IN THE MATTER OF THE CLAIM	*	**BEFORE DEBORAH S. RICHARDSON,**
OF LISA ALSTON,	*	**AN ADMINISTRATIVE LAW JUDGE**
CLAIMANT	*	**OF THE MARYLAND OFFICE**
AGAINST THE MARYLAND HOME	*	**OF ADMINISTRATIVE HEARINGS**
IMPROVEMENT GUARANTY FUND	*	
FOR THE ALLEGED ACTS OR	*	
OMISSIONS OF RONALD HOBBY,	*	
T/A CAPITAL CONSTRUCTION &	*	**OAH No.: LABOR-HIC-02-20-00098**
ENGINEERING, LLC	*	**MHIC No.: 18 (90) 748**
RESPONDENT	*	

* * * * * * * * * * * * *

PROPOSED DECISION

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

STATEMENT OF THE CASE

On June 12, 2019, Lisa Alston (Claimant) filed a claim (Claim) with the Maryland Home Improvement Commission (MHIC) Guaranty Fund (Fund), under the jurisdiction of the Department of Labor (Department),[1] for reimbursement of $26,191.35 in actual losses allegedly suffered as a result of a home improvement contract with Ronald Hobby, trading as Capital Construction & Engineering, LLC (Respondent). Md. Code Ann., Bus. Reg. §§ 8-401 through

[1] On July 1, 2019, the Maryland Department of Labor, Licensing, and Regulation became the Department of Labor.

8-411 (2015).[2] On December 20, 2019, the MHIC forwarded the matter to the Office of Administrative Hearings (OAH) for a hearing.

I held a remote hearing on November 5, 2020 using the Webex videoconferencing platform. Bus. Reg. § 8-407(e); Code of Maryland Regulations (COMAR) 28.02.01.20B(1)(b). Andrew Brouwer, Assistant Attorney General, Department, represented the Fund. The Claimant represented herself. The Respondent represented himself.

The contested case provisions of the Administrative Procedure Act, the Department's hearing regulations, and the Rules of Procedure of the OAH govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2020); COMAR 09.01.03; and 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 the compensable loss?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits on the Claimant's behalf:

Clmt. Ex. 1 - Letter To Whom it May Concern from the Claimant, October 20, 2020

Clmt. Ex. 2 - Synopsis, undated

Clmt. Ex. 3 - Prince George's County Permit, August 1, 2017

Clmt. Ex. 4 - Invoice Rock & Roll Enterprises, LLC, January 26, 2019

Clmt. Ex. 5 - Letter from John D. Jackson To Whom It May Concern, undated

[2] Unless otherwise noted, all references hereinafter to the Business Regulation Article are to the 2015 Replacement Volume of the Maryland Annotated Code.

Clmt. Ex. 6 - Proposal Magnolia Companies, undated

Clmt. Ex. 7 - Proposal Minnick's, February 6, 2020

Clmt. Ex. 8 - Proposal F.H. Furr, January 24, 2020

Clmt. Ex. 9 - Prince George's County Permit, April 13, 2017

Clmt. Ex. 10 - Certified mail receipts, undated

Clmt. Ex. 11 - Accounting for Renovation Escrow Funds, Close date, January 12, 2017

Clmt. Ex. 12 - Contractor's Bid On Repairs, December 22, 2016

Clmt. Ex. 13 - Agreement, January 20, 2018

I admitted the following exhibits on the Respondent's behalf:

Resp. Ex. 1 - Owner and Contractor Agreement, January 4, 2017

Resp. Ex. 2 - Agreement, January 20, 2018

Resp. Ex. 3 - Permit History, undated

Resp. Ex. 4 - Letter Dear Sirs from Liberty Mutual Insurance, May 5, 2020

Resp. Ex. 5 - Email from Liberty Mutual Insurance to the Respondent, April 24, 2020

Resp. Ex. 6 - Spreadsheet, undated

I admitted the following exhibits on the Fund's behalf:

Fund Ex. 1 - Hearing Order, December 10, 2019

Fund Ex. 2 - Notice of Remote Hearing, October 13, 2020; Notice of Hearing, September 21, 2020; Notice of Hearing, July 7, 2020

Fund Ex. 3 - Letter from the MHIC to the Respondent, June 25, 2019; Home Improvement Claim Form, June 12, 2019

Fund Ex. 4 - Licensing History, October 22, 2020

Testimony

The Claimant testified and did not present other witnesses.

