

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

In the Matter of

OLSON CEMENT WORK, INC.
License No. 21-02-152606

Complaint No. 21-17-333427

and

DAVID OLSON
License No. 21-01-079923

Complaint No. 21-17-333428

_____/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

Formal complaints were filed on December 12, 2017 charging Olson Cement Work, Inc.¹ and David Olson (Respondents) with having violated sections 604(c), (e), (g), (h), 2404a, 2411(2)(h) and 2411(2)(j) of the Occupational Code, MCL 339.101 *et seq.* and Mich Admin Code, R 338.1533 (1), R 338.1551(4), and R 338.1551(5).

The parties have stipulated that the Board may enter this consent order and that the facts alleged in the Formal Complaint are true and constitute a violation of section 604(c), (h) and 2404a of the Occupational Code and Mich Admin Code, R 338.1533(1) and R 338.1551(5). The Board has reviewed the stipulation contained

¹ The Formal Complaints both refer to Respondent Olson Cement Work, Inc. (license number License No. 21-02-152606) as Olson Cement Works, Inc. This was in error and is hereby corrected.

in this document and agrees that the public interest is best served by resolution of the outstanding complaints.

Accordingly, for these violations, IT IS ORDERED:

Respondents are FINED \$1,000.00 to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint numbers 21-17-333427 and 21-17-333418 clearly indicated on the check or money order), and shall be payable within 60 days. The total fine owed on complaint numbers 21-17-333427 and 21-17-333418 is \$1,000.00. Respondents are jointly and severally liable for payment of the fine. If Respondents fail to timely pay this fine, their licenses shall be suspended. The timely payment of the fine shall be Respondents' responsibility. Respondents shall mail the fine to: Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division, Compliance Section, P.O. Box 30189, Lansing, Michigan 48909.

Counts II, IV, V, VII, and VIII of the complaints, alleging a violation of sections 604(c), (e), (g), 2411(2)(h), and 2411(2)(j) of the Occupational Code and Mich Admin Code, R 338.1551(4) are DISMISSED.

Respondents shall direct any communications to the Department that are required by the terms of this order to: Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Enforcement Division – Compliance Section, P.O. Box 30670, Lansing, Michigan 48909.

If Respondents petition for reinstatement of their licenses, the petition shall be in accordance with section 411(5) of the Occupational Code. Under this

provision, Respondents 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 appropriate 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 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 on the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on May 15, 2018

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

By 
Chairperson

STIPULATION

The parties stipulate as follows:


1. The facts alleged in the complaints are true and constitute a violation of the Occupational Code.
2. The Director of the Bureau of Professional Licensing, or her designee, must approve this consent order and stipulation before it is submitted to the Board for final approval.
3. Respondents understand and intend that, by signing this stipulation, they are waiving the right under the Occupational Code, rules promulgated under the Occupational Code, and the Administrative Procedures Act of 1969, 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, 1976 PA 442, as amended.
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 assert that the entire agreement between the parties is captured in the written contract and scope of work.

B. Respondents state that they had difficulty getting in contact with the Rose Township Building Department because it was a part-time office. Respondents, however, recognize they had an obligation to get all required inspections before continuing the project.

C. Respondents also state that the home was in sound condition when they completed the work and if their work had caused any structural issues, Respondents would have remedied those issues prior to completing the project.

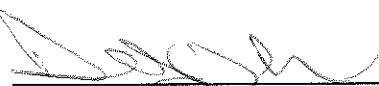
By signing this stipulation, the parties confirm that they have read, understand and agree with the terms of the consent order.

AGREED TO BY:




Timothy C. Erickson (P72071)
Assistant Attorney General
Attorney for Complainant
Dated: 2/7/2018

AGREED TO BY:

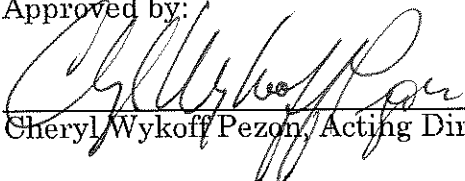


Olson Cement Work, Inc.
by: David Olson, Qualifying Officer
Respondent
Dated: 1/25/18



David Olson
Respondent
Dated: 1/25/18

Bureau of Professional Licensing
Approved by:



Cheryl Wykoff Pezon, Acting Director

2/13/18

Date

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

In the Matter of

DAVID OLSON,
License No. 21-01-079923

Complaint No. 21-17-333428

Respondent.

FORMAL COMPLAINT

NOW COMES Attorney General Bill Schuette, through Timothy C. Erickson, Assistant Attorney General, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Complainant, pursuant to the Occupational Code, MCL 339.101 *et seq*, and its rules promulgated thereunder, and files this Formal Complaint against David Olson, Respondent, upon information and belief alleges 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 339.2401 *et seq*.
2. Beginning on March 14, 1998, Respondent was licensed as a Residential Builder and/or Maintenance and Alteration Contractor pursuant to Article 24 of the Code and he has been continually licensed.

