Builders Section  
Bureau of Construction Codes

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

JOSEPH THOMAS TOTH  
License No. 21-01-203000

Complaint No. 340301  
Docket No. 23-002038

AND

HOME TOWN ROOFING & CONSULTING LLC  
License No. 21-02-207618

Complaint No. 340303  
Docket No. 23-002039

Respondents

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**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 May 16, 2024, and considered the Finding of Facts and Conclusions of Law in the Hearing Report of Chris Johnson, Administrative Law Judge, dated April 19, 2023.

**IT IS ORDERED** that for violating MCL 339.604 (b), (c), (d), (e), (g), and (h); MCL 339.2411(2) (a), (b), (c), and (l); and Mich Admin Code R 338.1551(2), 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 **340301 & 340303**.

**IT IS FURTHER ORDERED** that Respondents are jointly and severally liable to pay RESTITUTION in the amount of ONE THOUSAND EIGHT HUNDRED dollars and 00/100 (\$1,800.00) 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 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** the RE-REVOCAION of all licenses held by Respondents under the jurisdiction of the Board. 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 licenses after ninety (90) days if 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 the 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 22<sup>nd</sup> day of May, 2024.

BY: *Felicia Badger*

Felicia Badger, Manager  
Enforcement Section  
Bureau of Construction Codes

Effective date: 05/22/2024

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

**IN THE MATTER OF:**

**Bureau of Construction Codes,  
Petitioner**

**V**

**Joseph Thomas Toth,  
Respondent**

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**Docket No.: 23-002038**

**Case No.: 340301**

**Agency: Bureau of Construction  
Codes**

**Case Type: BCC Residential  
Builders**

**Filing Type: Formal Complaint**

**CERTIFICATION OF RECORD**



I, Shelli Adams, 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 Thursday, May 11, 2023.

<u>Date</u>	<u>Document</u>
1. 04/20/23	Undeliverable Email to Respondent with Hearing Report
2. 04/19/23	Hearing Report Issued
3. 03/02/23	Petitioner's Exhibits 1-7, Offered and Admitted
4. 02/16/23	Petitioner's Second Amended Witness List
5. 02/15/23	Petitioner's First Amended Witness and Exhibit Lists
6. 02/13/23	Returned Mail Notice of Hearing
7. 01/20/23	Petitioner's Witness and Exhibit Lists

8. 01/12/23 Notice of Hearing with Proof of Service

9. 01/12/23 Request for Hearing



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Shelli Adams  
Michigan Office of Administrative  
Hearings and Rules

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

**IN THE MATTER OF:**

**Docket No.: 23-002039**

**Bureau of Construction Codes,  
Petitioner**

**Case No.: 340303**

**V**

**Agency: Bureau of Construction  
Codes**

**Home Town Roofing & Consulting, LLC,  
Respondent**

**Case Type: BCC Residential  
Builders**

**Filing Type: Formal Complaint**

**CERTIFICATION OF RECORD**

I, Shelli Adams, 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, May 12, 2023.

<u>Date</u>	<u>Document</u>
1. 04/20/23	Undeliverable Email to Respondent with Hearing Report
2. 04/19/23	Hearing Report Issued
3. 03/02/23	Petitioner's Exhibits 1-7, Offered and Admitted
4. 02/16/23	Petitioner's Second Amended Withness List
5. 02/15/23	Petitioner's First Amended Witness and Exhibit Lists
6. 01/20/23	Petitioner's Witness and Exhibit Lists
7. 01/12/23	Notice of Hearing with Proof of Service



8. 01/12/23 Request for Hearing



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Shelli Adams  
Michigan Office of Administrative  
Hearings and Rules

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

**IN THE MATTER OF:**

**Docket No.: 23-002039**

**Bureau of Construction Codes,  
Petitioner**

**Case No.: 340303**

**v**

**Agency: Bureau of Construction  
Codes**

**Home Town Roofing & Consulting,  
LLC,  
Respondent**

**Case Type: Formal Complaint**

**Filing Type: BCC Residential Builders**

**AND:**

**Docket No.: 23-002038**

**Bureau of Construction Codes,  
Petitioner**

**Case No.: 340301**

**v**

**Agency: Bureau of Construction  
Codes**

**Joseph Thomas Toth,  
Respondent**

**Case Type: Formal Complaint**

**Filing Type: BCC Residential Builders**

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**Issued and entered  
this 19<sup>th</sup> day of April 2023  
by: Chris Johnson  
Administrative Law Judge**

**HEARING REPORT**

**Procedural History**

These matters are before the undersigned Administrative Law Judge ("ALJ") pursuant to the Occupational Code, MCL 339.101 *et seq.* ("Code"), and have been consolidated for purposes of hearing, under Mich Admin Code, R 792.10118.

On December 9, 2022, Formal Complaints (“Complaint”) were issued by the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Petitioner), alleging that Joseph Thomas Toth and Home Town Roofing & Consulting, LLC (Respondents), violated provisions of the Code.

On January 12, 2023, these matters were referred to the Michigan Office of Administrative Hearings and Rules (MOAHR) to schedule contested case hearings. On January 12, 2023, MOAHR mailed Notices of Telephone Hearing to all parties, scheduling a telephone hearing for March 2, 2023.

On January 20, 2023, Petitioner submitted a Witness List, Exhibit List, and proposed exhibits.

On February 13, 2023, the Notices of Hearing sent to Respondents were returned to MOAHR, undelivered.

On February 15, 2023, Petitioner submitted a First Amended Witness List, First Amended Exhibit List, and proposed exhibits.

On February 16, 2023, Petitioner submitted a Second Amended Witness List.

On March 2, 2023, the hearing proceeded as scheduled. Daniel Kelly, Assistant Attorney General, appeared on behalf of Petitioner. W.W.<sup>1</sup> a consumer who hired Respondents to complete renovations on a friend’s home was also present and provided testimony as a witness.

Respondents failed to appear for the administrative hearing, after the undersigned ALJ waited 15 minutes from the scheduled time for hearing. No request for adjournment had been received. As indicated, the Notices of Telephone Hearing sent to Respondents were returned to MOAHR, undelivered. However, they were sent to the address kept on file with Petitioner.

Based on Respondents’ failure to appear, Petitioner moved for entry of a default, under Sections 72(1) and 78(2) of the APA, and Mich Admin Code, R 792.10134.

MCL 24.272(1) provides:

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.

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<sup>1</sup> Initials used to protect privacy.

MCL 24.278(2) provides:

(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.

Mich Admin Code, R 792.10134(1) provides:

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.

After determining that Respondents were properly served with notice of the March 2, 2023, hearing, the undersigned ALJ granted Petitioner's motion for entry of a default under Section 78(2) of the APA. Petitioner then proceeded in Respondents' absence, under Section 72(1) of the APA, and R 792.10134(1). Based upon the entry of a default ruling, the factual and legal allegations in the Complaint are deemed proven and true.

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

1. Petitioner's Exhibit 1 – Residential Builders – Statement of Complaint, dated May 6, 2019.
2. Petitioner's Exhibit 2 – Certification of Licensure for Joseph Toth, dated November 21, 2022, demonstrating that Petitioner's license as an Individual Residential Builder has been revoked since March of 2022.
3. Petitioner's Exhibit 3 – Certification of Licensure for Home Town Roofing & Consulting, LLC, dated November 21, 2022, demonstrating that Joseph Toth is the Qualifying Officer for this entity and that the entity's license has been revoked since March of 2022.
4. Petitioner's Exhibit 4 – Letter to Respondent, Joseph Toth, dated May 9, 2019.
5. Petitioner's Exhibit 5 – Letter to Respondent, Hometown Roofing, dated May 9, 2019.
6. Petitioner's Exhibit 6 – Consent Order, dated January 8, 2019; Stipulation, dated November of 2018; Formal Complaint, dated November 28, 2017.

7. Petitioner's Exhibit 7 – Final Order from the Michigan Board of Residential Builders and Maintenance and Alteration Contractors, dated March 10, 2022; Certified Record accompanying this Final Order.

The record was closed at the conclusion of the hearing on March 2, 2023.

**Issue and Applicable Law**

The issue presented is whether Respondent violated the Code as alleged in the Formal Complaint.

Section 604 of the Occupational Code, MCL 339.604, states in relevant 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.
- (e) Commits an act of gross negligence in practicing an occupation.

\* \* \*

- (g) Commits an act which demonstrates incompetence.
- (h) Violates any other provision of this act or a rule promulgates under this act for which a penalty is not otherwise prescribed.

\* \* \*

- (l) Aids or abets another person in the unlicensed practice of an occupation.

Section 2411 of the Occupational Code, MCL 339.2411, states in relevant part:

Sec. 2411. (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.

(b) Diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specific purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project operation, obligation, or purpose.

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

\* \* \*

(l) Becoming insolvent, filing a bankruptcy action, becoming subject to a receivership, assigning for the benefit of creditors, failing to satisfy judgment or liens, or failing to pay an obligation as it becomes due in the ordinary course of business.

MI Admin Code, R 338.1551 states, in relevant part:

Rule 51. (2) 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.

### **Findings of Fact**

Based on the default entered in this matter against Respondents, the witness testimony, and the admitted exhibits, the following findings of facts are established:

1. Respondent, Joseph Toth, is the owner and Resident Agent for Respondent, Home Town Roofing & Consulting, LLC, a Michigan Limited Liability

- Company. The LLC's articles of incorporation were filed with Petitioner on January 7, 2014. [Pet. Exh. 1, p 5].
2. Respondent, Joseph Toth, through Respondent, LLC, employed Jeffrey E. Elliott, a Licensed Residential Builder.
  3. On or about November 4, 2018, Mr. Elliott, on behalf of Respondents, entered into an agreement with W.W. to install a shed, mount lighted steps on the shed, and conduct miscellaneous home repairs on a home located in Allen Park, MI. The contract amount was \$1,800.00, and W.W. paid Respondents the full amount. [Pet. Exh. 1, pp 2-3].
  4. As of December 9, 2022, the date the Complaint was filed, Respondents had not begun work at the Allen Park residence. Respondents failed to complete the agreed upon work, abandoned the project, and did not remit funds to W.W.
  5. On May 9, 2019, Petitioner sent Respondents a "Notice to Respondent" to their address of record, notifying Respondents of the complaint made against them. Respondents failed to respond. [Pet. Exh. 4; Pet. Exh. 5].
  6. Respondent Joseph Toth's license as an Individual Residential Builder has been revoked since March 10, 2022. [Pet. Exh. 2].
  7. Respondent Home Town Roofing and Consulting, LLC's, license as a Residential Builder Company has been revoked since March 10, 2022. [Pet. Exh. 3].
  8. Respondents have been subject to prior disciplinary proceedings for aiding and abetting the unlicensed practice of an occupation and for taking a client's money and abandoning the project. [Pet. Exh. 6; Pet. Exh. 7].

### **Conclusions of Law**

Petitioner bears the burden of establishing, by a preponderance of the evidence, that Respondents violated the Code, as alleged in the Formal Complaints.

Under Section 72 of the APA, there is no requirement to provide a full evidentiary hearing when all alleged facts are taken as true. *Smith v Lansing School District*, 428 Mich. 248 (1987). Here, Respondents failed to appear for the March 2, 2023, hearing.

As a result, the undersigned ALJ granted Petitioner's motion for entry of a default. Based on entry of the default, all allegations in the Formal Complaints are deemed true and admitted and are adopted as fact.

Count I

Petitioner has established, by a preponderance of the evidence, that Respondents' conduct, as articulated above, constitutes practicing fraud, deceit, or dishonesty in practicing an occupation, in violation of MCL 339.604(b).

Count II

Petitioner has established, by a preponderance of the evidence, that Respondents' conduct, as articulated above, constitutes a lack of good moral character, in violation of MCL 339.604(d).

Count III

Petitioner has established, by a preponderance of the evidence, that Respondents' conduct, as articulated above, constitutes gross negligence in violation of MCL 339.604(e).

Count IV

Petitioner has established, by a preponderance of the evidence, that Respondent's conduct, as articulated above, constitutes commission of an act demonstrating incompetence, in violation of MCL 339.604(g).

Count V

Petitioner has established, by a preponderance of the evidence, that Respondents' conduct, as articulated above, constitutes 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).

Count VI

Petitioner has established, by a preponderance of the evidence, that Respondents' conduct, as articulated above, constitutes diversion of funds or property received for prosecution or completion of a specific construction project or operation, in violation of MCL 339.2411(2)(b).



Count VII

Petitioner has established, by a preponderance of the evidence, that Respondents' conduct, as articulated above, constitutes a failure to account for money coming into a person's possession that belongs to others, in violation of MCL 2411(2)(c).

Count VIII

Petitioner has established, by a preponderance of the evidence, that Respondents' conduct, as articulated above, constitutes failing to satisfy a judgment or lien, or failing to pay an obligation as it becomes due in the ordinary course of business, in violation of MCL 2411(2)(l).

Count IX

Petitioner has established, by a preponderance of the evidence, that Respondents' conduct, as articulated above, constituted failure to timely respond to a complaint contrary to Mich Admin Code, R 338.1551(2), in violation of MCL 339.604(c) and MCL 339.604(h).

**Recommendation as to Sanction**

W.W., the complainant-homeowner, credibly testified that Respondents had previously done work on his home and because he was satisfied with the work, entered into a contract with Respondents on November 4, 2018, to have work performed on a friend's home. W.W. further credibly testified that he paid Respondents the full \$1,800 contract price, and that, to date, Respondents have not performed any work. W.W. also credibly testified that Respondents have never refunded any portion of the \$1,800 contract price.

Based on W.W.'s credible testimony, the admitted exhibits, and the default entry, the undersigned ALJ finds that, on November 4, 2018, Respondents misappropriated \$1,800 belonging to W.W. by abandoning work on the contracted project. The undersigned ALJ further finds that, to date, Respondents have failed to return W.W.'s money. Accordingly, the ALJ recommends that the Board impose the following sanctions on Respondents:

1. That Respondents, jointly and severally, be required to pay restitution to W.W. in the amount of \$1,800.00.
2. Imposition of a fine 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. Re-Revocation of all licenses held by Respondents under the jurisdiction of the Board.
4. Any other sanction the Board deems appropriate pursuant to MCL 339.602.

*/s/ Chris Johnson*

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**Chris Johnson**  
**Administrative Law Judge**

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

JOSEPH T. TOTH  
Residential Builder  
License No. 21-01-203000

Complaint No. 340301

\_\_\_\_\_ /

FORMAL COMPLAINT

Assistant Attorney General Daniel P. Kelly, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), files this formal complaint against Joseph T. Toth (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 possesses a revoked license to practice as a residential builder pursuant to the Code.
3. Respondent was previously sanctioned in Complaint No. 21-17-331702, via a consent order dated January 8, 2019, receiving a \$1,000.00 fine for aiding and abetting his limited liability company in the unlicensed practice of an occupation. Respondent was also previously sanctioned in Complaint No. 21-19-340521 via a final order dated March 10, 2022, receiving a \$7,546.19 fine, \$7,546.19 restitution

order, and revocation of his license to practice as a residential builder, for taking a client's money and abandoning the project without performing work and without refunding the client.

4. After receiving a complaint against Respondent, 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 fraud, deceit, or dishonesty in practicing an occupation.

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

7. 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."

8. Section 604(e) of the Code subjects a licensee to sanction for committing an act of gross negligence.

9. Section 604(g) of the Code subjects a licensee to sanction for committing an act demonstrating incompetence.

10. 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 provided.

