

IN THE MATTER OF THE CLAIM	* BEFORE DENISE OAKES SHAFFER,
OF JENNIFER & THOMAS MYERS,	* AN ADMINISTRATIVE LAW JUDGE
CLAIMANTS	* OF THE MARYLAND OFFICE
AGAINST THE MARYLAND HOME	* OF ADMINISTRATIVE HEARINGS
IMPROVEMENT GUARANTY FUND	*
FOR THE ALLEGED ACTS OR	*
OMISSIONS OF ROBERT SPERO,	*
T/A MARYLAND POOLS, INC.,	* OAH No.: DLR-HIC-02-16-35996
RESPONDENT	* MHIC No.: 15 (90) 565

* * * * *

PROPOSED DECISION

STATEMENT OF THE CASE
ISSUES
SUMMARY OF THE EVIDENCE
PROPOSED FINDINGS OF FACT
DISCUSSION
PROPOSED CONCLUSION OF LAW
RECOMMENDED ORDER

STATEMENT OF THE CASE

On October 26, 2015, Jennifer and Thomas Myers (Claimants) filed a claim (Claim) with the Maryland Home Improvement Commission (MHIC) Guaranty Fund (Fund) for reimbursement of \$14,752.34¹ in alleged actual losses suffered as a result of a home improvement contract with Robert Spero, trading as Maryland Pools, Inc. (Respondent).

I held a hearing on May 19, 2017, at the Bel Air Branch Library, 100 E. Pennsylvania Avenue, Bel Air, Maryland. Md. Code Ann., Bus. Reg. §§ 8-312(a), 8-407(e) (2015). The

¹ The original claim amount of \$11,748.00 was amended prior to the hearing to \$14,984.25. At the hearing, the Claimants lowered the amount by \$231.91 for a final claim amount of \$14,752.34.

Claimants represented themselves. Kris King, Assistant Attorney General, Department of Labor, Licensing and Regulation (Department), represented the Fund. Neither the Respondent, nor any representative, appeared for the hearing. After waiting fifteen minutes past the scheduled time for the hearing, the Respondent and his attorney failed to appear, so I proceeded with the hearing in the Respondent's absence. Code of Maryland Regulations (COMAR) 28.02.01.23A.²

The contested case provisions of the Administrative Procedure Act, the Department's hearing regulations, and the Rules of Procedure of the Office of Administrative Hearings (OAH) govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2016); COMAR 09.01.03; COMAR 28.02.01.

ISSUES

1. Did the Claimants sustain an actual loss compensable by the Fund as a result of the Respondent's acts or omissions?
2. If so, what is the amount of that loss?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits on the Claimants' behalf:

- Clmt. Ex. 1 - Respondent's punch list, dated and signed July 28, 2014
- Clmt. Ex. 2 - Color photograph of stained paving
- Clmt. Ex. 3 - Emails between Claimants and Respondent, July 24-25, 2014
- Clmt. Ex. 4 - Emails between Claimants and Respondent, August 7, 2014 (2 pages)
- Clmt. Ex. 5 - Email from Claimants to MHIC, October 14, 2014 (2 pages)

² Notice of the hearing was mailed to the Respondent by OAH on February 10, 2017, by certified mail, to the address of record, COMAR 09.08.03.03A(2). The OAH also mailed the Notice of Hearing by certified mail to the Respondent's attorney, Robert M. Stahl, Esquire. The certified mail receipt for the Notice of Hearing addressed to the Respondent was signed by Patti Spero as agent for the addressee on February 18, 2017, and the signed receipt was received by OAH on February 27, 2017. The certified mail receipt to Mr. Stahl was signed on February 13, 2017. On May 15, 2017, Mr. Stahl withdrew his appearance in the case.