The Respondent testified and did not present other witnesses.

The Fund did not present any testimony.

PROPOSED FINDINGS OF FACT

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

1. At all times relevant to the subject of this hearing, the Respondent was a licensed home improvement contractor under MHIC license numbers 4810472 and 5136911.

2. The Claimant owns a 110-year-old house in Mt. Rainier, Maryland (the Property).

3. On January 4, 2017, the Claimant and the Respondent entered into a contract (Contract) for a complete gut and renovation of the interior of the Property, including fixing the bowing center of the house; installing a new kitchen; installing a new powder room on the first floor; renovating the upstairs bathroom; converting a bedroom to a laundry room; installing plumbing, electric, heating, venting and air conditioning (HVAC), new wood floors and carpet; moving a door to the basement; and replacing outside concrete stairs and walkway with permeable pavers.

4. The Contract was funded by an FHA 203K loan. The Claimant closed on her loan on January 10, 2017.

5. The original agreed-upon Contract price was $124,647.50, with a contingency reserve of $18,847.13, for a total potential investment of $143,494.63.

6. The Claimant moved out of the Property into an apartment on January 28, 2017.

7. The work under the Contract was scheduled to be completed within six months.

8. By June 2017, the Claimant was questioning how little work had been completed on the Property.

9. The consultant, who had been hired by the Claimant's lender to approve and disburse payments under the Contract, encouraged the Claimant to keep the Respondent on until

the drywall had been installed, being of the opinion it would cost more to have someone come in to take over.

10. The original Contract line item for HVAC was for $12,000.00 but did not indicate whether the Respondent was to furnish a one- or two-zone HVAC system. An architect who had been called in to the Property by the Respondent to address some issues told the parties the Property needed a two-zone system. The Respondent told the Claimant the $12,000.00 allotted would only cover a one-zone system.

11. In July 2017, the Respondent requested the price be changed to $21,000.00 to install a two-zone system. The Claimant agreed, writing a personal check for $4,000.00 and using $5,000.00 from the contingency fund to cover the $9.000.00 increase.

12. On August 11, 2017, the Respondent requested an additional $500.00 to line the chimney so it could be used as part of the HVAC system. The Claimant believed this should have been covered by the HVAC line item, but the consultant disagreed and the Claimant paid the $500.00.

13. In September 2017, the Claimant worked with her lender and removed the consultant from the job, whom she learned had been paying the Respondent for work he had not completed.

14. At all stages of construction, the Respondent experienced and caused significant delays on the project, poorly communicated with the Claimant, and produced unworkmanlike renovations on many subparts of the Contract that needed to be repaired and/or redone.

15. In November 2017, the Claimant became so frustrated with the poor construction and delays she attempted to remove the Respondent from the job. The Respondent insisted he wanted to finish the job. The Claimant relented and allowed him to continue.

16. After two weeks of no further progress on the job, the Claimant initiated arbitration.

[illegible]

17. The Claimant and Respondent went to arbitration in January 2018.

18. The arbitrator encouraged the Claimant and the Respondent to come to an agreement on their own.

19. The Claimant's lender insisted that there be a licensed and insured contractor in charge of the construction on the Property.

20. One of the subcontractors who had been performing work for the Respondent on the Contract was Mr. Icel Mootoo, who was not a licensed contractor.

21. On January 22, 2018, the parties entered into an agreement (the Agreement). The Agreement provided that: Mr. Mootoo would take over construction on the Property and work directly with the Claimant; Mr. Mootoo would assume all responsibility for warranty of past and future work completed at the Property; the Respondent would not provide any warranty of past work and could not be held responsible currently or in the future for any problems that may arise with the Property; Mr. Mootoo was to continue under the license (the Respondent's) and permits then in place; Mr. Mootoo would pay the Respondent 6% of all remaining funds to be paid under the loan to Mr. Mootoo; all checks paid under the loan would be signed by the Claimant and Respondent and then turned over to Mr. Mootoo; the Claimant would withdraw the complaint on file with the MHIC; and both parties would not pursue any further remedies for any work performed under the Contract. (Clmt. Ex. 13; Resp. Ex. 2).