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

12. Section 2411(2)(b) of the Code subjects a licensee to sanction for “[d]iversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes.”

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

14. Section 2411(2)(l) of the Code subjects a licensee to sanction for “failing to satisfy judgments or liens, or failing to pay an obligation as it becomes due in the ordinary course of business.”

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

16. 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

17. Respondent is the owner and Resident Agent for Home Town Roofing & Consulting LLC, a Michigan Limited Liability Company. The LLC’s articles of incorporation were filed with the Department on January 7, 2014.

18. Respondent, through the LLC, employed Jeffrey E. Elliott, a licensed residential builder.

19. On or about November 4, 2018, Elliott, on behalf of Respondent and the LLC, entered into an agreement with W.W.<sup>1</sup> to install a shed, mount lighting steps on the shed, and conduct miscellaneous home repairs on a home located in Allen Park, MI. The contract amount was \$1,800.00, and W.W. paid Respondent the full amount.

20. To date, Respondent has not begun work at the Allen Park residence. Respondent failed to complete the agreed upon work, abandoned the project, and did not remit funds to W.W.

21. On May 9, 2019, the Department sent Respondent to his address of record a “Notice to Respondent” notifying him of the complaint made against him. Respondent failed to respond.

#### COUNT I

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

#### COUNT III

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

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<sup>1</sup> Initials used for privacy.

COUNT IV

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

COUNT V

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 2411(2)(a) of the Code.

COUNT VI

27. Respondent's conduct, as described above, constitutes diversion of funds or property received for prosecution or completion of a specific construction project or operation, in violation of section 2411(2)(b) of the Code.

COUNT VII

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

COUNT VIII

29. Respondent's conduct, as described above, constitutes failing to satisfy a judgment or lien, or failing to pay an obligation as it becomes due in the ordinary course of business, in violation of section 2411(2)(l) of the Code.

COUNT IX

Respondent's conduct as described above constitutes failure to timely respond to a complaint contrary to Mich Admin Code, R 338.1551(2), in violation of sections 604(c) and (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](mailto:LARA-BCC-RBS-Compliance@michigan.gov), with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

/s/ Daniel P. Kelly

Daniel P. Kelly (P79017)  
Assistant Attorney General  
Licensing & Regulation Division  
P.O. Box 30758  
Lansing, MI 48909  
Telephone: (517) 335-7569  
Facsimile: (517) 241-1997

Dated: December 9, 2022

LF: Toth, Joseph Thomas (Res Bldr), 340301/2022-0363299-A/Formal Complaint – 2022-12-09



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

HOME TOWN ROOFING & CONSULTING LLC  
Residential Builder Company  
License No. 21-02-207618

Complaint No. 340303

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FORMAL COMPLAINT

Assistant Attorney General Daniel P. Kelly, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), files this formal complaint against Home Town Roofing & Consulting LLC (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 possesses a revoked license to practice as a residential builder company pursuant to the Code.
3. Respondent was previously further sanctioned in Complaint No. 21-19-340521 via a final order dated March 10, 2022, receiving a \$7,546.19 fine, \$7,546.19 restitution order, and revocation of its license to practice as a residential builder company, for taking a client's money and abandoning the project without performing work and without refunding the client.
4. After receiving a complaint against Respondent, 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 fraud, deceit, or dishonesty in practicing an occupation.

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

7. 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.”

8. Section 604(e) of the Code subjects a licensee to sanction for committing an act of gross negligence.

9. Section 604(g) of the Code subjects a licensee to sanction for committing an act demonstrating incompetence.

10. 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 provided.

11. Section 2411(2)(a) of the Code subjects a licensee to sanction for “[a]bandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee.”

12. Section 2411(2)(b) of the Code subjects a licensee to sanction for “[d]iversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or

completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes.”

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

14. Section 2411(2)(l) of the Code subjects a licensee to sanction for “failing to satisfy judgments or liens, or failing to pay an obligation as it becomes due in the ordinary course of business.”

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

16. 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

17. Home Town Roofing & Consulting LLC is a Michigan Limited Liability Company. The LLC’s articles of incorporation were filed with the Department on January 7, 2014.

18. Respondent employed Jeffrey E. Elliott, a licensed residential builder.

19. On or about November 4, 2018, Elliott, on behalf of Respondent, entered into an agreement with W.W.<sup>1</sup> to install a shed, mount lighting steps on the shed, and conduct miscellaneous home repairs on a home located in Allen Park, MI. The contract amount was \$1,800.00, and W.W. paid Respondent the full amount.

20. To date, Respondent has not begun work at the Allen Park residence. Respondent failed to complete the agreed upon work, abandoned the project, and did not remit funds to W.W.

21. On May 9, 2019, the Department sent Respondent to its address of record a “Notice to Respondent” notifying it of the complaint made against it. Respondent failed to respond.

#### COUNT I

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

#### COUNT III

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

#### COUNT IV

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

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<sup>1</sup> Initial used for privacy.

COUNT V

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 2411(2)(a) of the Code.

COUNT VI

27. Respondent's conduct, as described above, constitutes diversion of funds or property received for prosecution or completion of a specific construction project or operation, in violation of section 2411(2)(b) of the Code.

COUNT VII

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

COUNT VIII

29. Respondent's conduct, as described above, constitutes failing to satisfy a judgment or lien, or failing to pay an obligation as it becomes due in the ordinary course of business, in violation of section 2411(2)(l) of the Code.

COUNT IX

30. Respondent's conduct, as described above, constitutes failure to timely respond to a complaint contrary to Mich Admin Code, R 338.1551(2), in violation of sections 604(c) and (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](mailto:LARA-BCC-RBS-Compliance@michigan.gov), with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

/s/ Daniel P. Kelly

Daniel P. Kelly (P79017)  
Assistant Attorney General  
Licensing & Regulation Division  
P.O. Box 30758  
Lansing, MI 48909  
Telephone: (517) 335-7569  
Facsimile: (517) 241-1997

Dated: December 9, 2022

LF: Home Town Roofing & Consulting LLC, 340303/2022-0363295-A/Formal Complaint – 2022-12-09

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

NICHOLAS ANTON KLUPP  
License No. 21-01-195283

Complaint No. 2000020  
Docket No. 23-035025

AND

METAL MASTERS CONSTRUCTION LLC  
License No. 21-02-198374

Complaint No. 2000021  
Docket No. 23-035024

Respondents

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**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 May 16, 2024, and considered the Finding of Facts and Conclusions of Law in the Hearing Report of Lindsay Wilson, Administrative Law Judge, dated January 31, 2024.

**IT IS ORDERED** that for violating MCL 339.604 (b), (c), (d), (e), (g), (h), and (l); MCL 339.2411 (2)(a), (b), (c), and (h); Mich Admin Code R 338.1551 (2), 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 **2000020 & 2000021**.

**IT IS FURTHER ORDERED** that Respondents are jointly and severally liable to pay RESTITUTION in the amount of TWO THOUSAND ONE HUNDRED NINE dollars and 09/100 (\$2,109.09) 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 2101195283 and 2102198374 shall be and hereby are IMMEDIATELY REVOKED on the effective date of this Order. Respondent 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 licenses after ninety (90) days if 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 22<sup>nd</sup> day of May, 2024.

BY: *Felicia Badger*

Felicia Badger, Manager  
Enforcement Section  
Bureau of Construction Codes

Effective date: 5/22/2024



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

**IN THE MATTER OF:**

**Bureau of Construction Codes,  
Petitioner**

**v**

**Nicholas Anton Klupp,  
Respondent**

**Docket No.: 23-035025**

**Case No.: 2000020**

**Agency: Bureau of Construction  
Codes**

**Case Type: BCC Residential Builders**

**Filing Type: Formal Complaint**

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**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 Wednesday, January 31, 2024.

<u>Date</u>	<u>Document</u>
1. 01/31/24	Hearing Report
2. 01/29/24	Petitioner BCC's Exhibits 1-9, Offered and Admitted
3. 01/17/24	Petitioner's Witness and Exhibit Lists ( <i>Attachments not made part of Certified Record</i> )
4. 12/13/23	Notice of Telephone Hearing with Proof of Service
5. 12/11/23	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**

**Metal Masters Construction, LLC,  
Respondent**

**Docket No.: 23-035024**

**Case No.: 2000021**

**Agency: Bureau of Construction  
Codes**

**Case Type: BCC Residential Builders**

**Filing Type: Formal Complaint**

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**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 Wednesday, January 31, 2024.

<u>Date</u>	<u>Document</u>
1. 01/31/24	Hearing Report
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4. 12/13/23	Notice of Telephone Hearing with Proof of Service
5. 12/11/23	Request for Hearing



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Madeline Kulhanek  
Michigan Office of Administrative  
Hearings and Rules



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

**IN THE MATTER OF:**

**Docket No.: 23-035024**

**BUREAU OF CONSTRUCTION CODES,  
PETITIONER**

**Case No.: 2000021**

**V**

**Agency: Bureau of  
Construction Codes**

**METAL MASTERS CONSTRUCTION, LLC,  
RESPONDENT**

**Case Type: BCC Residential  
Builders**

**Filing Type: Formal Complaint**

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**IN THE MATTER OF:**

**Docket No.: 23-035025**

**BUREAU OF CONSTRUCTION CODES,  
PETITIONER**

**Case No.: 2000020**

**V**

**Agency: Bureau of  
Construction Codes**

**NICHOLAS ANTON KLUPP,  
RESPONDENT**

**Case Type: BCC Residential  
Builders**

**Filing Type: Formal Complaint**

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**Issued and entered  
this 31<sup>st</sup> day of January 2024  
by: Lindsay Wilson  
Administrative Law Judge**

**HEARING REPORT**

**Procedural History**

On October 3, 2023, a Formal Complaint was filed by the Department of Licensing and Regulatory Affairs (LARA), Bureau of Construction Codes (Bureau), Petitioner, against Metal Masters Construction, LLC, and Nicholas Anton Klupp, 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 December 8, 2023, these matters were referred to the Michigan Office of Administrative Hearings and Rules (MOAHR) to schedule a contested case hearing.

On December 13, 2023, MOAHR issued a Notice of Telephone Hearing, scheduling the hearing to convene on January 29, 2024.

On January 29, 2024, the telephone hearing commenced as scheduled. Administrative Law Judge (ALJ) Lindsay Wilson presided. Jason Werkema, Assistant Attorney General, appeared on behalf of Petitioner. Homeowner E.H.<sup>1</sup> appeared and testified as a witness on behalf of Petitioner.

Neither the Respondents, nor an attorney or authorized representative appeared on the Respondents' behalf. MOAHR did not receive any documentation or a telephone call from Respondents requesting an adjournment. The undersigned found that Respondents were properly served with notice of these proceedings at their last known address and email address of record with Petitioner.

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

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<sup>1</sup> Initials are used to protect confidentiality.

*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 Formal Complaint dated October 3, 2023, are deemed true and proven. The above-captioned matters were consolidated for hearing purposes.

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

1. Petitioner's Exhibit P-1 is a Notice to Respondent Nicholas Anton Klupp, dated January 7, 2020.
2. Petitioner's Exhibit P-2 is a Notice to Respondent Metal Masters Construction LLC, dated January 7, 2020.
3. Petitioner's Exhibit P-3 is a letter to Petitioner from Jason A. Clark, Office Coordinator for Metal Masters Construction, dated February 6, 2020, and a copy of a check made payable to E.H., dated February 6, 2020.
4. Petitioner's Exhibit P-4 is a copy of nonsufficient funds (NSF) notices from ELGA Credit Union for a check dated February 6, 2020.
5. Petitioner's Exhibit P-5 is a copy of an Affidavit and Claim filed in the 82<sup>nd</sup> District Small Claims Court for Case No. [REDACTED], dated May 27, 2020, and a default judgment for Case No. [REDACTED], dated November 18, 2020.
6. Petitioner's Exhibit P-6 is a copy of the Contract and Addendum between Respondent Metal Masters Construction and Homeowners E.H. and V.H., dated August 9, 2019.
7. Petitioner's Exhibit P-7 is Petitioner's Case Summary for Case Nos. 2000020 and 2000021.

8. Petitioner's Exhibit P-8 is a copy of the homeowner's notes, dated May 25, 2020.
9. Petitioner's Exhibit P-9 is a Certification of Licensure for Respondent Metal Masters Construction LLC, as of July 6, 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 January 29, 2024.

**Issues and Applicable Law**

The issue presented is whether Respondents have violated the Code and/or Rules as alleged in the Formal Complaint. More specifically, this matter concerns whether Respondents have violated Sections 604(b); 604(c); 604(d); 604(e); 604(g); 604(h); 604(l); 2411(2)(a); 2411(2)(b); 2411(2)(c); and 2411(2)(h) of the Code, and Mich Admin Code R 338.1551(2), as alleged in Counts I through X of the October 3, 2023 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.
- (e) Commits an act of gross negligence in practicing an occupation.

\* \* \*

- (g) Commits an act which demonstrates incompetence.

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

\* \* \*

- (l) Aids or abets another person in the unlicensed practice of an occupation.

\* \* \*

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.
  - (b) Diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes.

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

\* \* \*

- (h) Failure 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.

\* \* \*

Mich Admin Code R 338.1551(2) provides:

Rule 51.

- (2) 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. Respondent Metal Masters Construction LLC (Respondent Metal Masters) was licensed as a Residential Builder Company from June 10, 2010 to May 31, 2020. The license lapsed on May 31, 2020 and the license is currently in inactive status. [Pet. Exh. P-10].
3. At all relevant times to the Formal Complaint, Respondent Nicholas Klupp (Respondent Klupp) served as the qualifying officer for Respondent Metal Masters. [Pet. Exh. P-10].
4. As its qualifying officer, Respondent Klupp acted on behalf of Respondent Metal Masters 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-10].
5. On or about August 9, 2019, Homeowner E.H. contracted with Respondent Metal Masters to replace the roof on his home in Prudenville, Michigan. The contract totaled \$9,500 and E.H. paid Respondent Metal Masters a deposit of \$2,000. Additionally, the contract included a special provision for placement of the dumpster for the collection of construction debris. [Pet. Exh. P-6; E.H. Hearing Testimony].
6. The aforementioned contract and addendums were negotiated and signed on behalf of Respondent Metal Masters by William Grantham, an employee of Respondent Metal Masters. William Grantham did not possess, and never has possessed, a salesperson license as required by the Code. [Pet. Exh. P-6, pp. 1, 3; Pet. Exh. P-7, p. 1].
7. Respondent Metal Masters advised E.H. that work would begin on the roof on or about August 25, 2019. Respondent Metal Masters did not show up to complete the work on that date and, following a phone call from E.H., agreed to begin the project on September 9, 2019. Respondent Metal Masters again failed to show up on September 9, 2019. [Pet. Exh. P-7, p. 1; Pet. Exh. P-8, p. 1].

