

IN THE MATTER OF THE CLAIM
OF WENDY ADAMS,
CLAIMANT
AGAINST THE MARYLAND HOME
IMPROVEMENT GUARANTY FUND
FOR THE ALLEGED ACTS OR
OMISSIONS OF HAMMON SMITH,
T/A PRESTIGE GARAGE FLOOR
COATING, LLC,
RESPONDENT

* BEFORE TAMEIKA LUNN-EXINOR,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
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* OAH No.: DLR-HIC-02-18-28884
* MHIC No.: 18 (90) 146

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PROPOSED DECISION

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STATEMENT OF THE CASE

On September 19, 2017, Wendy Adams (Claimant) filed a claim with the Maryland Home Improvement Commission (MHIC) Guaranty Fund (Fund) for reimbursement of \$3,560.00 for an alleged actual loss suffered as a result of a home improvement contract with Hammon Smith, t/a Prestige Garage Floor Coating, LLC (Respondent or Prestige).

On January 17, 2019 and January 28, 2019, I convened a hearing at the Office of Administrative Hearings located in Hunt Valley, MD. Md. Code Ann., Bus. Reg. §§ 8-312(a),

8-407(e) (2015).¹ The Claimant represented herself. Jessica Kaufmann, Assistant Attorney General, Department of Labor, Licensing and Regulation (Department), represented the Fund. Frank Boozer, Esquire, represented the Respondent.

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. 2018); Code of Maryland Regulations (COMAR) 09.01.03; COMAR 28.02.01.

ISSUES

1. Did the Claimant 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 Respondent's Invoice, dated June 2, 2017 as Joint Exhibit (JT) 1.

I admitted the following exhibits on behalf of the Fund:

- GF 1 Notice of Hearing, dated October 11, 2018, with the following attachment:
 - Memo from OAH to Legal Services with undeliverable certified mail that was unclaimed by the Respondent
- GF 2 Transmittal from Department of Labor, Licensing and Regulation MHIC to OAH, dated appeal received, September 10, 2018, with the following attachment
 - Hearing Order, dated September 10, 2018
 - Home Improvement Claim Form, received by MHIC September 19, 2017
- GF 3 MHIC Licensing History for Respondent, print on January 2, 2019, with a copy of the Respondent's Application and documents for a MHIC license, dated April 18, 2011
- GF 4 Letter from Joseph Tunney, MHIC to Respondent, dated September 25, 2017, with Claimant's Home Improvement Claim, received by MHIC September 19, 2017, attached

¹ Unless otherwise noted, all references to the Business Regulation Article hereinafter cite the 2015 volume.

The following exhibits were submitted by the Claimant for admission into evidence²:

- CL 1 Not Admitted
- CL 2 Claimant's search results from DLLR for Active Licensed Home Improvement, printed November 8, 2018
- CL 3 Not Admitted
- CL 4 Not Admitted
- CL 5 Not Admitted
- CL 6 Not Admitted
- CL 7 Respondent's Facebook reviews, undated
- CL 8 Respondent's Google reviews, undated
- CL 9a Photo of an epoxy floor from the Respondent's website, undated
- CL 9b-c Not Admitted
- CL 9d-ff Various photos of the Claimant's completed epoxy garage floor, taken July 17, 2017
- CL 10 Federal Trade Commission rules for the Use of Endorsements and Testimonials in Advertising, not dated
- CL 11 Respondent's Facebook reviews, undated
- CL 12 Original Contract with Amended Contract, dated June 19, 2017
- CL 13 Respondent's Google reviews, undated
- CL 14 Not admitted
- CL 15 Respondent's website information, undated
- CL 16 Respondent's website information regarding "Our Process", undated
- CL 17 Email from Chris Adolph to Claimant, dated June 19, 2017
- CL 18 Respondent's google review from Chris Adolph, co-owner of Prestige, undated
- CL 19 Claimant's Credit Card Statements, dated May 15, 2017 – June 14, 2017 and June 15, 2017 – July 14, 2017
- CL 20 Emails between Claimant and Chris Hammon, dated July 14, 2017 – July 17, 2017
- CL 21 Not Admitted
- CL 22 Estimates for epoxy coating removal from RPG Surface Prep, August 14, 2017 and Granite Garage Floors, August 10, 2017
- CL 23 Not Admitted
- CL 24 Not Admitted
- CL 25 Not Admitted