22. Mr. Mootoo took over construction of the Property under the Contract after the Agreement was signed.

23. The Respondent received 6% of each remaining draw on the job.

24. The Contract included $8,500.00 to replace the concrete walkway and stairs with permeable pavers. It was specifically contemplated that the pavers would meet the requirements of the Chesapeake Bay Trust Fund program to help with storm drain runoff on private property.

The line item was based on an estimate the Claimant received from Best Landscaping for $7,880.00. Under the Chesapeake Bay Trust Fund program, the Claimant would have been eligible for a $4,000.00 refund.

25. The pavers had not been installed at the time Mr. Mootoo took over the Contract.

26. Mr. Mootoo decided to install the pavers himself instead of using Best Landscaping. The Claimant reiterated they had to be permeable pavers and meet the requirements of the Chesapeake Bay Trust Fund program.

27. After installation, the Chesapeake Bay Trust Fund inspected the pavers. The pavers installed by Mr. Mootoo were not permeable, were not installed properly, and the Claimant was not eligible for a refund under the Chesapeake Bay Trust Fund program.

28. The pavers can be replaced for $7,880.00.

29. The Respondent was still on the job when the ductwork for the HVAC system was installed, but Mr. Mootoo installed the system himself.

30. The Property originally had radiator heat. The Respondent had a friend of his obtain a permit on his behalf. As the radiator system was to be removed, and a new HVAC system installed, the permit should have been for a new HVAC installation. Instead, the Respondent instructed his friend to obtain a permit for a change-out.

31. The Claimant paid the Respondent over $19,000.00 for the HVAC system but later learned the Respondent had not purchased the units with that money.

32. The Claimant paid Mr. Mootoo additional funds to purchase the HVAC units.

33. By January 2019, the Claimant noticed there was no air coming out of the registers and the Property was excessively cold. The Property is not habitable in the winter without space heaters.

34. In summer, the Property is excessively hot.

35. Mr. Mootoo did not install the HVAC ductwork correctly. Moreover, the ductwork and the system were undersized and not effective. The ductwork in the attic went to a crawl space and blew air. There were no returns added on any of the floors of the house. The electrical wire used for the unit in the attic used the wrong size wire which was tripping the electrical panel and posed a major fire hazard. The ductwork in the basement is falling down. Because the system is the wrong size, it is very loud. The entire HVAC system and ductwork must be replaced.

36. The HVAC can be replaced for $20,354.00.

37. The Claimant moved back into the house in April 2018. The work was finally completed in July 2018, eighteen months after it started.

38. The Claimant has paid the Respondent and Mr. Mootoo the full Contract price and the full contingency amount.

39. The Contract contains an arbitration provision.

40. The Claimant sent the Respondent two certified letters demanding arbitration on February 4, 2019, to two different addresses, the address associated with the Respondent's license and the other on the Contract, but the Respondent did not accept the letters.

DISCUSSION

In this case, the Claimant has the burden of proving the validity of the Claim by a preponderance of the evidence. Bus. Reg. § 8-407(e)(1); Md. Code Ann., State Gov't § 10-217 (2014); COMAR 09.08.03.03A(3). To prove a claim by a preponderance of the evidence means to show that it is "more likely so than not so" when all the evidence is considered. *Coleman v. Anne Arundel Cty. Police Dep't*, 369 Md. 108, 125 n.16 (2002).

An owner may recover compensation from the Fund "for an actual loss that results from an act or omission by a licensed contractor . . . ." Bus. Reg. § 8-405(a); *see also* COMAR

09.08.03.03B(2) ("The Fund may only compensate claimants for actual losses . . . incurred as a result of misconduct by a licensed contractor."). "'[A]ctual 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 Claimant has proven eligibility for compensation.

The Respondent was a licensed home improvement contractor at the time he entered into the Contract with the Claimant. There are no statutory impediments to the Claimant collecting from the Fund.