8. On or about September 17, 2019, Respondent Metal Masters confirmed with E.H. that work would commence on September 18, 2019. [Pet. Exh. P-7, p. 1; Pet. Exh. P-8, p. 1].
9. On or about September 18, 2019, a crew from Respondent Metal Masters showed up for the project but refused to commence work due to the dumpster not being placed next to the home. [Pet. Exh. P-7, p. 1; Pet. Exh. P-8, p. 1].
10. Following the crew from Respondent Metal Masters leaving the property, E.H. contacted Respondent Metal Masters and was advised they were unable to obtain another crew to do the project in Prudenville, Michigan. As such, Respondent Metal Masters agreed to refund E.H. the \$2,000 deposit. [Pet. Exh. P-7, p. 1; Pet. Exh. P-8, pp. 1-2; E.H. Hearing Testimony].
11. After repeated attempts by E.H. to receive return of the \$2,000 deposit, on or about February 6, 2020, Respondent Metal Masters sent E.H. a check for \$2,250, with the inclusion of an additional \$250 due to E.H.'s request for his expenses. [Pet. Exh. P-3; Pet. Exh. P-4].
12. On January 7, 2020, Petitioner sent a Notice to Respondents (Notices), informing Respondents that a Statement of Complaint had been filed. The Notices indicated that Respondents must respond to the allegations in writing by February 7, 2020. [Pet. Exh. P-1; Pet. Exh. P-2].
13. On February 11, 2020, Petitioner received a written response to the Statement of Complaint from Respondent Metal Master's Office Coordinator, Jason A. Clark. The response also included a copy of the check for \$2,250.00 made out to E.H., dated February 6, 2020. [Pet. Exh. P-3].
14. Respondents failed to timely respond to Petitioner after receiving notice of the complaint as required by Mich Admin Code, R 338.1551(2). [Pet. Exh. P-3, p. 1].
15. E.H. attempted to deposit the aforementioned check on two occasions and the check was returned indicating non-sufficient funds each time. To date, Respondent Metal Masters has failed to return E.H.'s deposit. [Pet. Exh. P-4; E.H. Hearing Testimony].
16. On or about May 27, 2020, E.H. filed a civil claim in the 82nd District Court Small Claims division for the return of his deposit. [Pet. Exh. P-5, p. 1].

17. On or about November 18, 2020, the 82nd District Court issued a Default Judgment against Respondent Metal Masters for \$2,190.09, payable to E.H. To date, Respondent Metal Masters has failed to pay the judgment. [Pet. Exh. P-5, p. 2].

### **Conclusions of Law**

Petitioner bears the burden of proving, by a preponderance of evidence, that Respondents violated the Code, as alleged in the 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 2<sup>nd</sup> 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 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, demonstrates an act of gross negligence in practicing an occupation, in violation of MCL 339.604(e), as alleged in Count III of the Formal Complaint.

- 4) Respondents' conduct, as described above, demonstrates incompetence, in violation of MCL 339.604(g), as alleged in Count IV of the Formal Complaint.
- 5) Respondents' conduct, as described above, demonstrates aiding or abetting another person in the unlicensed practice of an occupation, in violation of MCL 339.604(l), as alleged in Count V of the Formal Complaint.
- 6) Respondents' conduct, as described above, constitutes a failure to timely<sup>2</sup> respond, contrary to Mich Admin Code, R 338.1551(2), in violation of MCL 339.604(c) and MCL 339.604(h).
- 7) 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 MCL 339.2411(2)(a), as alleged in Count VII of the Formal Complaint.
- 8) Respondents' conduct, as described above, constitutes diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes, in violation of MCL 339.2411(2)(b), as alleged in Count VIII of the Formal Complaint.
- 9) 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 IX of the Formal Complaint.
- 10) Respondents' conduct, as described above, constitutes failing to deliver to the purchaser the entire agreement of the parties, in violation of section MCL 339.2411(2)(h), as alleged in Count X 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 Formal Complaint dated October 3, 2023.

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<sup>2</sup> The undersigned notes that Court VI states that the Respondents' failed to respond contrary to Mich Admin Code, R 338.1551(2). On the contrary, the evidence presented establishes that Respondents did respond to the complaint on February 11, 2020, albeit it was not received within the timeline required by Petitioner. [See Pet. Exh. P-1, P-2, and P-3]. Consequently, the undersigned has modified the language in Count VI to reflect that Respondents failed to *timely* respond, contrary to Mich Admin Code, R 338.1551(2), in violation of MCL 339.604(c) and MCL 339.604(h).

**Recommended Sanctions**

At the conclusion of the hearing, Petitioner's representative requested that the Board impose a \$10,000.00 fine on Respondents. Petitioner further requested that the Board order restitution be paid to the Complainant in the amount of \$2,109.09 and that Respondents' licenses be revoked without reinstatement until the judgment 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 to Complainant in the amount of \$2,190.09, which is the amount determined by the 82<sup>nd</sup> District Court Small claims Division in Case No. [REDACTED]. [Pet. Exh. P-5, p. 2].
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 without the opportunity of reinstatement of the licenses until the restitution and fine amounts are 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:

**23-035024 and 23-035025**  
**Page 13**

Michigan Office of Administrative Hearings and Rules, General Adjudication, by **email (preferred)** to: [MOAHR-GA@michigan.gov](mailto: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

Metal Masters Construction LLC  
Residential Builder Company  
License No. 21-02-198374

Complaint No. 2000021

AND

Nicholas Anton Klupp  
Individual Residential Builder  
License No. 21-01-195283

Complaint No. 2000020

\_\_\_\_\_ /

FORMAL COMPLAINT

Assistant Attorneys General Jason W. Werkema and Jennifer Fitzgerald, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), files this formal complaint against Respondents Metal Masters Construction LLC and Nicholas A. Klupp (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. Respondents are each currently licensed residential builders pursuant to the Code. At all relevant times, Respondent Klupp served as the qualifying officer for Respondent Metal Masters.



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 practicing fraud, deceit, or dishonesty in practicing an occupation.

5. Section 604(c) of the Code subjects a licensee to sanction for violation of a rule of conduct of 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(e) of the Code subjects a licensee to sanction for committing an act of gross negligence in practicing an occupation.

8. Section 604(g) of the Code subjects a licensee to sanction for committing an act which demonstrates incompetence.

9. 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.

10. Section 604(l) of the Code subjects a licensee to sanction who aids or abets another person in the unlicensed practice of an occupation.

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)(b) of the Code subjects a licensee to sanction for diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes.

14. 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.

15. 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.

16. 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

17. On or about August 9, 2019, homeowner E.H.<sup>1</sup> contracted with Respondent Metal Masters to replace the roof on his Prudenville, Michigan home.

18. The aforementioned contract totaled \$9,500 and homeowner E.H. paid Respondent Metal Masters a deposit of \$2,000. Additionally, the contract included a special provision for placement of the dumpster for the collection of construction debris.

19. Respondent Metal Masters advised homeowner E.H. that work would begin on the roof on or about August 25, 2019. Respondent Metal Masters did not show up to complete the work on that date and, following a phone call from homeowner E.H., agreed to begin the project on September 9, 2019. Respondent Metal Masters again failed to show up on September 9, 2019.

20. On or about September 17, 2019, Respondent Metal Masters confirmed with homeowner E.H. that work would commence on September 18, 2019.

21. On or about September 18, 2019, a crew from Respondent Metal Masters showed up for the project, but refused to commence work due to the dumpster not being placed next to the home.

22. Following the crew from Respondent Metal Masters leaving the property, homeowner E.H. contacted Respondent Metal Masters and was advised they were unable to obtain another crew to do the project in Prudenville, Michigan and Respondent Metal Masters agreed to refund homeowner E.H. the \$2,000 Deposit.

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<sup>1</sup> Designation used to protect confidentiality.

23. After repeated attempts by homeowner E.H. to receive return of the \$2,000 deposit, on or about February 6, 2020, Respondent Metal Masters sent homeowner E.H. a check for \$2,250, with the inclusion of an additional \$250 due to the homeowner E.H.'s request for his expenses.

24. Homeowner attempted to deposit the aforementioned check on two occasions and the check was returned indicating non-sufficient funds each time. To date, Respondent Metal Masters has failed to return homeowner E.H.'s deposit.

25. On or about September 3, 2020, homeowner E.H. filed a civil claim in the 82<sup>nd</sup> District Court for the return of his deposit.

26. On or about November 18, 2020, the 82<sup>nd</sup> District Court issued a Default Judgment against Respondent Metal Masters for \$2,190.09, payable to homeowner E.H. To date, Respondent Metal Masters has failed to pay the judgment.

27. The aforementioned contract and addendums were negotiated and signed on behalf of Respondent Metal Masters by William Grantham, an employee of Respondent Metal Masters. William Grantham did not possess, and never has possessed, a salesperson license as required by the Code.

28. As its qualifying officer, Respondent Nicholas Klupp acted on behalf of Respondent Metal Masters and is responsible for exercising supervision and control of its construction operations to secure full compliance with Article 24 of the Occupational Code.

29. 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).

COUNT I

30. 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

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

COUNT III

32. Respondents' conduct as described above demonstrates an act of gross negligence in practicing an occupation, in violation of section 604(e) of the Code.

COUNT IV

33. Respondents' conduct as described above demonstrates incompetence, in violation of section 604(g) of the Code.

COUNT V

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

COUNT VI

35. Respondents' conduct as described above constitutes the failure to respond, contrary to Mich Admin Code, R 338.1551(2), in violation of sections 604(c) and (h) of the Code.

COUNT VII

36. 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 VIII

37. Respondents' conduct as described above constitutes diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes, in violation of section 2411(2)(b) of the Code.

COUNT IX

38. 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.

COUNT X

39. Respondents' conduct as described above constitutes failing to deliver to the purchaser the entire agreement of the parties, in violation of section 2411(2)(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](mailto:LARA-BCC-RBS-Compliance@michigan.gov), with a copy mailed to the undersigned assistant attorneys general.

Respectfully submitted,

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

Dated: October 3, 2023

LF: 2023-0380439-B/Metal Masters Construction LLC, 2000021/Formal Complaint – 2023-10-03

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

NICHOLAS ANTON KLUPP  
License No. 21-01-195283

Complaint No. 2000574  
Docket No. 23-035030

AND

METAL MASTERS CONSTRUCTION LLC  
License No. 21-02-198374

Complaint No. 2000575  
Docket No. 23-035029

Respondents

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**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 May 16, 2024, and considered the Finding of Facts and Conclusions of Law in the Hearing Report of Lindsay Wilson, Administrative Law Judge, dated February 1, 2024.

**IT IS ORDERED** that for violating MCL 339.604 (b), (c), (d), (e), (g), and (h); MCL 339.2411 (2)(a), (d), and (h); Mich Admin Code R 338.1551 (2), 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 **2000574 & 2000575**.

**IT IS FURTHER ORDERED** that Respondents are jointly and severally liable to pay RESTITUTION in the amount of EIGHT THOUSAND SIX HUNDRED ONE dollars and 00/100 (\$8,601.00) 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 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 2101195283 and 2102198374 shall be and hereby are IMMEDIATELY REVOKED on the effective date of this Order. Respondent 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 licenses after ninety (90) days if 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 22<sup>nd</sup> day of May, 2024.

BY: *Felicia Badger*

Felicia Badger, Manager  
Enforcement Section  
Bureau of Construction Codes

Effective date: 5/22/2024

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

**IN THE MATTER OF:**

**Bureau of Construction Codes,  
Petitioner**

**V**

**Nicholas Anton Klupp,  
Respondent**

**Docket No.: 23-035030**

**Case No.: 2000574**

**Agency: Bureau of Construction  
Codes**

**Case Type: BCC Residential Builders**

**Filing Type: Formal Complaint**

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**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, February 02, 2024.

<u>Date</u>	<u>Document</u>
1. 02/01/24	Hearing Report
2. 01/29/24	Petitioner BCC's Exhibits 1–10, Offered and Admitted
3. 01/17/24	Petitioner BCC's Witness and Exhibit Lists ( <i>Attachments not made part of Certified Record</i> )
4. 12/13/23	Notice of Telephone Hearing with Proof of Service
5. 12/11/23	Request for Hearing



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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**

**Metal Masters Construction, LLC,  
Respondent**

**Docket No.: 23-035029**

**Case No.: 2000575**

**Agency: Bureau of Construction  
Codes**

**Case Type: BCC Residential Builders**

**Filing Type: Formal Complaint**

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**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.

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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**

**METAL MASTERS CONSTRUCTION, LLC,  
RESPONDENT**

**Docket No.: 23-035029**

**Case No.: 2000575**

**Agency: Bureau of  
Construction Codes**

**Case Type: BCC Residential  
Builders**

**Filing Type: Formal Complaint**

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**IN THE MATTER OF:**

**BUREAU OF CONSTRUCTION CODES,  
PETITIONER**

**V**

**NICHOLAS ANTON KLUPP,  
RESPONDENT**

**Docket No.: 23-035030**

**Case No.: 2000574**

**Agency: Bureau of  
Construction Codes**

**Case Type: BCC Residential  
Builders**

**Filing Type: Formal Complaint**

\_\_\_\_\_/

**Issued and entered  
this 1<sup>st</sup> day of February 2024  
by: Lindsay Wilson  
Administrative Law Judge**

**HEARING REPORT**

**Procedural History**

On October 4, 2023, a Formal Complaint was filed by the Department of Licensing and Regulatory Affairs (LARA), Bureau of Construction Codes (Bureau), Petitioner, against Metal Masters Construction, LLC, and Nicholas Anton Klupp, 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 December 8, 2023, these matters were referred to the Michigan Office of Administrative Hearings and Rules (MOAHR) to schedule a contested case hearing.

On December 13, 2023, MOAHR issued a Notice of Telephone Hearing, scheduling the hearing to convene on January 29, 2024.

On January 29, 2024, the hearing commenced as scheduled. Administrative Law Judge (ALJ) Lindsay Wilson presided. Jason Werkema, Assistant Attorney General, appeared on behalf of Petitioner. Homeowner A.P.<sup>1</sup> appeared and testified as a witness on behalf of Petitioner.

Neither the Respondents, nor an attorney or authorized representative appeared on the Respondents' behalf. MOAHR did not receive any documentation or a telephone call from Respondents requesting an adjournment. Finally, the undersigned found that Respondents were properly served with notice of these proceedings at their last known address and email address of record with Petitioner.

After the undersigned waited over 30 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.

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<sup>1</sup> Initials are used to protect confidentiality.

- (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 Formal Complaint dated October 4, 2023, are deemed true and proven. The above-captioned matters were consolidated for hearing purposes.

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

1. Petitioner's Exhibit P-1 is a copy of a Contract between A.P. and Respondent Metal Masters Construction for new roof of the home, dated May 18, 2018.
2. Petitioner's Exhibit P-2 is a copy of a Workmanship Warranty from Respondent Metal Masters Construction to A.P.
3. Petitioner's Exhibit P-3 is a proof of payment from Respondent Metal Masters to A.P., dated July 3, 2018.
4. Petitioner's Exhibit P-4 is a copy of a Contract between A.P. and Respondent Metal Masters Construction for a garage roof, dated May 2, 2019.
5. Petitioner's Exhibit P-5 is a loan approval letter from EnerBank USA to A.P., dated May 15, 2019, and proof of payment in full, dated September 14, 2020.
6. Petitioner's Exhibit P-6 is photographs of the damage and rotted wood on A.P.'s home.
7. Petitioner's Exhibit P-7 is a copy of a Building Inspection Report, dated November 6, 2020.
8. Petitioner's Exhibit P-8 is a Notice to Respondent Metal Masters Construction LLC, dated November 18, 2020.
9. Petitioner's Exhibit P-9 is a Notice to Respondent Nicholas Klupp, dated November 18, 2020.

10. Petitioner's Exhibit P-10 is a Certification of Licensure for Respondent Metal Masters Construction LLC, as of July 6, 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 January 29, 2024.