- Clmt. Ex. 6 - Emails from Claimants to MHIC: May 8, 2017, and October 14, 2014, with attachments (15 pages)
- Clmt. Ex. 7 - Emails between Claimants and MHIC: November 10 and October 14, 2014, with handwritten notations and attachments (12 pages)
- Clmt. Ex. 8 - Color photograph of paving
- Clmt. Exs. 9A - Color photograph of muddy construction site with partial fence
9B - Color photograph of muddy construction site with discharge pipe and water
- Clmt. Ex. 10 - Color photograph of soil with a capped upright pipe
- Clmt. Ex. 11 - Emails among Claimants, Respondent, and MHIC, July 9, 2014 through July 6, 2015 (7 pages)
- Clmt. Ex. 12 - Emails between Claimants and MHIC, June 24, 2015 through September 30, 2015, with attachments (16 pages)
- Clmt. Ex. 13 - Emails between Claimants and MHIC, June 24, 2015 through October 1, 2015 (4 pages)
- Clmt. Ex. 14 - Emails between Claimants and MHIC, June 24, 2015 through October 7, 2016 (8 pages)
- Clmt. Exs. 15A - Color photograph of construction site with partially-covered discharge pipe
15B - Color photograph of construction site with exposed discharge pipe
- Clmt. Ex. 16 - Color photograph of yard with boundary fence and exposed discharge pipe

I admitted the following exhibits on behalf of the Fund:

- GF Ex. 1 - Notice of Hearing, February 10, 2017, with three attached certified mail receipts issued on May 19, 2017: two signed and dated February 13, 2017, and one signed and dated February 18, 2017 (2 pages)
- GF Ex. 2 - Letter to OAH from R.M. Stahl, Esq., May 15, 2017
- GF Ex. 3 - Letter to OAH from R.M. Stahl, Esq., February 14, 2017
- GF Ex. 4 - MHIC Hearing Order, October 18, 2016
- GF Ex. 5 - MHIC Registration and License printouts, May 17, 2017 (8 pages)
- GF Ex. 6 - SDAT Real Property printout, May 17, 2017 (2 pages)
- GF Ex. 7 - MHIC Home Improvement Claim, September 18, 2015

- GF Ex. 8 - Letter to Respondent from Thomas Marr, MHIC, November 6, 2015
- GF Ex. 9 - Order by John Papavasiliou, MHIC, addressed to Respondent, November 18, 2014, with attached blank certified mail receipt
- GF Ex. 10 - Hand-drawn schematic of pool and surroundings

Testimony

Claimants testified in their own behalf. The Respondent failed to appear. The Fund did not present any witnesses.

PROPOSED FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. As of October 23, 2013, the Respondent's MHIC license as a home improvement contractor/salesman (License) was renewed.
2. On June 9, 2015, the License was suspended on an emergency basis.
3. On October 29, 2015, the License expired.
4. On April 15, 2014, the Claimants and the Respondent entered into a contract (Contract) for the construction of a pool with paved decking at the Claimants' home in Abingdon, Maryland.
5. The original agreed-upon Contract price was \$50,805.00.
6. The Claimants paid the Respondent \$48,938.00 over several payments. Because there was a portion of the work left undone, the Claimants held back the final payment of \$1,867.00.
7. The Claimants made several attempts to have the Respondent return to their property to complete the work.
8. The unresolved problems included: stained decking, improper installation of grout, improper tile installation, cracked coping, cracked decking and a malfunctioning heater.
9. The Claimants had no further contact with the Respondent after October of 2015.

10. Subsequently, the Respondent filed for bankruptcy.

11. As time went on, the problems with the pool got worse.

12. In order to correct the problems with the coping and the decking, the Claimants will need to replace all of the tile, coping and bricks. The pool will need to be recaulked and acid washed once the repairs are complete.

13. The Claimants have an estimate from Lothorian Pools setting forth the cost of these repairs at \$13,615.00. This estimate includes \$1,255.00 to refill the pool with water once repairs are complete.