The Respondent argued exclusively that the Agreement prevents the Claimant from recovering anything from the Fund, as the Agreement specifically absolves the Respondent of any liability under the Contract.[3] He acknowledged that if the pavers were not permeable, that was contrary to the specific provisions of the Contract. As to the HVAC system, the Respondent could not render an opinion on the workmanship as he did not install or inspect the system, having already left the job to Mr. Mootoo to complete.

The Claimant's lender insisted that a licensed and insured Contractor be in charge of construction under the Contract on the Property. The Respondent was aware of that fact, and that is why he continued to collect 6% of all future draws under the Contract. The Respondent suggests that he did nothing more to earn that 6% other than to sign the draw checks and endorse them over to Mr. Mootoo. Had it been that simple, the lender would have redirected the checks to Mr. Mootoo. The lender did not do that because it had insisted a licensed and insured contractor continue to be associated with the Contract. Collecting 6% of each draw was the Respondent's compensation for that association and involvement.

[3] The Respondent did not argue that this case should have been submitted to arbitration rather than to the OAH. In fact, he explicitly stated he was not raising that issue and wanted to be at this hearing to address these claims.

Contrary to the language of the Agreement, the provisions of the Business Regulation Article of the Maryland Code Annotated with respect to home improvement are not waivable. Bus. Reg. § 8-103 ("The provisions of this title may not be waived."). The Respondent argued he was unaware of that provision, or of any legalities in general. That argument is unavailable. Certain rights and obligations are not waivable, as is specifically provided by statute in this case. The Respondent continued to act as the licensed contractor on this job, and the Claimant continued to receive the benefits of a licensed contractor on this job, the Agreement notwithstanding.

Having found the work of Mr. Mootoo is in fact attributable to the Respondent, I find the Respondent performed unworkmanlike and inadequate home improvements. As to the pavers, the Claimant testified unequivocally, and the documentation supports that the Contract was for the Respondent to provide and install permeable pavers that would entitle the Claimant to a refund under the Chesapeake Bay Trust Fund. The pavers were inspected by the Chesapeake Bay Trust Fund which found that the pavers were both not permeable and not installed properly. That constitutes an unworkmanlike and an inadequate home improvement.

As to the HVAC system, the Claimant had three licensed and well-respected HVAC contractors inspect her system. All three opined the entire system and ductwork needed to be replaced. Moreover, John Jackson, the HVAC contractor who pulled the permit as a favor to the Respondent, provided a letter to the Claimant in which he opined that the installation of the HVAC system had not been done properly and was undersized. The duct work in the attic went to a crawl space and blew air. There were no returns added on any of the floors of the house and the electrical wire used for the unit in the attic used the wrong size wire which was tripping the electrical panel and posed a major fire hazard. The Claimant testified that despite a brand new HVAC system, the Property was uninhabitable in the winter without space heaters and is

excessively hot in the summer. It is clear the entire HVAC system and ductwork will need to be replaced.

I thus find that the Claimant is eligible for compensation from the Fund. Having found eligibility for compensation I must determine the amount of the Claimant's actual loss and the amount, if any, that the Claimant is entitled to recover. The Fund may not compensate a claimant for consequential or punitive damages, personal injury, attorney fees, court costs, or interest. Bus. Reg. § 8-405(e)(3); COMAR 09.08.03.03B(1). MHIC's regulations provide three formulas to measure a claimant's actual loss, depending on the status of the contract work.

In this case, the Respondent performed some work under the Contract, and the Claimant intends to retain other contractors to complete or remedy that work. Accordingly, the following formula appropriately measures the Claimant's actual loss:

> 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).

The original agreed-upon Contract price was $124,647.50 with a contingency reserve of $18,847.13 for a total potential investment of $143,494.63. The Claimant testified credibly and provided documentation to prove that she paid the full $143,494.63, plus an additional $4,000.00 to upgrade the HVAC to a two-zone system.