**Issues and Applicable Law**

The issue presented is whether Respondents has violated the Code as alleged in the Formal Complaint. More specifically, this matter concerns whether Respondents have violated Sections 604(b); 604(c); 604(d); 604(e); 604(g); 604(h); 2411(2)(a); 2411(2)(d); and 2411(2)(h) of the Code, and Mich Admin Code R 338.1551(2), as alleged in Counts I through VIII of the October 4, 2023, Formal Complaint. The referenced Code and Rules 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.
- (e) Commits an act of gross negligence in practicing an occupation.

\* \* \*

- (g) Commits an act which demonstrates incompetence.

- (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.

\* \* \*

- (d) A willful departure from or disregard of plans or specifications in a material respect and prejudicial to another, without consent of the owner or an authorized representative and without the consent of the person entitled to have the particular construction project or operation completed in accordance with the plans and specifications.

\* \* \*

- (h) Failure 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.

\* \* \*

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. Respondent Metal Masters Construction LLC (Respondent Metal Masters) was licensed as a Residential Builder Company from June 10, 2010 to May 31, 2020. The license lapsed on May 31, 2020 and the license is currently in inactive status. [Pet. Exh. P-10].
3. At all relevant times to the Formal Complaint, Respondent Nicholas Klupp (Respondent Klupp) served as the qualifying officer for Respondent Metal Masters. [Pet. Exh. P-10].
4. As its qualifying officer, Respondent Klupp acted on behalf of Respondent Metal Masters 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-10].
5. On or about May 18, 2018, Respondent Metal Masters entered into a contract with the homeowner, A.P., to replace the roof on A.P.'s Laingsburg, Michigan home. [Pet. Exh. P-1; A.P. Hearing Testimony].
6. Respondent Metal Masters included a warranty for their workmanship as part of the aforementioned contract which provides, "[i]f any service, repair, leak or any other related issue occurs as a result of our workmanship we will cover 100% of materials and labor costs." [Pet. Exh. P-2].
7. On or about June 5, 2018, Respondent Metal Masters completed A.P.'s roof and provided the homeowner an acknowledgment of the contract being paid in full. [Pet. Exh. P-3].
8. Between April and May of 2019, Respondent Metal Masters again contracted with A.P. to replace the roof on a garage located on the property of A.P.'s Laingsburg, Michigan home. [Pet. Exh. P-4; A.P. Hearing Testimony].
9. The aforementioned contract for the garage was for approximately \$4,825 and included a provision providing that Respondent Metal Masters would remove rotted wood from the garage roof as well as clean away any debris. [Pet. Exh. P-4].
10. On or about May 5, 2019, Respondent Metal Masters completed the garage roof and was paid in full by A.P. However, the rotted wood on the garage roof was not removed per the contract. [Pet. Exh. P-7, p. 1; Pet. Exh. P-5; Pet. Exh. P-6, p. 4; A.R. Hearing Testimony].
11. In and around April 2020, A.P. noticed leaking from the ceiling inside her home. A.P. immediately notified Respondent Metal Masters and was advised they were temporarily closed due to Covid. [Pet. Exh. P-6, pp. 1-3; A.R. Hearing Testimony].

12. On or about July 14, 2020, A.P. once again tried to call Respondent Metal Masters and did not receive a response. On or about July 22, 2020, A.P. called again and noted that Respondent Metal Master's phones were disconnected. [A.R. Hearing Testimony].
13. Due to being unable to reach Respondent Metal Masters, A.P. reached out to the Shiawassee County, Michigan Building Department and requested an inspection. [Pet. Exh. P-7].
14. On or about October 29, 2020, a building inspector from Shiawassee County inspected the roof of both the home and the garage and noted that Respondent Metal Masters failed to remove and replace rotted wood on the garage fascia and failed to remove debris following the construction project. [Pet. Exh. P-7].
15. On November 18, 2020, Petitioner sent a Notice to Respondents (Notices), informing Respondents that a Statement of Complaint had been filed against them. [Pet. Exh. P-8; Pet. Exh. P-9].
16. 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).
17. In January 2024, A.R. spoke with a contractor about the removal of the rotted wood from the garage roof and repairs to the leaking roof on her home. The contractor provided A.R. a quote of \$2,650.00 for removal of the rotted wood and \$5,951.00 for the repairs to the roof, for a total of \$8,601.00. [A.R. Hearing Testimony].

### **Conclusions of Law**

Petitioner bears the burden of proving, by a preponderance of evidence, that Respondents violated the Code, as alleged in the 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 2<sup>nd</sup> 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 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, demonstrates an act of gross negligence in practicing an occupation, in violation of MCL 339.604(e), as alleged in Count III of the Formal Complaint.
- 4) Respondents' conduct, as described above, demonstrates incompetence in violation of MCL 339.604(g), as alleged in Count IV of the Formal Complaint.
- 5) 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) and MCL 339.604(h), as alleged in Count V of the Formal Complaint.
- 6) 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 MCL 339.2411(2)(a), as alleged in Count VI of the Formal Complaint.
- 7) Respondents' conduct, as described above, constitutes a willful departure from or disregard of plans or specifications in a material respect and prejudicial to another, in violation of MCL 339.2411(2)(d), as alleged in Count VII of the Formal Complaint.
- 8) Respondents' conduct, as described above, constitutes failing to deliver to the purchaser the entire agreement of the parties, in violation of section MCL 339.2411(2)(h), as alleged in Count VIII of the Formal Complaint.

### **Decision**

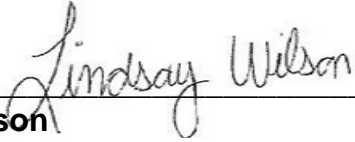
Petitioner has proven the allegations of fact and violations of the Code and/or administrative rules as alleged in the Formal Complaint dated October 4, 2023.

**Recommended Sanctions**

At the conclusion of the hearing, Petitioner's representative requested that the Board impose a \$10,000.00 fine to Respondents. Petitioner further requested that the Board order restitution be paid to the Complainant in the amount of \$8,601.00 based on the Complainant's testimony regarding the quote she received from another contractor to fix the issues with her roof and the rotted wood on the garage roof.

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 to Complainant in the amount of \$8,601.00.
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. 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](mailto: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

Metal Masters Construction LLC  
Residential Builder Company  
License No. 21-02-198374

Complaint No. 2000575

AND

Nicholas Anton Klupp  
Individual Residential Builder  
License No. 21-01-195283

Complaint No. 2000574

\_\_\_\_\_ /

FORMAL COMPLAINT

Assistant Attorneys General Jason W. Werkema and Jennifer Fitzgerald, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), files this formal complaint against Respondents Metal Masters Construction LLC and Nicholas A. Klupp (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. Respondents are each currently licensed residential builders pursuant to the Code. At all relevant times, Respondent Klupp served as the qualifying officer for Respondent Metal Masters.

3. After receiving a complaint against Respondents, 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 practicing fraud, deceit, or dishonesty in practicing an occupation.

5. Section 604(c) of the Code subjects a licensee to sanction for violation of a rule of conduct of 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(e) of the Code subjects a licensee to sanction for committing an act of gross negligence in practicing an occupation.

8. Section 604(g) of the Code subjects a licensee to sanction for committing an act which demonstrates incompetence.

9. 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.

10. 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.”

11. 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.



12. Section 2411(2)(d) of the Code subjects a licensee to sanction for a willful departure from or disregard of plans or specifications in a material respect and prejudicial to another, without consent of the owner or an authorized representative and without the consent of the person entitled to have the particular construction project or operation completed in accordance with the plans and specifications.

13. 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.

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. In and around June 2020, Respondent Metal Masters entered into a contract with homeowner A.P.<sup>1</sup> to replace the roof on the homeowner's Laingsburg, Michigan home.

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<sup>1</sup> Designation used to protect confidentiality.

16. Respondent Metal Masters included a warranty for their workmanship as part of the aforementioned contract which provides, “[i]f any service, repair, leak or any other related issue occurs as a result of our workmanship we will cover 100% of materials and labor costs.”

17. On or about June 5, 2018, Respondent Metal Masters completed homeowner A.P.’s roof and provided the homeowner an acknowledgment of being paid in full.

18. Between April and May of 2019, Respondent Metal Masters again contracted with homeowner A.P. to replace the roof on a garage located on the property of the homeowner’s Laingsburg, Michigan home.

19. The aforementioned contract for the garage was for approximately \$4,825 and includes a provision providing that Respondent Metal Masters would remove rotted wood from the garage roof as well as clean away any debris.

20. On or about May 5, 2019, Respondent Metal Masters completed the garage roof and was paid in full by homeowner A.P.

21. In and around April 2020, homeowner A.P. noticed a new wet spot on the ceiling inside her home. Homeowner A.P. immediately notified Respondent Metal Masters and was advised they were temporarily closed due to Covid.

22. On or about July 14, 2020, homeowner A.P. once again tried to call Respondent Metal Masters and did not receive a response. On or about July 22, 2020, the homeowner called again and noted that Respondent Metal Master’s phones were disconnected.

23. Due to being unable to reach Respondent Metal Masters, homeowner A.P. reached out to the Shiawassee County, Michigan Building Department and requested an inspection.

24. On or about October 29, 2020, a building inspector from Shiawassee County inspected the roof of both the home and the garage and noted that Respondent Metal Masters failed to remove and replace rotted wood on the garage fascia and failed to remove debris following the construction project.

25. As its qualifying officer, Respondent Nicholas Klupp acted on behalf of Respondent Metal Masters and is responsible for exercising supervision and control of its construction operations to secure full compliance with Article 24 of the Occupational Code.

26. 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).

#### COUNT I

27. 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

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

#### COUNT III

29. Respondents' conduct as described above demonstrates an act of gross negligence in practicing an occupation, in violation of section 604(e) of the Code.

COUNT IV

30. Respondents' conduct as described above demonstrates incompetence, in violation of section 604(g) of the Code.

COUNT V

31. Respondents' conduct as described above constitutes the failure to respond, contrary to Mich Admin Code, R 338.1551(2), in violation of sections 604(c) and (h) of the Code.

COUNT VI

32. 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 VII

33. Respondents' conduct as described above constitutes a willful departure from or disregard of plans or specifications in a material respect and prejudicial to another, in violation of section 2411(2)(d) of the Code.

COUNT VIII

34. Respondents' conduct as described above constitutes failing to deliver to the purchaser the entire agreement of the parties, in violation of section 2411(2)(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](mailto:LARA-BCC-RBS-Compliance@michigan.gov), with a copy mailed to the undersigned assistant attorney general.

Respectfully submitted,

/s/ Jason W. Werkema

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

Dated: October 4, 2023

LF: 2023-0380454-B/Metal Masters Construction LLC, 2000575/Formal Complaint – 2023-10-04

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

NICHOLAS ANTON KLUPP  
License No. 21-01-195283

Complaint No. 2000642  
Docket No. 23-035693

AND

METAL MASTERS CONSTRUCTION LLC  
License No. 21-02-198374

Complaint No. 2000644  
Docket No. 23-035031

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 May 16, 2024, and considered the Finding of Facts and Conclusions of Law in the Hearing Report of Lindsay Wilson, Administrative Law Judge, dated February 1, 2024.

**IT IS ORDERED** that for violating MCL 339.604 (b), (c), (d), (e), (g), (h), and (l); MCL 339.2411 (2)(a), (e), and (m); Mich Admin Code R 338.1551 (2), 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 **2000642 & 2000644**.

**IT IS FURTHER ORDERED** that Respondents are jointly and severally liable to pay RESTITUTION in the amount of THIRTEEN THOUSAND FIVE HUNDRED THIRTY-SEVEN dollars and 00/100 (\$13,537.00) 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 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 2101195283 and 2102198374 shall be and hereby are IMMEDIATELY REVOKED on the effective date of this Order. Respondent 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 licenses after ninety (90) days if 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 22<sup>nd</sup> day of May, 2024.

BY: Felicia Badger

Felicia Badger, Manager  
Enforcement Section  
Bureau of Construction Codes

Effective date: 5/22/2024

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

**IN THE MATTER OF:**

**Bureau of Construction Codes,  
Petitioner**

**V**

**Nicholas Anton Klupp,  
Respondent**

**Docket No.: 23-035693**

**Case No.: 2000642**

**Agency: Bureau of Construction  
Codes**

**Case Type: BCC Residential  
Builders**

**Filing Type: Formal Complaint**

**CERTIFICATION OF RECORD**

I, Debbie Sterba, 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, February 02, 2024.

<u>Date</u>	<u>Document</u>
1. 02/01/24	Hearing Report
2. 01/29/24	Petitioner's Exhibits 1-10, Offered and Admitted at Hearing
3. 01/26/24	Petitioner's Amended List with POS
4. 01/17/24	Petitioner's Witness and Exhibit Lists, Attachments not made part of Certification of Record
5. 01/02/24	Returned Mail, Notice of Telephone Hearing
6. 12/21/23	Notice of Hearing with Proof of Service
7. 12/08/23	Request for Hearing





*Debbie Sterba*

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Debbie Sterba  
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**

**Metal Masters Construction, LLC,  
Respondent**

**Docket No.: 23-035031**

**Case No.: 2000644**

**Agency: Bureau of Construction  
Codes**

**Case Type: BCC Residential  
Builders**

**Filing Type: Formal Complaint**

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6. 12/11/23	Request for Hearing

*Debbie Sterba*

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Debbie Sterba  
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**

**METAL MASTERS CONSTRUCTION, LLC,  
RESPONDENT**

**Docket No.: 23-035031**

**Case No.: 2000644**

**Agency: Bureau of  
Construction Codes**

**Case Type: BCC Residential  
Builders**

**Filing Type: Formal Complaint**

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**IN THE MATTER OF:**

**BUREAU OF CONSTRUCTION CODES,  
PETITIONER**

**V**

**NICHOLAS ANTON KLUPP,  
RESPONDENT**

**Docket No.: 23-035693**

**Case No.: 2000642**

**Agency: Bureau of  
Construction Codes**

**Case Type: BCC Residential  
Builders**

**Filing Type: Formal Complaint**

**Issued and entered  
this 1<sup>st</sup> day of February 2024  
by: Lindsay Wilson  
Administrative Law Judge**

**HEARING REPORT**

**Procedural History**

On October 4, 2023, a Formal Complaint was filed by the Department of Licensing and Regulatory Affairs (LARA), Bureau of Construction Codes (Bureau), Petitioner, against Metal Masters Construction, LLC, and Nicholas Anton Klupp, 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 December 8, 2023, these matters were referred to the Michigan Office of Administrative Hearings and Rules (MOAHR) to schedule a contested case hearing.

On December 13, 2023, MOAHR issued a Notice of Telephone Hearing, scheduling the hearing to convene on January 29, 2024.

On January 29, 2024, the hearing commenced as scheduled. Administrative Law Judge (ALJ) Lindsay Wilson presided. Jason Werkema, Assistant Attorney General, appeared on behalf of Petitioner. Homeowner P.B.<sup>1</sup> appeared and testified as a witness on behalf of Petitioner.

Neither the Respondents, nor an attorney or authorized representative appeared on the Respondents' behalf. MOAHR did not receive any documentation or a telephone call from Respondents requesting an adjournment. Finally, the undersigned found that Respondents were properly served with notice of these proceedings at their last known address and email address of record with Petitioner.

After the undersigned waited over one hour 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

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<sup>1</sup> Initials are used to protect confidentiality.

*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 Formal Complaint dated October 4, 2023, are deemed true and proven. The above-captioned matters were consolidated for hearing purposes.