I admitted the following exhibits on behalf of the Respondent:

- RESP 1 Photo of the Claimant's garage floor (far right corner) before work performed, undated
- RESP 2 Photo of the Claimant's garage floor (far left corner) before work performed, undated
- RESP 3 Video taken by employee of the Respondent of a portion of the Claimant's floor after work performed, dated June 27, 2017 at 9:22 a.m.
- RESP 4 Screenshot showing the date and time the Video was taken of a portion of the Claimant's floor

² All documents that were not admitted are listed in the Exhibit List and included in the file to maintain a complete record.

Testimony

The Claimant testified in her own behalf and presented the following witnesses: Miles Buchanon, former employee of the Respondent; Christian Adolph, co-owner of Prestige; and the Respondent.

The Respondent testified in his own behalf and presented Mr. Adolph as a witness.

PROPOSED FINDINGS OF FACT

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

1. At all times relevant to this hearing, the Respondent was a licensed home improvement contractor operating under MHIC registration number 103320.
2. The Respondent and Christopher Adolf are co-owners of Prestige.
3. The Claimant chose Prestige to install the epoxy floor in her garage based on their positive online reviews on Facebook and Google.
4. On June 2, 2017, the Claimant and the Respondent entered into a contract to structurally repair cracks in the garage floor, put on two base coats with full broadcast of chips, two coats of UV stable, scratch resistant and chemical resistant clear coat, Elastomeric partial fill and seal and install anti-skid surface. The contract indicates a lifetime interior warranty. The Contract amount was \$2,090.00.
5. On June 2, 2017, the Claimant paid a \$190.00 deposit.
6. The Respondent gave the Claimant an estimate without coming to her home to assess the garage floor.
7. The work was scheduled to begin on June 19, 2017.
8. On June 19, 2017 at approximately 2:00 p.m., the Respondent's employee, Miles Buchanon (Mr. Buchanon), arrived at the Respondent's home with a team to begin work on the garage floor.

9. On June 19, 2017, Mr. Buchanon assessed the Respondent's garage floor and determined that there was a lot of damage to the garage floor surface that would affect the appearance of the finished product. Mr. Buchanon took photos of the floor and sent them to his supervisor, Christopher Adolph (Mr. Adolph).

10. On June 19, 2017, Mr. Adolph gave the Claimant two options to make preliminary repairs to the garage floor prior to his employees laying down the epoxy coating. The first option was the pay a stone mason to repair the floor for \$2,000.00 and the second option was to pay the Respondent \$1,200.00 to level the floor.

11. On June 19, 2017, the Claimant chose the second option to allow the Respondent to level the garage floor.

12. On June 19, 2017, the contract between the parties was amended to include: repair and fill divots and coat the riser, step and sides of the steps. The amended contract price was \$3,560.00.

13. On June 20, 2017, a crew of workers came and hand grinded the garage floor. Mr. Buchanon was not present on the second day.

14. On June 21, 2017, no one from the Respondent's company appeared at the Claimant's home.

15. On June 22, 2017, two new employees from the Respondent's company arrived at the Claimant's home to complete the grinding and filling the divots. The Employees complained that the floor was wavy.

16. On June 23, 2017, two of the Respondent's employees applied the epoxy to the Claimant's garage floor.

17. On June 23, 2017, the Claimant was not satisfied with the finished product and contacted Mr. Adolph to complain about her floors. Mr. Adolph did not respond.

18. The Claimant noticed that the floor did not have a smooth finish as promised by the Respondent.

19. On June 23, 2017, the Claimant paid the Respondent the entire balance of the contract which was \$3,370.00.

20. On June 24, 2017, the Claimant called Mr. Adolph a second time with no response. On June 25, 2017, the Claimant called Mr. Adolph a third time and there was no response.

21. On June 26, 2017, Mr. Adolph called the Claimant and told her that the epoxy looked uneven because of the surface of her floor. Mr. Adolph promised to send a worker to the Claimant's home on June 30, 2017.

22. On June 30, 2017, no one from the Respondent's company came to the Claimant's home.

23. On June 30, 2017, the Claimant posted a negative review on Google reviews. The Respondent called the Claimant after seeing the Google review.