14. The Claimants incurred the following additional expenses to repair the incomplete work: \$1,400.00 paid to Red Coat Property for grading, \$826.80 to Sweetwater Pools Center for start-up chemicals, \$401.83 to Pool Center for caulk, \$210.71 paid to HydroPro and J&R plumbing to replace a broken governor (part of the heating unit), and \$125.00 to Leslie's to service heater key pad.

15. The Claimants' Contract with the Respondent did not obligate the Respondent to fill the pool with water or to supply chemicals for the pool.

16. The Claimants' Contract with the Respondent did not obligate the Respondent to grade the area around the pool. The Contract specifically provides that the homeowner is responsible for grading.

17. The Claimants' actual loss is \$11,230.54.

DISCUSSION

Preliminary Issues

1. The Respondent's Failure to Appear

On February 10, 2017, the OAH sent a Notice of Hearing (Notice) by certified and first class mail to the Respondent's last address of record, 18 Trojan Horse Drive, Phoenix, MD

21131. The Notice advised the Respondent of the time, place and date of the hearing. The Notice sent via certified mail was signed for by Patti Spero on February 18, 2017. The Notice sent by first class mail was not returned to the OAH by the USPS. The statutory provisions governing disciplinary proceedings against MHIC licensees state that notice shall be sent by certified mail to “the business address of the licensee on record with the Commission.” Md. Code Ann., Bus. Reg. § 8-312(d) (2015).³ The procedures for notice applicable to disciplinary proceedings also apply to claims against the Fund. *Id.* § 8-407(a).

There is no dispute that OAH properly sent the Notice by certified mail to the Respondent’s business address of record, as required by section 8-312(d), and that the Respondent had actual notice of the hearing because the Notice was received and signed for. *See also* Md. Code Ann., State Gov’t § 10-209(c) (2014) (reasonable notice is presumed for licensees under certain circumstances); COMAR 28.02.01.05C(2) (notice is effective at the end of the fifth day after it was mailed). Consequently, after waiting for 15 minutes for the Respondent or a representative to appear, I directed that the hearing proceed in the Respondent’s absence. Md. Code Ann., Bus. Reg. § 8-312(h); COMAR 28.02.01.23A.

2. The Respondent’s Bankruptcy

The OAH file contains a letter dated February 14, 2017, from Mr. Stahl, Respondent’s attorney, requesting that the OAH stay this and certain other claims involving the Respondent on the basis that a bankruptcy trustee has been appointed by the United States Bankruptcy Court for the District of Maryland to administer the Respondent’s bankruptcy estate. At the outset of the hearing, MHIC counsel, Mr. King, stated that the Fund’s position was that the case could go forward despite the bankruptcy citing a ruling of the United States Bankruptcy Court for the

³ Unless otherwise noted, all references to the Business Regulation Article hereinafter cite the 2015 Replacement Volume.

District of Maryland holding that the automatic stay provisions of the Bankruptcy Code are not applicable to proceedings by homeowners to recover from the Maryland Home Improvement Guaranty Fund. He argued that the MHIC may adjudicate homeowner claims filed with the Guaranty Fund based upon transactions with the Respondent.

For the following reasons, I deny the motion for a stay. Section 362(b)(4) of Title 11 of the U.S.C.A. provides that the filing of a bankruptcy petition “does not operate as a stay . . . of the commencement or continuation of an action or proceeding by a governmental unit . . . to enforce such governmental unit’s or organization’s police and regulatory power, including the enforcement of a judgment other than a monetary judgment, obtained in an action or proceeding by the governmental unit to enforce such governmental unit’s or organization’s police or regulatory powers[.]” In an unpublished decision, the United States Bankruptcy Court for the District of Maryland held in *In re Michael Goodman*, No. 86-B-1700 (Bankr. D. Md., Aug. 28, 1987) (Order Granting Relief From Stay), that the automatic bankruptcy stay is not applicable to proceedings by homeowners to recover claims against the Maryland Home Improvement Guaranty Fund. *See also In the Matter of the Claim of Patrick Madden Against the Maryland Home Improvement Guaranty Fund for the Alleged Acts or Omissions of Chung Yi, t/a Chung Yi Construction and Design*, OAH No.: DLR-HIC-02-15-07570 (Issued August 27, 2015).