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 P.B. and C.B., dated November 18, 2020.
2. Petitioner's Exhibit P-2 is a copy of the Contract between Respondent Metal Masters Construction and Homeowners P.B. and C.B., dated August 10, 2018.
3. Petitioner's Exhibit P-3 a copy of the Addendum, dated October 2, 2018.
4. Petitioner's Exhibit P-4 is a City of Grand Rapids Building Inspection Report for an inspection dated November 30, 2020, and a Correction Notice dated May 8, 2019.
5. Petitioner's Exhibit P-5 is a Building Permit issued by the City of Grand Rapids on October 8, 2018.
6. Petitioner's Exhibit P-6 is a copy of an Addendum, dated September 5, 2019.
7. Petitioner's Exhibit P-7 is a Notice to Respondent Metal Masters Construction, dated December 16, 2020.
8. Petitioner's Exhibit P-8 is a Notice to Respondent Nicholas Klupp, dated December 16, 2020.

9. Petitioner's Exhibit P-9 is a Certification of Licensure for Respondent Metal Masters Construction LLC, as of July 6, 2023.

10. Petitioner's Exhibit P-10 is a copy of a check from P.B. and C.B. made payable to Harlow Roofing, dated September 7, 2021; Warranty; and Quote for Roof Replacement, dated August 7, 2021.

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 January 29, 2024.

**Issues and Applicable Law**

The issue presented is whether Respondents have violated the Code as alleged in the Formal Complaint. More specifically, this matter concerns whether Respondents have violated Sections 604(b); 604(c); 604(d); 604(e); 604(g); 604(h); 604(l); 2411(2)(a); 2411(2)(e); and 2411(2)(m) of the Code, and Mich Admin Code R 338.1551(2), as alleged in Counts I through IX of the October 4, 2023 Formal Complaint. The referenced Code and Rules 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.

(e) Commits an act of gross negligence in practicing an occupation.

\* \* \*

- (g) Commits an act which demonstrates incompetence.
- (h) Violates any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.

\* \* \*

- (l) Aids or abets another person in the unlicensed practice of an occupation.

\* \* \*

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.

\* \* \*

- (e) A willful violation of the building laws of this state or of a political subdivision of this state.

\* \* \*

(m) Workmanship not meeting the standards of the Michigan residential code as promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

\* \* \*

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. Respondent Metal Masters Construction LLC (Respondent Metal Masters) was licensed as a Residential Builder Company from June 10, 2010 to May 31, 2020. The license lapsed on May 31, 2020 and the license is currently in inactive status. [Pet. Exh. P-11].
3. At all relevant times to the Formal Complaint, Respondent Nicholas Klupp (Respondent Klupp) served as the qualifying officer for Respondent Metal Masters. [Pet. Exh. P-11].
4. As its qualifying officer, Respondent Klupp acted on behalf of Respondent Metal Masters 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-11].
5. On or about August 10, 2018, the homeowners, P.B. and C.B., contracted with Respondent Metal Masters to install a metal roof on their Grand Rapids, Michigan home. P.B. and C.B. paid an initial deposit of \$6,768.50 to Respondent Metal Masters. [Pet. Exh. P-2; P.B. Hearing Testimony].
6. On or about October 2, 2018, P.B. and C.B. signed a change order due to extra project costs and Respondent Metal Masters commenced work on the home. [Pet. Exh. P-3].
7. On or about October 11, 2018, the project was completed, and P.B. and C.B. made a final payment of \$13,004.00 to Respondent Metal Masters, for a total amount paid of \$19,772.50. [Pet. Exh. P-1; Pet. Exh. P-2; P.B. Hearing Testimony].
8. On or about May 8, 2019, an inspector from the Grand Rapids Development Center inspected the roof and noted violations of the City of Grand Rapids Municipal Code. [Pet. Exh. P-4, pp. 2-3].
9. Specifically, the May 2019 inspection notes that corrugated metal roofing and exposed fasteners are not allowed pursuant to City of Grand Rapids Municipal Code section 5.5.07C3. [Pet. Exh. P-4, pp. 1-2].
10. Additionally, the May 2019 Building Inspection Report cited a violation of the Michigan Residential Code R 905.10.3 for the presence of loose fasteners. [Pet. Exh. P-4, p. 1].
11. At the time of the aforementioned inspection, P.B. and C.B. discovered that Respondents indicated on the building permit that the roofing material to be used on P.B. and C.B.'s home was Asphalt- 3 Tab shingles, and not corrugated metal. [Pet. Exh. P-5, p. 1].

12. Following the inspection in May 2019, a variance of the municipal code was applied for to allow for the metal roof, and city officials denied the request. [Pet. Exh. P-1; P.B. Hearing Testimony].
13. On or about September 5, 2019, Respondent Metal Masters provided an Addendum to P.B. and C.B. indicating that they would replace the metal roof with an acceptable asphalt roof at no cost to the homeowners. [Pet. Exh. P-6; P.B. Hearing Testimony].
14. From in and around November 2019 until present, Respondents have ceased communicating with P.B. and C.B., have not replaced their roof, and have failed to remit any funds to P.B. and C.B. [Pet. Exh. P-1; P.B. Hearing Testimony].
15. On or about November 18, 2020, P.B. submitted a Statement of Complaint against Respondents. [Pet. Exh. P-1].
16. On December 16, 2020, Petitioner sent a Notice to Respondents (Notices), informing Respondents that a Statement of Complaint had been filed against them. [Pet. Exh. P-7; Pet. Exh. P-8].
17. After receiving notice of the complaint from the Bureau on February 7, 2020, Respondents failed to respond within 15 days as required by Mich Admin Code, R 338.1551(2).
18. On September 21, 2021, P.B. contracted with Harlow Roofing to replace his roof with an asphalt roof for the amount of \$8,300.00. [Pet. Exh. P-10, pp. 1-2; P.B. Hearing Testimony].

### **Conclusions of Law**

Petitioner bears the burden of proving, by a preponderance of evidence, that Respondents violated the Code, as alleged in the 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 2<sup>nd</sup> 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 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, demonstrates an act of gross negligence in practicing an occupation, in violation of MCL 339.604(e), as alleged in Count III of the Formal Complaint.
- 4) Respondents' conduct, as described above, demonstrates incompetence in violation of MCL 339.604(g), as alleged in Count IV of the Formal Complaint.
- 5) Respondents' conduct, as described above, demonstrates aiding or abetting another person in the unlicensed practice of an occupation, in violation of MCL 339.604(l), as alleged in Count V of the Formal Complaint.
- 6) 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) and MCL 339.604(h), as alleged in Count VI of the Formal Complaint.
- 7) 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 MCL 339.2411(2)(a), as alleged in Count VII of the Formal Complaint.
- 8) 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 MCL 339.2411(2)(e), as alleged in Count VIII of the Formal Complaint.

- 9) Respondents' conduct, as described above, constitutes workmanship not meeting the standards of the Michigan residential code as promulgated under the Stille-DeRossett-Hale single state construction code act, in violation of MCL 339.2411(2)(m), as alleged in Count IX 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 Formal Complaint dated October 4, 2023.

**Recommended Sanctions**

At the conclusion of the hearing, Petitioner's representative requested that the Board impose a \$10,000.00 fine on Respondents. Petitioner further requested that the Board order restitution be paid to the Complainant in the amount of \$13,537.00, which was the original contact amount for the Complainant's roof.

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 to Complainant in the amount of \$13,537.00.
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. 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:

**23-035031 and 23-035693**  
**Page 12**

Michigan Office of Administrative Hearings and Rules, General Adjudication, by **email (preferred)** to: [MOAHR-GA@michigan.gov](mailto: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

Metal Masters Construction LLC  
Residential Builder Company  
License No. 2102198374

Complaint No. 2000644

AND

Nicholas Anton Klupp  
Individual Residential Builder  
License No. 2101195283

Complaint No. 2000642

\_\_\_\_\_ /

FORMAL COMPLAINT

Assistant Attorneys General Jason W. Werkema and Jennifer Fitzgerald, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Complainant), files this formal complaint against Respondents Metal Masters Construction LLC and Nicholas A. Klupp (referred to individually by name or collectively as “Respondents”), alleging upon information and belief as follows:

1. The Board of Residential Builders and Maintenance Alteration Contractors is an administrative agency established under Article 24 of the Occupational Code, MCL 339.101 *et seq.*
2. Respondents are each currently licensed residential builders pursuant to the Code. At all relevant times, Respondent Klupp served as the qualifying officer for Respondent Metal Masters.

3. After receiving a complaint against Respondents, 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 practicing fraud, deceit, or dishonesty in practicing an occupation.

5. Section 604(c) of the Code subjects a licensee to sanction for violation of a rule of conduct of 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(e) of the Code subjects a licensee to sanction who commits an act of gross negligence in practicing an occupation.

8. Section 604(g) of the Code subjects a licensee to sanction who commits an act which demonstrates incompetence.

9. 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.

10. Section 604(l) of the Code subjects a licensee to sanction who aids or abets another person in the unlicensed practice of an occupation.

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)(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.

14. Section 2411(2)(m) of the Code subjects a licensee to sanction for workmanship not meeting the standards of the Michigan residential code as promulgated under the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

15. 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

16. On or about July 10, 2018, homeowners P.B. and C.B. contracted with Respondent Metal Masters to install a metal roof on their Grand Rapids, Michigan home at which time P.B. and C.B. paid an initial deposit of \$6,768.50 to Respondent Metal Masters.

17. On or about October 2, 2018, homeowners P.B. and C.B. signed a change order due to extra project costs and Respondent Metal Masters commenced work on the home.

18. On or about October 11, 2018, the project was completed, and the homeowners made a final payment of \$13,004.00 to Respondent Metal Masters.

19. On or about May 8, 2019, an inspector from the Grand Rapids Development Center inspected the roof and noted violations of the City of Grand Rapids Municipal Code.

20. Specifically, the May 2019 inspection notes that corrugated metal roofing and exposed fasteners are not allowed pursuant to City of Grand Rapids Municipal Code section 5.5.07C3.

21. Additionally, the May 2019 Building Inspection Report cited a violation of the Michigan Residential Code R 905.10.3 for the presence of loose fasteners.

22. At the time of the aforementioned inspection, the P.B. and C.B. discovered that Respondents indicated on the building permit that the roofing material to be used on P.B. and C.B.'s home was Asphalt- 3 Tab shingles, and not corrugated metal.

23. P.B. and C.B. applied for a variance of the municipal code to allow for their metal roof, and city officials denied the request.

24. On or about September 5, 2019, Respondent Metal Masters provided an addendum to P.B. and C.B. indicating that they would replace the metal roof with an acceptable asphalt roof at no cost to the homeowners.

25. From in and around November 2019 until present, Respondents have ceased communicating with P.B. and C.B., have not replaced their roof, and have failed to remit any funds to the homeowners.

26. As its qualifying officer, Respondent Nicholas Klupp acted on behalf of Respondent Metal Masters and is responsible for exercising supervision and control of its construction operations to secure full compliance with Article 24 of the Occupational Code.

27. 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).

COUNT I

28. 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

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

COUNT III

30. Respondents' conduct as described above demonstrates an act of gross negligence in practicing an occupation, in violation of section 604(e) of the Code.

COUNT IV

31. Respondents' conduct as described above demonstrates incompetence, in violation of section 604(g) of the Code.

COUNT V

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

COUNT VI

33. Respondents' conduct as described above constitutes the failure to respond, contrary to Mich Admin Code, R 338.1551(2), in violation of sections 604(c) and (h) of the Code.

COUNT VII

34. 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 VIII

35. 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 sections 2411(e) of the Code.

COUNT IX

36. Respondents' conduct as described above constitutes workmanship not meeting the standards of the Michigan residential code, in violation of section 2411(2)(m) 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](mailto:LARA-BCC-RBS-Compliance@michigan.gov), with a copy mailed to the undersigned assistant attorneys general.

Respectfully submitted,

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

Dated: October 4, 2023

LF: 2023-0380465-B/Metal Masters Construction LLC, 2000644/Formal Complaint – 2023-10-04



## RESIDENTIAL BUILDERS’ AND MAINTENANCE AND ALTERATION CONTRACTORS’ BOARD

### PUBLIC NOTICE

The Michigan Residential Builders’ and Maintenance and Alteration Contractors’ Board is scheduled to meet on the following dates during the 2024 Calendar Year:

<u>Date</u>	<u>Day</u>	<u>Time</u>	<u>Location</u>
01/11/2024	Thursday	10:00 a.m.	Upper Level Conference Room 3
03/05/2024	Tuesday	10:00 a.m.	Upper Level Conference Room 3
05/16/2024	Thursday	10:00 a.m.	Upper Level Conference Room 3
06/25/2024	Tuesday	10:00 a.m.	Upper Level Conference Room 4
08/27/2024	Tuesday	10:00 a.m.	Upper Level Conference Room 4
11/07/2024	Thursday	10:00 a.m.	Upper Level Conference Room 4

All meetings will be held at the following location:

**Department of Licensing and Regulatory Affairs  
Bureau of Construction Codes  
Ottawa Building, Upper Level Conference Center  
611 West Ottawa Street, Lansing, Michigan 48933**

**\*\*While mask wearing is not required, we ask that you please respect individuals who choose to continue doing so.\*\***

The meeting site and parking are accessible. Individuals attending the meeting are requested to refrain from using heavily scented personal care products to enhance accessibility for everyone. People with disabilities requiring accommodations to participate in the meeting should contact the Bureau of Construction Codes’ Operations Section at [LARA-BCC-Boards-Commissions@Michigan.gov](mailto:LARA-BCC-Boards-Commissions@Michigan.gov) or 517-241-9303. LARA is an equal opportunity employer/program.

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

In the Matter of

RUCINSKI INC.  
License No. 21-02-197627  
Respondent

Complaint No. 335311

and

DAVID JAMES RUCINSKI  
Qualifying Officer  
License No. 21-01-180730  
Respondent

Complaint No. 335313

Consent Order and Stipulation

---

CONSENT ORDER

On November 28, 2023, the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes (Department) issued a First Amended Formal Complaint alleging that Rucinski Inc. and David Rucinski, Qualifying Officer (Respondents) violated the Occupational Code. Respondents have agreed to a Consent Order and Stipulation with the Department that resolves the violations alleged in the Formal Complaint.

Respondents admit acting contrary to: Mich Admin Code, R 338.1533(1)-(2), 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 the Stipulation and agrees that the public interest is served by resolution of the First Amended Formal Complaint as set forth herein.

Therefore, IT IS FOUND that Respondents acted contrary to Mich Admin Code, R 338.1533(1)-(2), in violation of MCL 339.604(h). Respondents 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).

Accordingly, IT IS ORDERED that:

Respondents shall pay a FINE in the amount of \$2,500.00, jointly and severally, payable to the State of Michigan within 90 days of the effective date of the Order (mailing date).

The Fine shall be mailed to the Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, Enforcement Section, Sanction Monitoring, P.O. Box 30255, 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 Numbers: 335311 & 335313.

Failure to comply with the terms of this Order shall result in a Suspension of all licenses held by Respondents under Article 24 of the Occupational Code, and in the denial of any license renewal or relicensure until compliance with the Consent Order is achieved. If the licenses are Suspended, and the compliance with the terms of the Consent Order is achieved after the license expiration date, Respondent must apply for relicensure in accordance with MCL 339.411.

If Respondents violate any term or condition set forth in this Order, Respondents shall be in violation of MCL 339.604(k) of the Occupational Code and may be subject to further disciplinary action.

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

MICHIGAN BOARD OF RESIDENTIAL BUILDERS AND  
MAINTENANCE AND ALTERATION CONTRACTORS

By: \_\_\_\_\_

Chairperson (or Designee)

Date: \_\_\_\_\_

5/16/24



## STIPULATION

1. The Department and Respondents agree that the public interest is served by resolution of the First Amended Formal Complaint as set forth in the Consent Order and Stipulation.

