

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

DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS, BUREAU
OF PROFESSIONAL LICENSING,

Complainant,

v

FRANK ANTHONY ZANOTTI
License No. 21-01-082385,

Complaint No. 21-15-325857

Respondent.

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed on February 10, 2017 charging Frank Anthony Zanotti (Respondent) with having violated sections 601(1), 604(b), 604(c), 604(d), 604(e), 604(h), 2404a, 2411(2)(a), and (l) of the Occupational Code, as amended, MCL 339.101 *et seq.*; Mich Admin Code, R 338.1532(1).

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[s] of sections 601(1), 604(b), 604(c), 604(d), 604(e), 604(h), 2404a, 2411(2)(a), and (l) of the Occupational Code; Mich Admin Code, R 338.1532(1). 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.

Accordingly, for these violations, IT IS ORDERED:

Respondent is FINED \$5,000.00 to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint number 21-15-325857 clearly indicated on the check or money order), and shall be payable within 120 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 Professional Licensing, Enforcement Division, Compliance Section, P.O. Box 30189, Lansing, Michigan 48909.

Within 90 days of the effective date of this order, Respondent shall pay RESTITUTION in the amount of \$3,100.00 to T.S. & D.S. Respondent shall mail restitution to T.S. & D.S. at the address provided to Respondent in a separate document by the Department or Office of Attorney General, Licensing and Regulation Division at the time he signed this stipulation.

Respondent shall submit satisfactory written proof of timely restitution payment to the Department by mail, or other method acceptable to the Department.

Respondent 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 Respondent petitions for reinstatement of his license, the petition shall be in accordance with section 411(5) of the Occupational Code. Under this provision, 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 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.

Respondent may not file a petition for reinstatement until 2 years after the effective date of this order.

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

Signed on 9/12/17

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 Professional Licensing, or her 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 of 1969, 1969 PA 306, as amended, 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.


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, supported by Board conferee Sidney Browne, Jr.

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

AGREED TO BY:

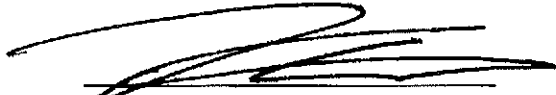


Timothy C. Erickson (P72071)
Assistant Attorney General
Attorney for Complainant
Dated: 7/25/2017

AGREED TO BY:



Frank Anthony Zanotti
Respondent
Dated: 7/24/17



James W. Amberg (P68564)
Attorney for Respondent
Dated: 7/24/17

Bureau of Professional Licensing
Approved by:



Kim Gaedeke, Director

07/29/2017
Date

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

DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS, BUREAU
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FRANK ANTHONY ZANOTTI
License No. 21-01-082385,

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Respondent.

FORMAL COMPLAINT

Now comes Attorney General Bill Schuette, through Assistant Attorney General Timothy C. Erickson, on behalf of Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Complainant, pursuant to the Occupational Code, as amended, MCL 339.101 *et seq.*, and the rules promulgated thereunder, and files this Formal Complaint against Frank Anthony Zanotti (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 339.2401 *et seq.*
2. Respondent was licensed as a residential builder pursuant to the Code beginning on August 25, 1988, but his license was revoked effective on or about

December 11, 1999 and Respondent's license has not been reinstated as of the date of this Formal Complaint.

3. Section 604(b) of the Code requires the Board to penalize a licensee for "fraud, deceit, or dishonesty in practicing an occupation."

4. Section 604(c) of the Code requires the Board to penalize a licensee for violating a rule of conduct of an occupation.

5. Section 604(d) of the Code requires the Board to penalize a licensee who demonstrates a lack of good moral character, meaning "the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner," MCL 338.41.

6. Section 604(e) of the Code requires the Board to penalize a licensee who commits an act of gross negligence.

7. Section 604(h) of the Code requires the Board to penalize a licensee for violating any other provision of this act or a rule promulgated under the Code for which a penalty is not otherwise prescribed.

8. Section 2404a of the Code requires a licensee to include information relating to his or her individual license and to any license issued to him or her as a qualifying officer of another entity in the contract.

9. Section 2411(2)(a) of the Code prohibits abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee.

10. Section 2411(2)(l) of the Code requires a licensee to satisfy judgments against the licensee.

11. Mich Admin Code, R 338.1532(1) requires all advertising to "include the name, license number, and actual business address, as shown on the license."

12. Sections 601(1) and 601(6) of the Code prohibit an individual to engage in or attempt to engage in the practice of a residential builder and maintenance and alteration contractor without a license.