24. On July 2, 2017, the Claimant made contact with the Respondent who was concerned about the Google review. The Claimant removed the negative review.

25. On July 10, 2017, the Respondent arrived at the Claimant's home. The Respondent told the Claimant that he could repair the floor by pouring an acetone solution to remove the top layer of epoxy, and then he would pour more paint chips into the holes to make the floor more even and reapply the epoxy.

26. The Claimant did not allow the Respondent to repair the garage floor.

27. On August, 10, 2017, the Claimant got an estimate from Granite Garage Floors to: Diamond grind the garage floor, vacuum, patch and seal the floor by applying a solid epoxy base coat and broadcasting decorative chips. The cost was \$2,950.00.

28. On August 14, 2017, the Claimant got an estimate from RPG Surface Prep to: protect adjacent areas from debris, remove existing garage coating, hand grind edges to remove coating, install Rapid TXP moisture mitigating epoxy and apply RapidSet level for self-leveling cement for a flat finish. The cost was \$6,300.00

29. The Claimant did not have another contractor repair the floor.

30. The work performed by the Respondent had no value as the epoxy needs to be removed in order to level the existing garage floor and reapply the epoxy.

DISCUSSION

In this case, the Claimant has the burden of proving the validity of his 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 (3rd 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); *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.” *Id.* at § 8-401. For the following reasons, I find that the Claimant has proven eligibility for compensation.

Claimant's Case

The Claimant testified that she thoroughly researched companies to apply an epoxy coating to her garage floor. She testified that she was in the process of selling her home and

wanted an epoxy floor to make the garage more appealing to the prospective buyers. She stated that she was familiar with the floor coating because her brother had an epoxy seal installed on his garage and she liked the way it looked. The Claimant testified that she reviewed the Respondent's website which included photos, information about the coating process and a lifetime guarantee on the interior work. The Claimant contacted the Respondent and they prepared an estimate without coming out to her property to see her garage floor. Claimant testified that the original contract amount was \$2,090.00 and she paid a \$190.00 deposit June 2, 2017.

The Claimant testified that when the work started on June 19, 2017, the Respondent was concerned about the condition of her garage floor and explained that she had two options in order to level out her floors and prepare them for the epoxy. The Claimant stated that the Respondent told her to either hire a stone mason to repair the garage floor or hire the Respondent to repair the divots in the garage floor. The Claimant testified that she had only a two week period to have the floor finished before a tenant that lived above the garage returned from vacation, so she chose to amend the contract and pay the Respondent to level out the garage floor prior to applying the epoxy. The Claimant testified that the Respondent showed up to work on the floor inconsistently and that there was always a difference crew arriving to do the work. She recalls them grinding the floor as this process was loud and dusty. She also recalls the application of the epoxy due to the fumes. The Claimant testified that on June 23, 2017, the Respondent completed the work and she was immediately dissatisfied.

The Claimant testified that she contacted Mr. Adolph numerous times with no response until June 26, 2017, when he promised that someone would come to her home on June 30, 2017. On June 30, 2017, when no one showed up from the Respondent's business, the Claimant wrote a negative review about the company online. The Claimant testified that on the same day she wrote the review, the Respondent contacted her to discuss her review. The Claimant states that

she spoke with the Respondent on July 2, 2017 and he was away on a family vacation. The Respondent told the Claimant that he was unaware of her problem and that he would personally come to her home once he returned from vacation to handle her concerns about the floor. The Respondent asked the Claimant to remove the negative review and she removed it. The Claimant testified that on July 10, 2017, the Respondent came to her home. She testified that he was intimidating to her and complained about how far he had to drive to get to her home. The Claimant testified that the Respondent gave her solution to repair the floor that includes pouring an acetone solution on the epoxy coating, installing more chips to even the floor out more, and reinstalling the epoxy coat. The Claimant testified that after communicating with the Respondent, she did not believe that the Respondent could properly repair her garage floor and she did not want to use acetone, which is flammable, to repair the floors. The Claimant stated that she declined the Respondent's offer to repair the floor because she felt that his solution was dangerous. The Claimant testified that she lost trust in the Respondent once she did more research on the company and realized that the majority of their online reviews were written by the owners and their friends and family. The Claimant also testified and provided emails where the Respondent threatened her with legal action and the Claimant stated that she felt intimidated by the Respondent.