2. The Department originally issued a Formal Complaint, dated October 12, 2018, against Respondents. After the issuance of the Formal Complaint, and in connection to the Compliance Conference process, Respondents and the Homeowner raised additional issues, and the Department conducted additional complaint investigation activities. The First Amended Formal Complaint, issued November 28, 2023, included revisions to factual allegations, alleged violations, and additional exhibits. The Formal Complaint was withdrawn and replaced in full by the First Amended Formal Complaint. Upon receipt of the First Amended Formal Complaint, Respondents elected to participate in the Compliance Conference process. Respondents have determined to resolve the Formal Complaint via a Consent Order and Stipulation.

3. A Compliance Conference (electronic) was held on April 9, 2024. David Rucinski and Roy Polich, Esq. participated on behalf of Respondents; and [REDACTED] Hetzner and [REDACTED] Hetzner participated on behalf of the Homeowner.

4. Respondents contested all of the violations alleged in the First Amended Formal Complaint; however, Respondents decided to resolve and settle the case rather than proceed to the Formal Administrative Hearing stage.

5. In settlement of the First Amended Formal Complaint, Respondents admit to the following alleged violations of the Occupational Code:

### COUNT I

Failure to make certain that all changes to the agreement (contract change orders) shall be in writing, signed by the parties, and a copy provided to the customer, contrary to Mich Admin Code, R 338.1533(1), in violation of MCL 339.604(h).

## COUNT II

Failure to make certain that the written agreements (contracts) clearly state the terms of the transaction, including specifications, and when construction is involved, both plans and specifications, including cost, the type and amount of work to be done, and the type and quality of materials to be used, contrary to Mich Admin Code, R 338.1533(2), in violation of MCL 339.604(h).

6. Pursuant to the principle of “settlement and compromise,” all other violations, as alleged in Counts III (building code violations); IV (abandonment); V (fail to account for or remit money); VI (fraud, deceit or dishonesty in the practice of the occupation); and VII (lack of good moral character – propensity to serve the public in a fair, open, and honest manner), are dismissed.

7. Respondent David Rucinski was issued a Residential Builder Individual license effective May 11, 2006; the license has been continually renewed, and the license is currently active (expiration: May 31, 2026). Respondent Rucinski Inc. was issued a Residential Builder Company license effective April 1, 2010. The license lapsed due to non-renewal on June 1, 2020. Relicensure was granted effective May 16, 2023, and the license is currently active (expiration: May 31, 2026). There is no history of prior complaints or disciplinary action against either license.

8. Respondents acknowledge that they 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).

9. Respondents acknowledge that the associated Consent Order imposes a Fine in the amount of \$2,500.00, due within 90 days after the mailing date of the Order. Respondents acknowledge that if Respondents fail to pay the \$2,500.00 Fine within 90 days after the mailing date of the Order, the Department shall Suspend all licenses held by Respondents under Article 24 of the Occupational Code, and shall deny any license, renewal, or relicensure, until

compliance with the Order is achieved. In the event of failure to comply with the Order after the expiration of the license, an application for relicensure will be necessary, in accordance with MCL 339.411.

10. The sanction of Restitution (compensation to the Homeowner) is not applicable in this matter because Restitution has been adjudicated in a directly related court case in the 41<sup>st</sup> Circuit Court, Iron County (██████████) and an appeal is pending before the Court of Appeals (██████████).

11. Respondents understand that if Respondents' licenses are placed in Suspension status by the Department, Respondents must cease all residential construction activities, including marketing, soliciting, contracting for, and performing residential construction work. Further, in the event that Respondents' licenses are placed in Suspension status, Respondents may contract with another licensed residential builder(s) to complete work previously contracted by Respondents.

12. Respondents understand that in the future event that Respondents are found to be in violation of the Occupational Code and associated administrative rules, it is Department policy to impose increased disciplinary sanctions.

13. Respondents agree that William Wilhelm, Administrative Law Specialist, Enforcement Section, Bureau of Construction Codes, may discuss this matter and the Consent Order and Stipulation with the Board, to recommend and support the acceptance of the Consent Order and Stipulation.

14. Respondents understand and intend that by signing this Stipulation, Respondents are 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 First Amended Formal Complaint by presentation of evidence and legal authority, and Respondents are waiving the right to appear with an attorney and witnesses to present a defense to the allegations.

15. This Consent Order and Stipulation is approved as to form and substance by Respondents and the Department, and may be entered as the Final Order of the Board in this matter.

16. 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*, as well as Section 2411a of the Occupational Code, MCL 339.2411a.

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

18. Respondents acknowledge that they have thoroughly read, and understand, the terms of the Consent Order and Stipulation.

AGREED TO BY:

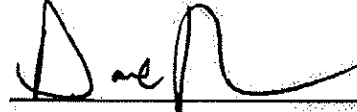
Andrew Brisbo

Digitally signed by: Andrew Brisbo  
DN: CN = Andrew Brisbo email =  
brisboa@michigan.gov C = US O = Bureau  
of Construction Codes OU = Director  
Date: 2024.04.19 09:30:10 -04'00'

Andrew Brisbo, Director  
Bureau of Construction Codes  
Department of Licensing and Regulatory Affairs

Date: 4/19/2024

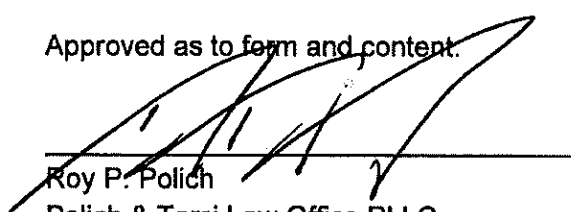
AGREED TO BY:



David Rucinski, on behalf of Respondents

Date: 4/18/24

Approved as to form and content.



Roy P. Polich  
Polich & Tarsi Law Office PLLC  
Attorney for Respondents

Date: 4/18/24

*Drafted: William Wilhelm, Administrative Law Specialist, Enforcement Section, Bureau of Construction Codes (4/15/24)*

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

RUCINSKI INC.  
License No. 21-02-197627  
Respondent

Complaint No. 335311

and

DAVID JAMES RUCINSKI  
Qualifying Officer  
License No. 21-01-180730  
Respondent

Complaint No. 335313

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FIRST AMENDED FORMAL COMPLAINT

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

1. 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.

2. The Department originally issued a Formal Complaint, dated October 12, 2018, against Respondents. After the issuance of the Formal Complaint, and in connection to the Compliance Conference process, Respondents and the Homeowner raised additional issues, and the Department conducted additional complaint investigation activities. The First Amended Formal

Complaint includes revisions to factual allegations, alleged violations, and additional exhibits. The Formal Complaint is hereby withdrawn and replaced in full by this First Amended Formal Complaint.

FACTUAL ALLEGATIONS

3. Respondent Rucinski Inc. was issued a Residential Builder Company license effective April 1, 2010. The license lapsed due to non-renewal on June 1, 2020. Relicensure was granted effective May 16, 2023, and the license is currently active (expiration: May 31, 2026) David Rucinski is designated as the Qualifying Officer of Rucinski Inc. A License Certification for Rucinski Inc., marked Exhibit 1, is attached and incorporated. A printout of the License marked Exhibit 2, is attached and incorporated.

4. Respondent David Rucinski was issued a Residential Builder Individual license effective May 11, 2006; the license has been continually renewed, and the license is currently active (expiration: May 31, 2026). Pursuant to MCL 339.2405(1), David Rucinski, designated as the Qualifying Officer of Rucinski Inc., is responsible for exercising the supervision or control of the building or construction operations of Rucinski Inc. necessary to secure full compliance with Article 24 of the Occupational Code and the rules promulgated thereunder. A License Certification for David Rucinski, marked Exhibit 3, is attached and incorporated. A printout of the License marked Exhibit 4, is attached and incorporated.

5. According to licensure records maintained by the LARA Bureau of Construction Codes, the names Rucinski Construction Inc., and Rucinski Construction, have never been issued a Residential Builder Company License. A License Certification for Rucinski Construction Inc. and Rucinski Construction, marked Exhibit 5, is attached and incorporated.

6. According to records maintained by the LARA Corporations, Securities and Commercial Licensing Bureau, Rucinski Inc. was registered as a Corporation, effective February 26, 2007. David Rucinski is designated as President, Treasurer, Secretary, and Director of Rucinski Inc.

On April 6, 2023, a Certificate of Assumed Name was filed, which registered the Assumed Name of Rucinski Construction, Inc. A Corporation Entity Report, marked Exhibit 6, is attached and incorporated. A Certificate of Assumed Name Report, marked Exhibit 7, is attached and incorporated.

7. On or about May 16, 2023, when Rucinski Inc. filed for Relicensure, it did not notify the Department of the new “doing business as” (DBA) name of Rucinski Construction Inc. In addition, Rucinski Inc. has not subsequently filed a “License Name/Address Change Request” form to add the “doing business as” (DBA) name of Rucinski Construction Inc. to the Company license.

8. Beginning in or around November 2016 through January 2017, [REDACTED] (Homeowner) communicated with Respondents regarding the construction of a home, to be located at [REDACTED], Iron River (Iron County). The Homeowner was planning to retire in April 2018, and he desired to be present when his new retirement home was constructed. In or around late November 2016, Respondents provided a verbal quote or estimate of \$215,000.00. A Homeowner email to Respondents, dated November 28, 2016, references the \$215,000.00 quote, marked Exhibit 8, is marked and incorporated.

9. Beginning on or about February 2, 2017, through February 21, 2017, Respondents and [REDACTED] (Homeowner) communicated regarding a Proposal to construct a new residential home: 30' x 50' (approximately 3,660 sq. ft.), including a basement, and a 30' x 48' attached garage (approximately 1,140 sq. ft.). On or about February 2, 2017, Respondent mailed to the Homeowner a Proposal, dated February 2, 2017, hereafter referred to as the First Proposal. The First Proposal described the scope of work as “Randy’s Wood Shop” per plans from [REDACTED]. Respondents designated the Proposal as “[REDACTED],” and the project was also entitled as “Randy’s Wood Shop (Custom Home),” and listed a cost of \$245,000.00. The First Proposal was signed by “Dave Rucinski.” The letterhead of the First Proposal contained the name: “Rucinski

Construction Inc.”<sup>1</sup> and included the Individual license number of David Rucinski (21-01-180730), and the Company license number of Rucinski Inc. (21-02-197627). The First Proposal, dated February 2, 2017, marked Exhibit 9, is attached and incorporated.

10. The Homeowner was concerned with the proposed cost of \$245,000.00 in the First Proposal, as compared to Respondents’ original verbal quote or estimate of \$215,000.00 provided in or around November 2016, and the Homeowner subsequently discussed with Respondents revisions to the scope of work and the cost in the First Proposal. On or about February 7, 2017, the Homeowner sent an email to Respondents, which contained the First Proposal with inserted comments and questions. The Email, dated February 7, 2017, marked Exhibit 10, is attached and incorporated.

11. Respondents prepared a Second Proposal, dated February 10, 2017. The Second Proposal described the scope of work as “Randy’s Wood Shop” per plans from [REDACTED]. Respondents designated the Proposal as “[REDACTED],” (as in revised) and the project was also entitled as “Randy’s Wood Shop (Custom Home),” which was mailed to the Homeowner. The Second Proposal, listing a cost of \$238,000.00, consisted of a total of five (5) pages: including three (3) pages listing scope of work; one (1) page listing Cost Total and Down Payment; and one (1) page listing a Payment Schedule. The Second Proposal was signed by “Dave Rucinski” on: page 3 (end of Proposal); page 4 (Cost Total and Down Payment); and page 5 (Payment Schedule). The letterhead of the Second Proposal contained the name: “Rucinski Construction Inc.” and included the Individual license number of David Rucinski (21-01-180730), and the Company license number of Rucinski Inc. (21-02-197627).

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<sup>1</sup> Effective February 26, 2007, the official name of the Corporation is Rucinski Inc. Effective May 11, 2006, the official name of the Company Builder License is Rucinski Inc. Effective April 6, 2023, the Corporation added Rucinski Construction Inc. as an “assumed name.”



The Second Proposal contained the following typed notes:

(Bottom of Pg. 2)

**Paint and Primer:  
Priming by Contractor  
Painting by Homeowner per Original Conversation**

**Floor Coverings:  
By Homeowner per Original Conversation**

**Electric:  
By Homeowner per Original Conversation**

(Bottom of Pg. 3)

**Contract Notes:**  
**\*Garage Walls and Insulation by Homeowner**  
    \*Contractor will frame stairs.  
**\*Basement Walls, Insulation and Drywall by Homeowner**  
    \*Contractor will frame, insulate, drywall, fire tape walkout wall and frame stairs.  
**\*Interior Trim by Homeowner**  
**\*Fireplace by Homeowner**  
    \*Contractor will frame and finish fireplace chimney chase.

The Second Proposal, dated February 10, 2017, marked Exhibit 11, is attached and incorporated.

12. On or about February 22, 2017, the Homeowner made two (2) conspicuous hand-written changes/amendments to the Second Proposal, dated February 10, 2017. The changes were in distinct blue ink (document typed text in black):

Pg. 1; Section Heading: Material (House Walkout, Floor, Wall and Roof Framing)

**Material:**

**House Walkout, Floor, Wall and Roof Framing:**

4	Sill Seal	
12	2x6-16 T	
1	Floor Truss Pkg.	
43	¾" T&G OSB	← SEE NOTE 1 OF ATTACHED SHEET
30	2x6-9 Studs	
58	7/16" OSB	
50	2x6-16 SPF	
150	2x6-8 Studs	
10	2x12-16 Doug Fir Select	
14	PB Stair Treads	
4	1x8-12 SPF	
25	2x4-16 SPF	
25	2x4-12 SPF	
1	Truss Pkg. 15" Energy Heal 2' OH	
80	5/8" OSB w/ Clips	

Pg. 3; Section Heading: Contract Notes: (Basement Walls Insulation and Drywall)

**Contract Notes:**

**\*Garage Walls and Insulation by Homeowner**

\*Contractor will frame stairs.

**\*Basement Walls, Insulation and Drywall by Homeowner**

SEE NOTE 2 OF ATTACHED SHEET

\*Contractor will frame, insulate, drywall, fire tape walkout wall and frame stairs.

**\*Interior Trim by Homeowner**

**\*Fireplace by Homeowner**

\*Contractor will frame and finish fireplace chimney chase.

In addition, the Homeowner added/inserted an additional attached page to the Second Proposal, as clearly referenced in the two (2) "Notes," which provided detail/explanation regarding Note 1 and Note 2:

**Note 1:**

**Change ¾" OSB board to LP OSB T&G 350 series board**

**Note 2:**

**Builder is going to supply all material and proper insulation for basement walls to pass building code, Homeowner will supply Labor only to install.**

On or about February 22, 2017, the Homeowner signed and dated the Second Proposal (page 3), dated February 10, 2017, which included the Homeowner's two (2) conspicuous notes/amendments, hereafter referred to as the Amended Second Proposal, and forwarded it to Respondents via email and mail. The Email, dated February 22, 2017, and the signed/dated Amended Second Proposal, signed/dated February 22, 2017, marked Exhibit 12, are attached and incorporated.