In an analogous case, the United States District Court for the District of Maryland held that the Maryland Racing Commission’s police and regulatory power to suspend a debtor’s license as a horse trainer was not barred by or stayed under the bankruptcy code. *See In re Christmas*, 102 B.R. 447 (Bankr. D. Md. 1989). *See also Internationale Resort and Beach Club*, 36 B.R. 189 (Bankr. D.S.C. 1983) (plaintiff’s claim seeking an award from South Carolina’s vacation time sharing recovery fund was an action by a governmental unit to enforce the unit’s police or regulatory power and was not subject to bankruptcy court’s jurisdiction or to the

automatic bankruptcy stay). I am persuaded by the reasoning of these decisions that the Respondent's bankruptcy filing does not require or warrant a stay of this proceeding against the Fund.

3. The Arbitration Clause in the Contract

The Contract between the Claimants and the Respondent contains an arbitration clause, which states, in pertinent part, as follows:

Any controversy, action, claim, dispute, breach or questions of interpretation relating to or arising out of this contract shall be resolved by arbitration in accordance with Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction.

... Under Business Regulation Article SS8-405(C) [sic], Annotated Code of Maryland, a claim against the Home Improvement Guaranty Fund by an owner shall be stayed until completion of any mandatory arbitration proceeding.

See Cl. Ex. 6.

Section 8-405(c) requires that the Claimants prove that they complied with any contract arbitration clause before seeking compensation from the Fund. Md. Code Ann., Bus. Reg.

§ 8-405(c). Additionally, COMAR 09.08.03.02E provides:

Compulsory Binding Arbitration. When a contract between a claimant and a contractor requires that all contract disputes be submitted to binding arbitration, the claimant shall either:

(1) Submit their dispute to binding arbitration as required by the contract;

or

(2) Provide evidence to the Commission that the claimant has made good faith efforts to bring the dispute to binding arbitration which the contractor has either rejected or not responded to. The Commission shall then give the contractor written notice that, if the contractor does not agree to binding arbitration, the Commission will consider the compulsory arbitration clause to be void and process the claimant's claim pursuant to this chapter.

At the hearing, Mr. King stated that the MHIC is aware that the Contract contains this arbitration clause, and proffered that it is the MHIC's position that the Respondent waived his

contractual right to compel arbitration and that the Claim may properly be considered at this time.⁴

Section 8-405(c) of the Business Regulation Article protects the Fund from being depleted and ensures its continued solvency for the payment of future claims. Section 8-410 provides that once the MHIC pays a claim, the MHIC is subrogated to all rights of the claimant, and the MHIC may sue the contractor for the amount paid by the Fund on the claim. Md. Code Ann., Bus. Reg. § 8-410(a) and (b). This subrogation right allows the Fund to collect from the offending contractor what it has paid to a claimant, thus replenishing the Fund so that it continues to have sufficient resources to make payments on future awards.⁵ However, when the MHIC initiates a lawsuit against a contractor, the MHIC steps into the shoes of the claimant, and the contractor may assert any defenses against the MHIC that it would have had against the claimant, including the claimant's failure to bring the dispute to arbitration. *See Hill v. Cross Country Settlements, LLC*, 402 Md. 281, 313 (2007) (the substituted person "can exercise no right not possessed by his predecessor, and can only exercise such right under the same conditions and limitations as were binding on his predecessor.") (quoting *Poe v. Phila. Cas. Co.*, 118 Md. 347, 353 (1912)). Accordingly, to ensure the continued solvency of the Fund through subrogation actions against contractors, section 8-405(c) limits the MHIC's ability to pay an award from the Fund when a claimant has not complied with a contract arbitration clause.