3. Respondent was the qualifying officer for Olson Cement Works, a Residential Builder Company (license number 21-02-123476). The license was issued on December 6, 1994 and it lapsed on May 31, 2003.

4. Respondent is the qualifying officer for Olson Cement Works, Inc., a Residential Builder Company (license number 21-02-152606). The license was issued on December 7, 1999 and is still active.

5. Both Olson Cement Works and Olson Cement Works, Inc. list their addresses at 5610 Wellington Street, Dearborn Heights.

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

7. Section 604(e) of the Code subjects a licensee to sanction who commits an act of gross negligence.

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

9. Section 604(h) of the Code subjects a licensee to sanction who “[v]iolates a provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.”

10. Section 2404a of the Code requires a licensee to “provide information relating to his or her individual license and to any license issued that person as a qualifying officer of another entity” in the contract.

11. 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”

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

13. Mich Admin Code, R 338.1533(1) requires “[a]ll agreements and changes to the agreements between a builder, or contractor, and the customer to be in writing and signed by the parties. Copies of all agreements and changes to agreements must be in writing and provided to the customer.”

14. Mich Admin Code, R 338.1551(4) requires that a licensee correct complaints justified by a local building inspector within a reasonable time.

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

16. Section 514 of the Code authorizes the Board to sanction licensees based on an administrative law hearing examiner’s hearing report.

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

FACTUAL ALLEGATIONS

18. Aaron and Devonne l contracted with Respondent to perform work on the foundation of their home located at Holly, Michigan for a contract price of \$15,312.

19. Mrs. signed a written contract on May 15, 2016. The never received a copy of the contract after it had been signed by Respondent or some other authorized signatory of Olson Cement Works, Inc.

20. Respondent told the that the first room would have a spread footing poured in small sections to prevent movement. Respondent told the that the second room would have the existing foundation removed in sections and would have new concrete masonry unit (CMU) blocks installed to replace the old foundation. Respondent also said that he would raise the height of the room.

21. On or about June 13, 2016, an official from the Rose Township Building Department approved the scope of work.

22. On or about July 6, 2016, Respondent obtained a building permit from Rose Township. The building permit instructed Respondent to obtain a "footing" inspection and a "final" inspection.

23. On or about July 25, 2016, Respondent commenced work.

24. Respondent completed work on the foundations of the two rooms, including removing old foundation, pouring a new foundation, pouring a spread footing, and installing the CMU wall, but Respondent failed to have the work inspected as required by the building permit.

25. Respondent's work caused damage to the walls, siding, roof, interior, windows, and door of the home.

26. On or about August 3, 2016 and September 16 and 26, 2016, a building inspector inspected the property. The building inspector could not verify that the work had been performed to code and therefore the project is still "unapproved" by Rose Township.

COUNT I

27. Respondent's conduct, as described above, is contrary to Mich Admin Code, R 338.1533(1), in violation of section 604(c) of the Code.

COUNT II

28. Respondent's conduct, as described above, is contrary to Mich Admin Code, R 338.1551(4), in violation of section 604(c) of the Code.

COUNT III

29. Respondent's conduct, as described above, is contrary to Mich Admin Code, R 338.1551(5), in violation of section 604(c) of the Code.

COUNT IV

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

COUNT V

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

COUNT VI

32. Respondent's conduct, as described above, constitutes a failure to include license information in the contract, contrary to section 2404a of the Code, in violation of section 604(h) of the Code.

COUNT VII

33. Respondent's conduct, as described above, constitutes a failure to deliver the entire agreement, including any changes, to the purchaser, in violation of section 2411(2)(h) of the Code.

COUNT VIII


34. Respondent's conduct, as described above, constitutes aiding and abetting the unlicensed practice of a residential builder or maintenance and alterations contractor, in violation of section 2411(2)(j) of the Code.

WHEREFORE, Complainant, Department of Licensing and Regulatory Affairs, hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, MCL 24.201-328 and the Occupational Code, *supra*, to

determine whether disciplinary action should be taken by the Department of Licensing and Regulatory Affairs, pursuant to the Occupational Code, for the reasons set forth herein.

Respectfully submitted,

BILL SCHUETTE
Attorney General

By 

Timothy C. Erickson (P72071)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, MI 48909
Phone (517) 373-1146; Fax (517) 241-1997

Dated: December 12, 2017

LF: 2017-0202983-B/Olson, David, 333428 (Res Bldr)/Formal Complaint -- 2017-12-12