13. The Amended Second Proposal included a "Payment Schedule," which the Homeowner did not make any changes to (see Exhibits 11 and 12; Pg. 5):

**Payment Schedule:**

**25% Down**

**1<sup>st</sup> Draw 25%  
After Foundation is Done**

**2<sup>nd</sup> Draw 25%  
After House is Built and is Water Tight**

**3<sup>rd</sup> Draw 15%  
After All Sub Trades Rough In Work is Completed. Ready for Inspection.**

**4<sup>th</sup> Draw 10%  
After Certificate of Occupancy**

14. On February 23, 2017, Respondents responded to the Homeowner's email that forwarded the Amended Second Proposal, including the Homeowner's amendments/notes, and Respondents indicated their acceptance, by responding in part:

"... Got the email with the notes. Will let Kelly at Miners know this came through."

Respondents' email, dated February 23, 2017, marked Exhibit 13, is attached and incorporated.

15. Respondents did not issue any communications revising the scope of work, or the total cost, after receiving and acknowledging the Amended Second Proposal from the Homeowner. Therefore, it was the understanding of the Homeowner that the Amended Second Proposal, signed by the Homeowner on February 22, 2017, and acknowledged and accepted by Respondents on February 23, 2017, was the Final Contract, which contained the scope of work and total cost, upon which the home was to be constructed pursuant to.

16. On or about February 22, 2017, the Homeowner emailed the Amended Second Proposal, which the Homeowner signed/dated February 22, 2017, to The Miners State Bank, for the pending Construction Loan, demonstrating the Homeowner's reliance that the Amended Second Proposal, signed/dated February 22, 2017, was the Final Contract, and authorizing the Down Payment of \$59,500.00. The Email, dated February 22, 2017, marked as Exhibit 14, is attached and incorporated.

17. On or about February 23, 2017, the Homeowner also sent an email to Respondents, providing notice that the Homeowner had sent a copy of the signed contract (Amended Second Proposal, dated February 22, 2017) to The Miners State Bank. The Email, dated February 23, 2017, marked as Exhibit 15, is attached and incorporated.

18. Although Respondents indicated their acceptance of the Amended Second Proposal, dated February 23, 2017, Respondents for whatever reason or purpose, subsequently ignored the accepted amended terms in the Amended Second Proposal (Final Contract), and treated

the Second Proposal, dated February 10, 2017, as the Final Contract upon which the home was to be constructed pursuant to.

19. The Amended Second Proposal contemplated the use of Plumbing and Mechanical subcontractors to be retained by Respondents, and that the Homeowner would complete the Electrical work. The Homeowner requested that Respondents use Westphal's Inc., a licensed Electrical and Mechanical Contractor, who is a neighbor of the Homeowner, to complete the Mechanical work. The Amended Second Proposal did not provide any cost detail or allowances regarding the Plumbing and Mechanical work.

20. The Homeowner obtained a Construction Loan from The Miners State Bank. The payment of the construction costs were processed by The Miners State Bank, after receiving authorization from the Homeowner.

21. On or about February 24, 2017, the Homeowner authorized the payment of the 25% Deposit, and The Miners State Bank issued a check to Respondents, in the amount of \$59,500.00 for the 25% Deposit, in accordance with the Payment Schedule. The Check (Deposit), marked Exhibit 16 is attached and incorporated.

22. On or about May 19, 2017, Respondents began the construction project by commencing land clearing and excavation of the construction site.

23. On or about June 1, 2017, Respondents submitted an Application for Building Permit and Plan Examination, including Prints/Plans, to the Iron County Construction Code Office. The Application listed the Contractor as Dave Rucinski and included his Individual License number (21-01-18730). The listed Estimated Cost of Construction was \$238,000.00. The Application for Building Permit, marked Exhibit 17, is attached and incorporated. The Prints/Plans, marked Exhibit 18, are attached and incorporated.

24. On or about June 2, 2017, the Iron County Construction Code Office issued Building Permit [REDACTED]. The Applicant was listed as Rucinski Construction. The Building Permit, marked Exhibit 19, is attached and incorporated.

25. On or about July 7, 2017, Westphal's Inc. (Mechanical and Electrical Subcontractor) issued an Invoice, in the amount of \$5,207.67. Respondents declined to pay the Westphal's Inc. invoice. On or about July 26, 2017, The Miners State Bank issued a check, to Westphal's Inc., on behalf of the Homeowner, in the amount of \$5,207.67. The Westphal's Invoice, marked Exhibit 20, is attached and incorporated. The Check, marked Exhibit 21, is attached and incorporated.

26. On or about August 2, 2017, Respondents issued an Invoice for the 1<sup>st</sup> Draw, in the amount of \$59,500.00. According to the Payment Schedule, the 1<sup>st</sup> Draw (25%) was to be issued "After Foundation is Done." The 1<sup>st</sup> Draw Invoice, marked Exhibit 22, is attached and incorporated.

27. On or about August 3, 2017, the Homeowner suffered an injury to his foot on the construction site, and subsequently determined that he would not be able to complete the Electrical work. The Homeowner requested that Respondents also use Westphal's Inc. to complete the Electrical work, in addition to the Mechanical work, which Respondents agreed to. Respondents did not issue a Change Order regarding this change.

28. On or about August 4, 2017, The Miners State Bank issued a check to Respondents, in the amount of \$59,500, pursuant to the Payment Schedule: 1<sup>st</sup> Draw 25%. The Check (1<sup>st</sup> Draw), marked Exhibit 23, is attached and incorporated.

29. On or about November 22, 2017, Respondents issued an Invoice for the 2<sup>nd</sup> Draw (25%), in the amount of \$59,500.00, less \$8,500.00 "Cabinet Credit," resulting in a balance due of \$51,000.00. According to the Payment Schedule, the 2<sup>nd</sup> Draw (25%) was to be issued "After House is Built and Water Tight." The 2<sup>nd</sup> Draw Invoice, marked Exhibit 24, is attached and incorporated.

30. The Homeowner disputed the 2<sup>nd</sup> Draw Invoice (25%: \$59,500.00) because the Homeowner contended that the status of construction did not meet the required status in the Payment Schedule for the 2<sup>nd</sup> Draw: “After House is Built and Water Tight.” The Homeowner contended that the installation of the steel roof was only 70% complete at the most; that the overhead garage doors had not been delivered or installed; and only temporary exterior doors (called “cull doors”) had been installed; and therefore, the Homeowner contended that the “House was not Built” and the House was not “Watertight.” The Amended Second Proposal (Final Contract) and the Payment Schedule do not contain any information or definitions regarding Respondents’ terms, “After House is Built” or “Water Tight.”

31. The Homeowner authorized The Miners State Bank to pay 20% (\$47,600.00), instead of 25% (\$51,000.00), and indicated that the \$8,500.00 (Cabinet) Credit was not taken. The Homeowner contended that the status of construction did not meet the requirements for the 2<sup>nd</sup> Draw, according to the Payment Schedule. The Homeowner inserted notes on the 2<sup>nd</sup> Draw Invoice and forwarded it to the Bank for payment. The 2<sup>nd</sup> Draw Invoice with the Homeowner notes, marked Exhibit 25, is attached and incorporated.

32. On or about November 29, 2017, The Miners State Bank issued a check to Respondents, in the amount of \$47,600 for the 2<sup>nd</sup> Draw, pursuant to the instructions from the Homeowner. The Check (2<sup>nd</sup> Draw), marked Exhibit 26, is attached and incorporated.

33. On or about December 22, 2017, Respondents issued a 3<sup>rd</sup> Draw Invoice, which listed a request for a “Progress Payment” in the amount of \$47,600, less \$8,500.00 for a “Cabinet Credit,” and less a credit of \$5,207.67 for the payment previously made by The Miners State Bank to Westphal’s Inc., resulting in a balance due of \$33,892.33. The 3<sup>rd</sup> Draw Invoice, marked Exhibit 27, is attached and incorporated.

34. The Homeowner disputed the amount of the 3<sup>rd</sup> Draw Request because it did not conform to the terms of the “Payment Schedule,” which listed the 3<sup>rd</sup> Draw as 15% (\$35,700).

Respondents request for \$47,600.00 was 20%, not 15%. In addition, the Homeowner contended that the status of construction did not meet the requirements for the 3<sup>rd</sup> Draw in the Payment Schedule: “After All Sub Trades Rough In Work is Completed. Ready for Inspection.” The Homeowner contended that the status of construction still did not meet the requirements for the 2<sup>nd</sup> Draw, much less the 3<sup>rd</sup> Draw. The Homeowner contended that Respondents had completed very little additional work since the issuance of the 2<sup>nd</sup> Draw Invoice on November 22, 2017, and since the issuance of the 3<sup>rd</sup> Draw Invoice, on December 22, 2017. Furthermore, the Homeowner contended that the house was not yet at the “Water Tight” stage, and that the Electrical, Plumbing, and Mechanical work was not completed and was not ready for inspection.

35. The Homeowner did not authorize The Miners State Bank to issue any payment to Respondents regarding the 3<sup>rd</sup> Draw Request, because of the ongoing contractual and financial disputes with Respondents.

36. On or about January 3, 2018, The Miners State Bank issued a check to Westphal’s Inc, Mechanical and Electrical Subcontractor, in the amount of \$15,210.22. The Check, marked Exhibit 28, is attached and incorporated.

37. On or about January 9, 2018, Respondents issued an Invoice for a “20% Progress Payment,” in the amount of \$47,600.00, less a credit of \$19,421.49 for the prior Bank payments to Westphal’s; less a Cabinet Credit of \$8,500.00; plus a list of credits totaling \$5,808.12, for items not provided and/or purchased by the Homeowner; plus additional charges of \$8,403.89.00 for items Respondents claimed to have been provided, resulting in a claimed balance due of \$22,274.28. The Invoice, marked Exhibit 29, is attached and incorporated.

38. On or about January 10, 2018, Respondents issued another Invoice that stated, “Schedule of values remaining on building contract 1701-R,” which included the most recent prior Invoice, dated January 9, 2018 in the amount of \$22,274.28 “(amount to be liened)” and also listed \$23,800.00 for “Remaining 10% on Contract Breakdown,” less credits totaling \$9,305.14 for work and



materials not provided, resulting in a total balance due of \$14,494.86 for “Estimated Profit/Overhead from remaining 10%.” The Invoice, marked Exhibit 30, is attached and incorporated.

39. The Homeowner did not authorize The Miners State Bank to issue any payment to Respondents regarding the Invoices dated January 9, 2018, and January 10, 2018, because of the ongoing contractual and financial disputes with Respondents. The Homeowner did not agree to, and disputed, the increased charges for extras and upgrades, and contended that insufficient credits were given for services and materials that were not provided by Respondents, and that credits were not given for all services and materials that Respondents did not provide.

40. On or about January 11, 2018, Respondents attached a copy of the Second Proposal, signed by Respondents/dated February 10, 2017, (not the Amended Second Proposal – Final Contract), signed by the Homeowner/dated February 22, 2017, with the Homeowner’s two (2) hand-written amendments), to an exterior door frame of the temporary door located between the House and Garage. Page 4 of the Second Proposal contained the Payment Schedule with hand-written changes made by Respondents concerning the percentages (%) due regarding the 2<sup>nd</sup> Draw, and the 3<sup>rd</sup> Draw. The percentage of the 2<sup>nd</sup> Draw was changed from 25% to 20%, and the percentage of the 3<sup>rd</sup> Draw was changed from 15% to 20%. The Invoice, dated January 9, 2018, for 20% Progress Payment, was also attached to the door frame. The Second Proposal, dated February 10, 2017, and the Invoice, dated January 9, 2018, that were attached to the door frame by Respondents, marked Exhibit 31, are attached and incorporated.

41. Between February 24, 2017, and November 29, 2017, Respondents received three (3) payments, totaling \$166,600.00 (see table below), from The Miners State Bank, on behalf of the Homeowner, which is 70% of the \$238,000.00 contract amount. The Homeowner contended that Respondents did not provide 70% of the contracted scope of work, including labor and materials. In addition, The Miners State Bank, on behalf of the Homeowner, also paid a total of \$20,417.89 to Westphal’s Inc. (Mechanical and Electrical Subcontractor).

Payments to Respondents:

<u>Date</u>	<u>Type</u>	<u>Amount</u>	<u>Exhibit No.</u>
02/24/17	Deposit 25%	\$59,500.00	16
08/04/17	1 <sup>st</sup> Draw 25%	\$59,500.00	23
11/29/17	2 <sup>nd</sup> Draw 25% reduced to 20%	\$47,600.00	26

Payments to Westphal's Inc. (Mechanical and Electrical Subcontractor):

<u>Date</u>	<u>Amount</u>	<u>Exhibit No.</u>
07/26/17	\$5,207.67	21
01/03/18	\$15,210.22	28

42. The Homeowner requested an Inspection of the home by the Iron County Code Construction Office because the Homeowner suspected that Respondents were going to stop working on the project and the Homeowner wanted to determine the status of construction completed by Respondents, and to determine whether any building code violations existed.

43. Respondents also requested that the Iron County Code Construction Office conduct an inspection of the home construction project in advance of Respondents' intention to leave the project and terminate the Building Permit.

44. On or about January 12, 2018, a meeting was held at the home construction site, which included the following attendees: [REDACTED], Homeowner; Jerry Anderson, Building Official/Inspector; and David Rucinski, Respondents. During the site meeting, the Building Official/Inspector also conducted a Code Inspection of the home.

45. During the site meeting and inspection on January 12, 2018, the Homeowner observed Respondents removing tools, equipment, and materials from the project site, confirming the Homeowner's suspicion that Respondents were leaving the construction project.

46. On or about January 18, 2018, an attorney retained by the Homeowner sent a letter to Respondents, which summarized the events of the site meeting held on January 12, 2018.

The letter indicated that Respondents had refused to continue working unless another draw payment was made by the Homeowner. At the conclusion of the meeting there was no agreement reached regarding Respondents continuing or completing the home construction project. In addition, the letter noted that Respondents were observed removing the last of any tools and equipment from the site, which was interpreted by the Homeowner that Respondents were leaving and abandoning the home construction project. The Attorney Letter, marked Exhibit 32, is attached and incorporated.

47. On or about January 23, 2018, Respondents, using the name Rucinski Construction Inc. (not Rucinski Inc., the official name of the Corporation or the Builder License), recoded a Claim of Lien, which stated: 1) first day of providing labor or material was May 19, 2017; 2) the last day of providing labor or material was December 29, 2017; 3) payments totaling \$166,600.00 had been received; and the balance due was \$22,274.28. The Claim of Lien, marked Exhibit 33, is attached and incorporated.

48. The Claim of Lien amount of \$22,274.28 mirrors the amount claimed by Respondents in an Invoice, dated January 9, 2018 (see Paragraph 37; Exhibit 29).

49. On or about January 24, 2018, the Department received a Statement of Complaint form completed by the Homeowner, including attachments, consisting of 86 pages. The Department commenced a complaint investigation. An excerpt of the Statement of Complaint, marked Exhibit 34, is attached and incorporated.

50. On or about May 1, 2018, the Homeowner inquired to the Iron County Code Construction Office about obtaining a copy of the Inspection Report in connection to the Building Code Inspection conducted by the Building Official/Inspector on January 12, 2018. The Homeowner was informed that the Building Official/Inspector had not completed an Inspection Report regarding the Inspection conducted on January 12, 2018. The Homeowner was also informed that in order to receive an Inspection Report, a request/complaint form had to be completed and submitted to the Iron County Code Construction Office. The Homeowner completed and submitted the form that was

provided to him. The Complaint/Inspection Request form, marked Exhibit 35, is attached and incorporated.