⁴ The Contract was not executed by the Respondent; but rather, it was executed by a salesman on behalf of the Respondent. However, as discussed in the Court of Special Appeals in *Case Handyman & Remodeling Services, LLC v. Schuele*, the principles of equitable estoppel mandate that the Respondent may compel arbitration. 183 Md. App. 44, 62 (2008) ("[A] non-signatory of an applicable arbitration contract can enforce an arbitration clause under the doctrine of equitable estoppel when the signatory's claims against the non-signatory rely on the written agreement." (footnote omitted)), *vacated on other grounds*, 412 Md. 555 (2010).

⁵ The MHIC has been tasked with the establishment and administration of the Fund. *See* Md. Code Ann., Bus. Reg. § 8-403(a) and (c). The Fund is supported by initial fees and assessments from licensed contractors and from reimbursements the MHIC collects from the contractors who give rise to claims. *Id.* §§ 8-404, 8-410. If the Fund does not have sufficient money to cover an award, the claimant must wait until there is enough money to pay the claim. *Id.* § 8-409(c). Thus, the MHIC has a policy interest in preserving the Fund so that it is available for all claimants.

There are times, however, when a contract at issue in a claim contains an arbitration clause, but a claimant is unable to engage the contractor in arbitration. Clearly, the purpose of the Fund is to compensate homeowners for actual losses incurred at the hands of a licensed contractor, and this dictates that a claimant, who is barred from complying with a contract arbitration clause due to the actions of a contractor, should nevertheless be permitted to seek recovery from the Fund.

Maryland courts recognize that the right to arbitrate is a right created by contract, and that a party to that contract may waive its right to arbitrate. 2 Maryland Law Encyclopedia, *Alternative Dispute Resolution* § 23 (Westlaw 2017); see also *Brendsel v. Winchester Const. Co., Inc.*, 162 Md. App. 558, 573, cert. granted, 389 Md. 124 (2005), *aff'd*, 392 Md. 601 (2006). Usually, a court will only determine that a party waived its right when it does so through unequivocal acts or language. *Brendsel*, 162 Md. App. at 574. However, it is possible for waiver to be established when a party delays in demanding arbitration. *Id.* at 573; see also *Redemptorists v. Coulthard Servs., Inc.*, 145 Md. App. 116, 141 (2002). COMAR 09.08.03.02E is a mechanism for the Fund to establish that a contractor waived arbitration with a claimant. If the MHIC follows the procedures contained in COMAR 09.08.03.02E, it creates a factual record that may be used in any future subrogation lawsuit against defense of “failure to arbitrate” asserted by the contractor.

Clearly, however, if the facts of a particular case already are sufficient to prove waiver of the arbitration clause by the contractor, it is unnecessary for the MHIC to follow the provisions of COMAR 09.08.03.02E. In this case, there is abundant evidence to support the MHIC’s position that the Respondent’s action in this case, or more accurately his inaction, amounts to a waiver of his right to arbitrate, and therefore, it was unnecessary for the MHIC to require that it and the Claimants strictly adhere to the procedures outlined in COMAR 09.08.03.02E. The

Respondent has known that the Claim was pending before the Fund for at least eighteen months prior to this hearing. *See* GF Ex. 8 (November 6, 2015 letter to the Respondent advising him that this Claim was pending against the Fund). Additionally, the Respondent was reminded of the pendency of this Claim through the October 18, 2016 Hearing Order. *See* GF Ex. 4. Despite this repeated actual notice, the Respondent never attempted to compel arbitration either through the Claimants, the MHIC, or the OAH. Counsel for the Respondent sent the letter described above to OAH regarding the bankruptcy, but the letter was silent regarding arbitration. *See* GF Ex. 3. Finally, the Respondent did not avail himself of his right to attend the hearing on the Claim and to object to the hearing of the matter prior to arbitration.