The Claimant testified that she received estimates from two other companies to repair the garage floor and that both estimates involved removing the current epoxy coating to level out the uneven floor and reapplying the epoxy coat. The Claimant testified that she paid the full contract amount to the Respondent and her claim is for the full contract amount of \$3,650.00.

The Claimant solicited the testimony of Mr. Buchanon, a former employee of the Respondent. Mr. Buchanon testified that he arrived at the Claimant's property on June 19, 2017 and he had concerns about the floor because of the cracks, unevenness, and age. He testified that

he sent pictures to Mr. Adolph and called him on the phone to tell him about his concerns with the Claimant's floor. Mr. Buchanan allowed Mr. Adolph to speak with the Claimant about options to prepare her current floor to receive the application of the epoxy. Mr. Buchanan testified that the Claimant chose to have the Respondent repair the cracks and divots in the garage floor before applying the epoxy. He testified that the preparation of the floor would level it out and make the floor structurally sound; however, the Claimant would still be able to see the cracks in the concrete. Mr. Buchanan began the grinding of the floor on June 19, 2017 but he never returned to the Claimant's project after the first day. He also testified that if he were the decision maker for the Claimant's property, he would have had a whole new slab of concrete poured rather than repair the old concrete.

The Claimant also solicited testimony of Mr. Adolph, co-owner of Prestige. Mr. Adolph testified that the Respondent's website accurately depicts what they offer and the process of applying the epoxy and that they promise a smooth, "like new" finish for every job. He testified that it is customary for the employees to take before and after photos of the jobs and he received before and after photos for the Claimant's garage floor. He was questioned about the online reviews; Mr. Adolph admitted that his company performed work on his personal home and he wrote an online review praising the work.

Lastly, the Claimant solicited the testimony of Respondent, co-owner of Prestige. the Respondent testified that there are quality control sheets attached to each contract so that if the crew changes on a job, they can review the notes of the prior worker. He also stated that each job has a supervisor on site. He testified that on July 10, 2017, he visited the Claimant's home and he thought her garage floor "looked great." He stated that there was a lifetime warranty on peeling, which had not occurred on the Claimant's floors. the Respondent stated that he tried to resolve this dispute with the Claimant professionally but she was defensive. He testified that he

gave her a solution to her concerns with the floor but she declined to accept his offer to make the floor look cosmetically better. The Respondent testified that the finished product does not look like a new floor because they did not start with a new floor.

Respondent's Case

The owners of Prestige both testified during the Claimant's case in chief and testified a second time during the Respondent's case. Mr. Adolph testified that he received a call from Mr. Buchanon on June 19, 2017 because Buchanon was concerned that the floor was worse than he expected. Mr. Adolph testified that he reviewed the photos and spoke with the Claimant about her options for a good finished product. He testified that the Claimant chose to have the Respondent strengthen the weak areas of the garage floor and lay a skim coat of epoxy to even out the floor. Mr. Adolph testified that a two day job turned into a four day job for the Respondent. Mr. Adolph presented a video taken by an employee on June 27, 2017 showing the employee scraping away a portion of the Claimant's concrete floor easily with a screwdriver. Mr. Adolph states that the coating made the Claimant's garage floor better. Mr. Adolph testified that the Respondent honored everything in their contract with the Claimant. On cross-examination, Mr. Adolph testified that no one went to the Claimant's home to assess the garage floor before preparing an estimate.

The Respondent testified that his first contact with the Claimant was after she posted the negative review of his company online. He testified that he went to the Claimant's home once he returned from his vacation and met with her and her husband. the Respondent testified that the Claimant had concerns about the water puddling on the garage floor and the cosmetics of the floor. He stated that he told the Claimant that the Respondent made her damaged garage floor structurally sound to receive the epoxy coating, but he had an idea to make the floor more cosmetically appealing to the Claimant. He testified that he told the Claimant that he would prep

the floor with a green acetone product and reapply the epoxy which would fix 95% of the cosmetic concerns. He testified that the Claimant's garage is under full warranty and the Claimant did not give him an opportunity to repair the floor. On cross-examination, the Respondent denied threatening the Claimant in an email. The Respondent Smith testified that he did all that he could do to remedy the Claimant's concerns and he would like the opportunity to make her satisfied.