51. On or about May 4, 2018, the Iron County Code Construction Office Building Official/Inspector issued a letter (Inspection Report) to the Department, regarding the Inspection conducted on January 12, 2018, which cited three (3) building code violations of the 2015 Michigan Residential Code (MRC) R302.6; R311.7.2; R311.7.8:

**R302.6 Dwelling-garage fire separation.** The garage shall be separated as required by Table R302.6. Openings in garage walls shall comply with Section R302.5. Attachment of gypsum board shall comply with Table R702.3.5. The wall separation provisions of Table R302.6 shall not apply to garage walls that are perpendicular to the adjacent *dwelling unit* wall.

**R311.7.2 Headroom.** The headroom in stairways shall be not less than 6 feet 8 inches (2032 mm) measured vertically from the sloped line adjoining the tread nosing or from the floor surface of the landing or platform on that portion of the stairway.

**R311.7.8 Handrails.** Handrails shall be provided on not less than one side of each continuous run of treads or flight with four or more risers.

The Letter/Inspection Report, dated May 4, 2018, marked Exhibit 36, is attached and incorporated.

52. After receiving the Letter/Inspection Report from the Iron County Code Construction Office Building Official/Inspector, which cited three (3) building code violations of the 2015 Michigan Residential Code, as well as the contractual and financial disputes with Respondents, the Homeowner felt further justified in not paying additional money to Respondents.

53. In May 2018, the Homeowner decided to pursue retaining another Builder to complete the construction of the home, including correct the building code violations.

54. The Homeowner drafted a Request for Proposal to complete the construction of the home, including the contract scope of work not completed by Respondents, as well as correct the building code violations. The Homeowner separated the Request for Proposal into two (2) parts: #1 "Complete for Dry House" (Water Tight), and #2: "Complete for Final Inspection." The Homeowner designed the two separate categories in connection to the dispute with Respondents regarding billings, invoices, and draw requests. The Requests for Proposals-Bids, marked Exhibit 37, are attached and incorporated.

55. On or about May 15, 2018, the Homeowner received a Proposal from Carey Contracting Corporation (Builder Company License No. 21-02-079460), based upon time and materials (T&M), for a total estimated cost of \$29,819.70, including detailed scopes of work for #1: "Complete for Dry House" (Water Tight), estimated cost of \$10,061.70; and #2: "Complete for Final Inspection," estimated cost of \$19,758.00. The Carey Proposal/Bid #1, marked Exhibit 38, is attached and incorporated. The Carey Proposal/Bid #2, marked Exhibit 39, is attached and incorporated.

56. The Homeowner decided to retain Carey Contracting Corporation and on or about May 18, 2018, the Homeowner made an advance/deposit payment of \$5,061.70 to Carey Contracting Corporation.

57. On or about June 15, 2018, the Homeowner paid an administrative fee and submitted an Application for Building Permit to the Iron County Construction Code Office to transfer the Building Permit [REDACTED] into the Homeowner's name. The Application for Building Permit and the Building Permit, marked Exhibit 40, are attached and incorporated.

58. On or about June 22, 2018, Carey Contracting Corporation commenced working on the project to complete the construction of the home, including correct the building code violations.

59. On or about July 10, 2018, Carey Contracting Corporation started working in the area above the North Porch where potential building code violations were observed regarding the

existing trusses installed by Respondents. Carey Contracting Corporation observed that the lateral bracing of trusses was missing in a number of trusses. Carey Contracting Corporation took photographs of the suspected building code violations regarding the existing trusses installed by Respondents in the above the North Porch, and the photographs were forwarded to the Iron County Construction Code Office Building Official/Inspector. The Carey Email to the Code Inspector, dated July 10, 2018, including attached Photographs, marked Exhibit 41, is attached and incorporated.

60. On or about July 27, 2018, the Iron County Code Construction Office Building Official/Inspector issued a letter (Inspection Report) to the Department, citing a building code violation regarding the trusses located above the North Porch area: R 2303.4.1.2:

**2303.4.1.2 Permanent individual truss member restraint.** Where permanent restraint of truss members is required on the truss design drawings, it shall be accomplished by one of the following methods:

1. Permanent individual truss member restraint/bracing shall be installed using standard industry lateral restraint/bracing details in accordance with generally accepted engineering practice. Locations for lateral restraint shall be identified on the truss design drawing.
2. The trusses shall be designed so that the buckling of any individual truss member is resisted internally by the individual truss through suitable means (i.e., buckling reinforcement by T-reinforcement or L-reinforcement, proprietary reinforcement, etc.). The buckling reinforcement of individual members of the trusses shall be installed as shown on the truss design drawing or on supplemental truss member buckling reinforcement details provided by the truss designer.
3. A project-specific permanent individual truss member restraint/bracing design shall be permitted to be specified by any *registered design professional*.

The Letter/Inspection Report, dated July 27, 2018, marked Exhibit 42, is attached and incorporated.

61. On or about October 12, 2018, the Iron County Code Construction Office Building Official/Inspector issued another Letter (Inspection Report) to the Department, to supersede/replace the prior Letter/Inspection Report, dated July 27, 2018, which incorrectly cited R2303.4.1.2 of the Michigan Building Code (for commercial structure) rather than the applicable section of the Michigan Residential Code (for residential structure). The Letter/Inspection Report, dated October 12, 2018, cited two (2) building code violations of the Michigan Residential Code regarding the trusses installed by Respondents located above the North Porch area: R502.11.2; R802.10.3

**R502.11.2 Bracing.** Trusses shall be braced to prevent rotation and provide lateral stability in accordance with the requirements specified in the *construction documents* for the building and on the individual truss design drawings. In the absence of specific bracing requirements, trusses shall be braced in accordance with accepted industry practices, such as, the *SBCA Building Component Safety Information (BCSI) Guide to Good Practice for Handling, Installing & Bracing of Metal Plate Connected Wood Trusses*.

**R802.10.3 Bracing.** Trusses shall be braced to prevent rotation and provide lateral stability in accordance with the requirements specified in the *construction documents* for the building and on the individual truss design drawings. In the absence of specific bracing requirements, trusses shall be braced in accordance with accepted industry practice such as the *SBCA Building Component Safety Information (BCSI) Guide to Good Practice for Handling, Installing & Bracing of Metal Plate Connected Wood Trusses*.

The Letter/Inspection Report, dated October 18, 2018, marked Exhibit 43, is attached and incorporated.

62. Carey Contracting Corporation maintains that it did not work on, or alter, any of the trusses installed by Respondents in the North Porch area until after the issue was reviewed and determined by the Iron County Code Construction Office Building Official/Inspector.

63. On or about July 13, 2018, Carey Contracting Corporation completed the construction of the home. The Homeowner paid Carey Contracting Corporation a total of \$29,635.00 to correct the Building Code violations committed by Respondents and to complete the construction of the home, in accordance with the Proposals: #1: "Complete for Dry House" (Water Tight); and #2: "Complete for Final Inspection."

64. The Homeowner had other substantial costs to complete the construction of the home, in addition to the \$29,635.00 paid to Carey Contracting Corporation.

65. On or about November 6, 2018, the Iron County Construction Code Office conducted the Final Building Inspection of the home regarding the Homeowner Building Permit (transferred June 15, 2018) and construction completed by Carey Contracting Corporation. The Inspection was approved, and a Certificate of Occupancy was issued.

66. On or about September 24, 2018, Respondents filed a Summons and Complaint against the Homeowner, and The Miners State Bank, in Case No. [REDACTED], 41<sup>st</sup> Judicial Circuit Court, Iron County, in which Respondents sought foreclosure of the Claim of Lien, and alleging breach of contract, and seeking damages totaling \$33,808.29 (\$22,274.28 for services and materials provided, plus \$11,534.01 for lost net profit) plus interest, costs, and attorney fees.

67. On or about October 12, 2018, the Department issued the original Formal Complaint.

68. On or about November 21, 2018, the Homeowner filed an Answer to Complaint, Affirmative Defenses, and Demand for Reply, which disputed Respondents' allegations regarding the foreclosure of the Lien; disputed Respondents' allegations of breach of contract; and alleged that Respondents were in breach of the contract.

69. On or about May 3, 2019, a Compliance Conference was held via telephone and mail, between the Department and Respondents. The Compliance Conference did not result in a settlement of the Formal Complaint allegations. During the Compliance Conference process, the



Department received additional information from Respondents and the Homeowner, and the Department conducted additional complaint investigation activities, resulting in the issuance of this First Amended Formal Complaint.

70. The related Court Bench Trial in the civil litigation between Respondents and the Homeowner was held on April 4, 2023. At the conclusion of the presentation of Respondents' (Plaintiff) case, the Homeowner's attorney filed a Motion for Judicial Admissions based upon the fact that Respondents failed to file a Reply/Response to the Homeowner's Demand for Reply in the early stage of the proceeding.

71. On or about May 16, 2023, the Judge ruled that the allegations made by the Homeowner disputing Respondents' allegations, were admitted as true as judicial admissions, because Respondents did not file a Reply to the Homeowner's Demand for Reply, and that the Homeowner was entitled to a Judgment. On or about May 24, 2023, an Order of Judicial Admissions was entered, and a Judgment was entered in favor of the Homeowner, thus dismissing Respondents' Court Complaint regarding the Claim of Lien Forfeiture action, and the Breach of Contract allegations. Respondents filed a Motion for Reconsideration which was denied.

72. On or about August 18, 2023, the attorney for the Homeowner filed a Taxation of Costs for Case Evaluation Sanctions, seeking \$30,375.59 for attorney fees. On or about August 28, 2023, Respondents filed an Objection to Taxation of Costs.

73. On or about October 20, 2023, Respondents filed a Claim of Appeal with the Michigan Court of Appeals, File No. 367208, which is pending.

74. During the Court case discovery process, the Homeowner discovered, through an internal email between Crystal Lumber personnel, dated July 19, 2017 (material supplier for the home construction project), that Respondents had notified Crystal Lumber that Respondents were planning to leave the construction project. The Crystal Lumber Email, dated July 19, 2017, marked Exhibit 44, is attached and incorporated.

75. The actions of Respondents, and the associated violations of the Occupational Code, caused increased costs and financial harm to the Homeowner, including but not limited to:

- Increased construction costs
- Unapproved charges for extras and upcharges (no written change orders)
- Insufficient credits given for services and materials not provided by Respondents
- Credits not given for all services and materials not provided by Respondents
- Increased Construction Mortgage interest due to filing of Claim of Lien
- Legal/Attorney fees and costs

76. Section R 101.2 of the Michigan Residential Code (MRC) prescribes the “scope” of the Code, and Section R 101.3 prescribes the “intent” of the Michigan Residential Code:

**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.

77. Rule 803 of the Michigan Administrative Hearing System, 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.

78. The purpose statement of the Michigan Occupational Code, Act 299 of 1980, as amended, MCL 339.101 *et seq*, states in part:

AN ACT to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations and to regulate certain persons and activities relative to those occupations; to create a board for each of those occupations; to establish powers and duties of certain departments and agencies and the boards of each occupation; to provide the promulgation of rules, to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances ...

#### ALLEGED VIOLATIONS

The Department alleges that Respondents have violated the provisions of the Occupational Code, as set forth in Counts I through VII:

#### COUNT I

Respondents' conduct, as described herein, evidences the failure to make certain that all changes to the agreement (contract change orders) shall be in writing, signed by the parties, and a copy provided to the customer, contrary to Mich Admin Code, R 338.1533(1), in violation of MCL 339.604(h).

#### COUNT II

Respondents' conduct, as described herein, evidences the failure to make certain that the written agreements (contracts) clearly state the terms of the transaction, including specifications, and when construction is involved, both plans and specifications, including cost, the type and amount

of work to be done, and the type and quality of materials to be used, contrary to Mich Admin Code, R 338.1533(2), in violation of MCL 339.604(h).

### COUNT III

Respondents' conduct, as described herein, evidences the failure to maintain standards of construction in accordance 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, as described herein, evidences the abandonment of a contract and construction project, in violation of MCL 339.2411(2)(a).

### COUNT V

Respondents' conduct, as described herein, evidences the 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).

### COUNT VI

Respondents' conduct, as described herein, evidences fraud, deceit, or dishonesty in the practicing an occupation, in violation of MCL 339.604(b).

### COUNT VII

Respondents' conduct by, as described herein, evidences a lack of good moral character,<sup>2</sup> defined as not serving the public in the licensed area in a fair, open, and honest manner, in violation of MCL 339.604(d).

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<sup>2</sup> MCL 339.104(7) provides "Good moral character" means good moral character as defined in section 1 of 1974 PA 381, MCL 338.41 [Occupational License for Former Offenders Act], which defines "Good moral character" as "...the propensity on the part of the individual to serve the public in the licensed area in a fair, honest, and open manner."

## DISCIPLINARY SANCTIONS

The Occupational Code prescribes certain disciplinary sanctions or penalties for violations of the provisions of the Occupational Code. The relevant provisions concerning the disciplinary sanctions or penalties related to the alleged violations set forth in this Formal Complaint are:

Section 604 (a)-(l) of the Occupational Code lists twelve (12) prohibitive acts (violations) and 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 [(a)-(l)] shall be subject to the penalties prescribed in section 602. MCL 339.604.

The Administrative Rules for Residential Builders and Maintenance and Alteration Contractors, Mich Admin Code, R 338.1521 *et seq*, do not specifically prescribe a penalty for a violation of the Administrative Rules.

However, Section 604(h) provides for the imposition of a penalty for violations of any statutory provisions or rules for which a penalty is not specifically prescribed:

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).

Section 2411(2)(a)-(m) provides:

A licensee or applicant who commits 1 or more of the following is subject to the penalties set forth in article 6 [Section 602]. MCL 339.2411.

Section 602(a)-(h) provides for the following penalties for violations of the Occupational Code and the associated Administrative Rules:

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<sup>3</sup> be made, based on proofs submitted to and findings made by the hearing examiner after a contested case. MCL 339.602.

The Department alleges that Respondents have acted in violation of the Occupational Code as set forth in Counts I through VII, constituting grounds for the assessment of a penalty, or penalties.

Based upon the alleged violations of the Occupational Code, specified in Counts I through VII, and pursuant to Section 602, the Department seeks disciplinary sanctions to be imposed

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<sup>3</sup>The term “Restitution” is not defined within the Occupational Code. The Legal Dictionary.Net website provides the following definition for Restitution: “Payment made to someone, or the giving of an equivalent value, to compensate them for damages or loss. ... In law, restitution is often ordered by a court in order to achieve fairness, preventing unjust enrichment of one party to a civil lawsuit.” <https://legaldictionary.net/restitution>

against Respondents.

COMMENCEMENT OF ADMINISTRATIVE PROCEEDING

The Department hereby commences an administrative proceeding pursuant to the Administrative Procedures Act, MCL 24.201 *et seq*, and the Occupational Code, to determine whether disciplinary action should be taken against Respondents, 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 First Amended Formal Complaint to notify the Department of Respondents' decision to either 1) negotiate a settlement of this matter, 2) to demonstrate compliance with the Occupational Code, or 3) 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 First Amended 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 First Amended Formal Complaint and Compliance Election Form is included with the First Amended Formal Complaint.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS,  
BUREAU OF CONSTRUCTION CODES

Date: *November 28, 2023* *William D. Wilhelm*

William D. Wilhelm  
Administrative Law Specialist (P41249)

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

Attachments – Exhibits

First Amended Formal Complaint  
Complaint No. 335311; Complaint No. 335313

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