Based on these facts, I conclude that the Respondent waived his right to arbitrate this Claim, and that it was appropriate for the MHIC to forward this Claim for a merits hearing, despite the presence of an arbitration clause in the Contract.

Merits

In this case, the Claimants have the burden of proving the validity of their claim by a preponderance of the evidence. Md. Code Ann., State Gov't §10-217 (2014); COMAR 09.08.03.03A(3). “[A] preponderance of the evidence means such evidence which, when considered and compared with the evidence opposed to it, has more convincing force and produces . . . a belief that it is more likely true than not true.” *Coleman v. Anne Arundel Cty. Police Dep’t*, 369 Md. 108, 125 n.16 (2002) (quoting *Maryland Pattern Jury Instructions* 1:7 (3d ed. 2000)).

An owner may recover compensation from the Fund “for an actual loss that results from an act or omission by a licensed contractor.” Md. Code Ann., Bus. Reg. § 8-405(a) (2015); *see also* COMAR 09.08.03.03B(2) (“actual losses . . . incurred as a result of misconduct by a licensed contractor”). Actual loss “means the costs of restoration, repair, replacement, or

completion that arise from an unworkmanlike, inadequate, or incomplete home improvement.”
Bus. Reg. § 8-401. For the following reasons, I find that the Claimants have proven eligibility
for compensation.

The Respondent was a licensed home improvement contractor at the time he entered into
the Contract with the Claimants. The Respondent performed unworkmanlike, inadequate or
incomplete home improvements. The Respondent completed much of the work required to
install the pool as contracted. However, the Respondent failed to return to the project to finish
the job as set forth in the Contract. In addition, some of the work performed, particularly with
respect to the caulking and coping, was inadequate and unworkmanlike. The photographs and
testimony provided by the Claimants clearly establish that the job was unfinished and that the
lack of caulking caused a deterioration of the pool as time went on and the Respondent failed to
return to correct the errors. In order for the pool to be repaired properly, the Claimants will be
required to perform the following repairs: replace tile, coping, recaulk and reseal the interior and
deck. The Claimants received an estimate from Lothorian Pools in the amount of \$13,615.00 to
complete these repairs. That estimate included \$1,255.00 to replace the water in the pool once
the repairs are complete.

The Claimants incurred the following additional expenses to repair the incomplete work:
\$1,400.00 paid to Red Coat Property for grading, \$826.80 to Sweetwater Pools Center for start-
up chemicals, \$401.83 to Pool Center for caulk, \$210.71 paid to HydroPro and J&R plumbing to
replace a broken governor (part of the heating unit), and \$125.00 to Leslie’s to service heater key
pad.

I find that the Claimants are eligible for compensation from the Fund. Having found
eligibility for compensation, I now turn to the amount of the award, if any, to which the
Claimants are entitled.

A claim against the Fund has limitations. A claim against the Fund for an actual loss cannot include consequential damages. Md. Code Ann., Bus. Reg. § 8-405(e)(3); COMAR 09.08.03.03B(1)(a). Although neither the statute nor the regulations governing the Fund define “consequential damages,” the law provides that an award from the Fund is allowable only to reimburse a homeowner for the cost of “restoration, repair, replacement, or completion” of a substandard or unfinished home improvement job. Md. Code Ann., Bus. Reg. § 8-401.

Consequential damages are damages stemming from problems that arise as a consequence of poor performance and not the poor performance itself. *See CR-RSC Tower I, LLC v. RSC Tower I, LLC*, 429 Md. 387, 411–13 (2012); *see also Black’s Law Dictionary* (10th ed. 2014) (“[l]osses that do not flow directly and immediately from an injurious act, but that result indirectly from the act”).