13. Mich Admin Code, R 792.10802(a) provides that the expiration, surrender, lapse, suspension, or revocation of a license does not terminate the Board's authority under Articles 5 and 6 of the Occupational Code, 1980 PA 299, MCL 339.501 to 339.606, to impose sanctions on a person whose license or registration has expired, lapsed, or been surrendered, suspended, or revoked for a period of 7 years after the license or registration status change occurs or a period of 3 years after all complaints against the license or registration filed with the Bureau of Professional Licensing have been closed, whichever occurs later.

14. Section 602 of the Code authorizes the Board to impose sanctions against a licensee if, after opportunity for a hearing, the licensee is found to have violated one or more of the subdivisions contained in section 604 of the Code.

15. Section 514 of the Code authorizes the Board to assess penalties against licensees under section 602 of the Code based on an administrative law hearing examiner's hearing report.

FACTUAL ALLEGATIONS

16. Sometime before October 20, 2014, Respondent placed, or caused to be placed, an advertisement flyer in the mailbox for the home owned by

17. Respondent's flyer identified "Interior Genius" as a "General Contractor." Interior Genius is not licensed as a residential builder or maintenance and alteration contractor.

18. Respondent's flyer failed to provide any licensing information.

19. Respondent's flyer provided an address, but this address did not belong to a licensed residential builder or maintenance and alteration contractor between in or around October, November, and December 2014.

20. Using the information in Respondent's flyer advertisement, the contacted Respondent to perform renovations in their basement.

21. On or about October 20, 2014, Respondent contracted with to renovate the basement for a total contract price of \$6,200.00. Mr. provided a down payment of \$700.00 to Respondent.

22. In addition to the down payment of \$700.00, the contract provided that the would pay Respondent \$2,000.00 on delivery of the materials, \$2,500.00 on the completion of electrical work, and \$1,000.00 on completion of the job.

23. In the contract, Respondent agreed to complete the renovations not later than Thanksgiving Day (November 27, 2014) or Respondent would void the

final payment of \$1,000.00. Respondent failed to complete the work by the contracted deadline.

24. The contract identifies Frank Zanotti as a "General Contractor," but the contract includes no licensing information.

25. On or about November 7, 2014, Respondent's son dropped off sheets of drywall and lumber at the home. Respondent collected the next payment of \$2,500.00* from the :

26. Between on or about November 12 and November 15, 2014, workers framed a portion of the basement and did some electrical work.

27. On or about November 18, 2014, Respondent collected the next payment of \$2,000.00.

28. Between on or about November 19 and December 1, 2014, Respondent performed no work on the basement. Between these dates, Mr. contacted or attempted to contact Respondent via telephone and text message.

29. On or about November 20, 2014, Respondent provided his only reply to Mr. communication efforts, providing assurances that Respondent would have workers at the home on November 24 or 25, 2014, but no workers ever showed up.

30. In total, the paid Respondent \$5,200.00 in October and November 2014.

* The parties switched the payment schedule for the \$2,000.00 and \$2,500.00.

31. Respondent failed to complete the agreed-upon work in the basement.

32. The filed a small claims lawsuit against Respondent in District Court. On February 24, 2015, the court entered a default judgment against Respondent requiring payment of \$3,230.00 to the within 30 days. Respondent has not satisfied this judgment.

COUNT I

33. 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

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

COUNT III

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

COUNT IV

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

COUNT V

37. 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, contrary to section 2411(2)(a) of the Code, in violation of section 604(h) of the Code.

COUNT VI

38. Respondent's conduct, as described above, constitutes a failure to satisfy a judgment against the licensee, contrary to section 2411(2)(l) of the Code, in violation of section 604(h) of the Code.

COUNT VII

39. Respondent's conduct, as described above, constitutes a failure to include his name, license number, and actual business address, as shown on his residential builder's license, contrary to Mich Admin Code, R 338.1532(1), in violation of section 604(c) of the Code.

COUNT VIII

40. Respondent's conduct, as described above, constitutes engaging in or attempting to engage in the practice of an occupation without a license in violation of section 601(1) of the Code.

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THEREFORE, Complainant Department of Licensing and Regulatory Affairs hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, the Occupational Code, MCL 339.101 *et seq.*, and the associated administrative rules 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



Timothy C. Erickson (P72071)
Assistant Attorney General
Licensing & Regulation Division
525 West Ottawa, 3rd Floor, Williams Bldg.
P.O. Box 30758
Lansing, MI 48909
(517) 373-1146

Dated: February 10, 2017

LF: 2017-0167231-B/Zanotti, Frank, 325857 (Res Bldr) Formal Complaint - 2017-02-10