Analysis

Actual Loss

The terms of the contract are not in dispute in this matter. The parties agree that according to the amended contract, the Respondent was hired to repair cracks, divot repair and fill the garage floor, and apply two coats of base coat, full broadcast of chips, apply two coats of UV stable, scratch resistant, chemical resistant clear coat. The dispute is whether the Respondent's work product is unworkmanlike, inadequate, or incomplete home improvement. The Claimant testified and provided evidence of the finished product the Respondent promised and what she received as a finished product. The Claimant's garage floor was not a smooth finish despite the Claimant amending the contract and paying additional money for a smooth finish. The Claimant provided public reviews of the Respondent's company and testified that she chose the Respondent because of the positive reviews they received online.

In contrast, the Respondent testified that the floor looked great and the Respondent states that they stand behind the work the company completed for the Claimant. The Respondent testified that the photos on their website are simply a representation of what the finished product could be and not an example of all finished products. The Respondent argued that the Claimant's finished product could not look like a smooth brand new floor because the floor was not brand new and they did all they could do to please the Claimant in this situation. The Respondent provided a video of a portion of the completed floor showing that the floor was

crumbling when you scrape it. The Respondent also provided photos of the Claimant's floor before the work started showing cracks in the floor. The parties also agree that the cost of the amended contract was \$3,560.00.

The next issue I must determine is whether the work performed by the Respondent was inadequate or unworkmanlike. The Claimant testified that she was unsatisfied with the final product on the date it was completed – June 23, 2017. The Claimant testified that the garage floor was uneven with puddles of epoxy. The Claimant stated that the floor was so uneven there were mounds and divots in the finished floor. The Claimant testified that the surface of the floor felt like broken glass and could not be cleaned. The Claimant testified that she began contacting the Respondent on June 23, 2017 and it was not until after she posted a negative review of the Respondent online that she received a response from the Respondent. The Claimant was dissatisfied because she paid additional money for the Respondent to level the surface prior to applying the epoxy and the finished product was not leveled. The Claimant provided numerous photographs of the finished floor. The Claimant's testimony was credible in this matter. She does not deny that the surface of her garage floor was old, had some cracks and uneven spots; however she is adamant that the Respondent promised her a product that would be leveled out. The Claimant was very direct in her testimony which was consistent throughout the two-day hearing. The Claimant's testimony was focused on her reliance on the Respondent's advertising, advertising photos, online reviews and the assurance from the Respondent that they could level her floor for an additional cost and give her a smooth finished product.

The Respondent challenged the Claimant's photographs of the finished floor with a video of a section of the floor showing the Respondent's employee easily scraping away pieces of the floor with a screwdriver. The Respondent also had photos of the Claimant's floor prior to starting the work. Mr. Adolph was knowledgeable witness and testified that the Respondent followed all

of its rules when completing the work at the Claimant's home. However, Mr. Adolph also testified that he wrote an online review of the work the Respondent performed in his home – even though he is the co-owner. Mr. Adolph saw no problem with publishing a review of his own company online for potential customers to rely on. This act was deceitful and disingenuous. Mr. Adolph testified that the Respondent always promised a smooth, like new finish on every job they complete. Mr. Adolph testified that he never went to the Claimant's home. the Respondent, however, went to the Claimant's home for the first time after she posted a negative review of the Respondent's company online. The Respondent was also very knowledgeable about epoxy and the process for installing the products. Therefore, it is difficult for me to comprehend why the Respondent would testify that the Claimant's finished floor "looked great." It is obvious from the photos that the floor is uneven with apparent lumps and waves. It is important to note that throughout the two- day hearing in this matter, the Respondent was laughing to himself during the Claimant's testimony and had a constant smirk on his face as if he was not in an administrative proceeding that should be taken seriously. Considering the weight of all of the evidence presented, I am persuaded by the Claimant's evidence which included her testimony, the Respondent's website information, online reviews and photos of the finished floor and I find that epoxy floor installed by the Respondent was installed inadequately or in an unworkmanlike manner.