The Fund in this case argued that two of the items claimed by the Claimants should be excluded as consequential damages. I agree that under the terms of the contract, the Respondent was not obligated to fill the pool with water and provide start up chemicals. Although the Claimants will have to incur this expense once the repairs are undertaken, I find that these damages are consequential in that they are the result of the poor performance.

The Fund also argued that the cost of grading, \$1,440.00 paid to Red Coat Property, should be excluded from the award. The Fund points to a portion of the Contract that clearly obligates the Claimants to provide for proper drainage and grading. *See Clmt. Ex. # 6*. I agree that the Contract establishes that this cost should be borne by the Claimants and not the Respondent or the Fund.

MHIC’s regulations provide three formulas for measurement of a claimant’s actual loss. COMAR 09.08.03.03B(3). The following formula offers an appropriate measurement to determine the amount of actual loss in this case:

If the contractor did work according to the contract and the claimant has solicited or is soliciting another contractor to complete the contract, the

claimant's actual loss shall be the amounts the claimant has paid to or on behalf of the contractor under the original contract, added to any reasonable amounts the claimant has paid or will be required to pay another contractor to repair poor work done by the original contractor under the original contract and complete the original contract, less the original contract price. If the Commission determines that the original contract price is too unrealistically low or high to provide a proper basis for measuring actual loss, the Commission may adjust its measurement accordingly.

Three numbers are required for this calculation. The first number is the amount the Claimants paid under the Contract. In this case, the testimony offered by the Claimants established that this amount was \$48,938.00. The second is "any reasonable amounts the claimant has paid or will be required to pay another contractor to repair poor work done by the original contractor under the original contract and complete the original contract." After excluding the items discussed above, the Claimants established that this amount is \$13,097.54 (\$12,360.00 - Lothorian Pools estimate, \$401.83 to Pool Center for caulk, \$210.71 paid to HydroPro and J&R plumbing to replace a broken governor (part of the heating unit), and \$125.00 to Leslie's to service heater key pad.)

The final number is the Contract price, or \$50,805.00. Accordingly, the Claimants are entitled to reimbursement of \$11,230.54 (\$48,938.00 + \$13,097.54 - \$50,805.00). Md. Code Ann., Bus Reg. § 8-405(a).

PROPOSED CONCLUSION OF LAW

I conclude that the Claimants have sustained an actual and compensable loss of \$11,230.54 as a result of the Respondent's acts and omissions. Md. Code Ann., Bus. Reg. §§ 8-401, 8-405 (2015); COMAR 09.08.03.03B(1); 09.08.03.03B(3).

RECOMMENDED ORDER

I **RECOMMEND** that the Maryland Home Improvement Commission:


ORDER that the Maryland Home Improvement Guaranty Fund award the Claimants \$11,230.54; and

ORDER that the Respondent is ineligible for a Maryland Home Improvement Commission license until the Respondent reimburses the Guaranty Fund for all monies disbursed under this Order, plus annual interest of ten percent (10%) as set by the Maryland Home Improvement Commission,⁶ and

ORDER that the records and publications of the Maryland Home Improvement Commission reflect this decision.

Signature on File

August 3, 2017
Date Decision Issued


Denise Oakes Shaffer
Administrative Law Judge

DOS/fe
168855

⁶ See Md. Code Ann., Bus. Reg. § 8-410(a)(1)(iii) (2015); COMAR 09.08.01.20.

...the ...
...the ...
...the ...
...the ...

...

...

...

PROPOSED ORDER

WHEREFORE, this 12th day of September, 2017, Panel B of the Maryland Home Improvement Commission approves the Recommended Order of the Administrative Law Judge and unless any parties files with the Commission within twenty (20) days of this date written exceptions and/or a request to present arguments, then this Proposed Order will become final at the end of the twenty (20) day period. By law the parties then have an additional thirty (30) day period during which they may file an appeal to Circuit Court.

Sachchida Gupta

Sachchida Gupta

Panel B

MARYLAND HOME IMPROVEMENT COMMISSION