Additionally, I was persuaded by the Claimant's testimony that in order to repair the work performed by the Respondent she is required to remove the epoxy coating installed by the Respondent, have the floor leveled, and the epoxy coating reinstalled. Both parties testified that the Respondent made an effort to repair the Claimant's garage floor and the Respondent's effort to repair was declined by the Claimant. The Claimant testified that she had no trust in the Respondent's work and felt intimidated by the Respondent after their email exchange on August 8, 2017. In the August 9, 2017 email exchange the Respondent used intimidating language to

attempt to scare the Claimant from filing a claim with the MHIC. In this communication, the Respondent was degrading to the Claimant and accused her of having mental health issues. The Claimant also testified that she realized through additional research that the Respondent's website and the online reviews she relied on were not truthful. The Claimant stated that the Respondent was unprofessional. I find that the Claimant has a reasonable and rational reason to decline the Respondent's offers to repair the garage floor.

The Fund made argument that the claim is legally sufficient but argued that there were too many facts in dispute to make a recommendation to the Fund.

I find that there was a home improvement contract between the Claimant and Respondent, a MHIC licensed contractor, to install an epoxy floor in the garage at cost of \$3,650.00. I further find it was installed inadequately or in an unworkmanlike manner. As a result of the inadequate and unworkmanlike installation, a subsequent contractor needs to remove the epoxy, level the floor, and reinstall the epoxy coating, leading to an actual loss sustained by the Claimant and compensable by the Fund. Having found eligibility for compensation, I now turn to the amount of the award, if any, to which the Claimant is entitled.

Award

When determining the amount of an actual loss, there are several applicable regulations. The Fund may not compensate a claimant for consequential or punitive damages, personal injury, attorney's fees, court costs, or interest. COMAR 09.08.03.03B(1). The Fund may only compensate claimants for actual losses they incurred as a result of misconduct by a licensed contractor. COMAR 09.08.03.03B(2). The applicable regulation provides three formulas for the measurement of an actual loss. COMAR 09.08.03.03B(3). The following formula is relevant to determine the amount of the actual loss in this case and provides:

(c) 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.

COMAR 09.08.03.03B(3)(c).

In this case, the Claimant paid the Respondent \$3,650.00 to level out her garage floor and install the epoxy coating to the garage floor. The Claimant received an estimate from two contractors but only one of them is a licensed MHIC contractor: Granite Garage Floors. Granite Garage Floors estimated \$2,950.00 to repair the Claimant's garage floor. The calculation is as follows:

\$3,650.00	Amount Paid to Respondent
+ \$2,950.00	Cost to Repair work
<hr/>	
\$6,600.00	
- \$3,650.00	Original Contract Amount
<hr/>	
\$2,950.00	

Finally, the MHIC may not award from the Fund an amount in excess of the amount paid by or on behalf of the claimant to the contractor against whom the claim is filed. COMAR 09.08.03.03B(4).

As I discussed earlier, the Respondent installed the epoxy coating inadequately or in an unworkmanlike manner and the Claimant has made plans to hire another contractor to remove and repair the Respondent's work. For this reason, I am persuaded that the work performed by the Respondent had no value. Based on this finding, the Claimant's actual loss is the \$2,950.00, which is the cost to repair the Respondent's work.

PROPOSED CONCLUSIONS OF LAW

I conclude that the Claimant has sustained an actual and compensable loss as a result of the Respondent's acts and omissions. I further conclude that the amount of the actual and

compensable loss is \$2,950.00. Md. Code Ann., Bus. Reg. §§ 8-401, 8-405; COMAR 09.08.03.03B(3)(b).

RECOMMENDED ORDER

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


ORDER that the Maryland Home Improvement Guaranty Fund award the Claimant \$2,950.00; 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;³ and

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

Signature on File

April 29, 2019
Date Decision Issued


Tameika Lunn-Exinor
Administrative Law Judge

TLE/cmg
#179513

³ See Md. Code Ann., Bus. Reg. § 8-410(a)(1)(iii) (2015); COMAR 09.08.01.20.

PROPOSED ORDER

WHEREFORE, this 13th day of June, 2019, 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.

J. Jean White

***I. Jean White
Panel B***

MARYLAND HOME IMPROVEMENT COMMISSION