Thus, my calculation is as follows:

Amount paid to contractor under the original contract: $147,494.63

($143,494.63 + $4,000.00)

Plus amount required to repair work:		$28,234.00
($7,880 for pavers and $20.354 for HVAC)		
	=	$175,728.63
Minus original contract amount		$147,494.63
Amount Claimant is entitled to	=	**$28,234.00**

The Business Regulation Article caps a claimant's recovery at $20,000.00 for acts or omissions of one contractor and provides that a claimant may not recover more than the amount paid to the contractor against whom the claim is filed. Bus. Reg. § 8-405(e)(1), (5); COMAR 09.08.03.03B(4), D(2)(a). In this case, the Claimant's actual loss of $28,234.00 exceeds $20,000.00. Therefore, the Claimant's recovery is limited to $20,000.00. Bus. Reg. §§ 8-405(e)(1), (5); COMAR 09.08.03. 03B(4), D(2)(a).

PROPOSED CONCLUSIONS OF LAW

I conclude that the Claimant has sustained an actual and compensable loss of $28,234.00 as a result of the Respondent's acts or omissions. Md. Code Ann., Bus. Reg. §§ 8-401, 8-405 (2015); COMAR 09.08.03.03B(3)(c). I further conclude that the Claimant is entitled to recover $20,000.00 from the Fund. Md. Code Ann., Bus. Reg. §§ 8-405(e)(1), (5) (2015); COMAR 09.08.03. 03B(4), D(2)(a).

RECOMMENDED ORDER

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

ORDER that the Maryland Home Improvement Guaranty Fund award the Claimant $20,000.00; 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;[4] and

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

February 2, 2021
Date Decision Issued

Deborah S. Richardson
Administrative Law Judge

DSR/dlm
#190192

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

PROPOSED ORDER

WHEREFORE, this 31st day of March, 2021, 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.

Joseph Tunney

Joseph Tunney
Chairman
Panel B
MARYLAND HOME IMPROVEMENT COMMISSION

IN THE MATTER OF THE CLAIM OF	*	**MARYLAND HOME**
LISA ALSTON	*	**IMPROVEMENT COMMISSION**
AGAINST THE MARYLAND HOME	*	
IMPROVEMENT GUARANTY FUND	*	**MHIC CASE NO. 18(90)748**
FOR THE ACTS OR OMISSIONS OF	*	**OAH CASE NO. LABOR-HIC-**
RONALD HOBBY T/A CAPITOL	*	**02-20-00098**
CONSTRUCTION & ENGINEERING	*	

* * * * * * * *

FINAL ORDER

This matter was originally heard before an Administrative Law Judge ("ALJ") of the Office of Administrative Hearings ("OAH") on November 5, 2020. Following the evidentiary hearing, the ALJ issued a Proposed Decision on February 2, 2021, concluding that the homeowner, Lisa Alston ("Claimant") suffered an actual loss as a result of the acts or omissions of Ronald Hobby t/a Capitol Construction & Engineering ("Contractor"). (Proposed Decision p. 12.) In a Proposed Order dated March 31, 2021, the Maryland Home Improvement Commission ("MHIC" or "Commission") affirmed the Proposed Decision of the ALJ to grant the Claimant an award of $20,000.00 from the Home Improvement Guaranty Fund. The Contractor subsequently filed exceptions to the MHIC Proposed Order.

On June 17, 2021, a three-member panel ("Panel") of the MHIC held a remote hearing on the exceptions filed in this matter. The Claimant participated without counsel. Jeffrey Lichtstein, Esq., represented the Contractor. Assistant Attorney General Hope Sachs appeared at the exceptions hearing on behalf of the Guaranty Fund. The Commission entered the following preliminary exhibits as part of the record of the exceptions hearing without objection: 1) hearing notice; 2) transmittal letter, ALJ Proposed Decision, and MHIC Proposed Order; and 3) Contractor's exceptions. Neither the Claimant nor the Contractor produced a copy of the transcript of the hearing before the ALJ. Therefore, the Panel's review of the record was limited to the preliminary exhibits for the exceptions hearing, the OAH Proposed Decision, and the exhibits

admitted as evidence at the OAH hearing. COMAR 09.01.03.09(G) - (I).

The home improvement contract giving rise to the claim in this proceeding was for a comprehensive renovation of the Claimant's home. (OAH Hearing Respondent's Exhibit 1.) As the Contractor proceeded with the project, the Claimant was dissatisfied with the pace and quality of the Contractor's work and invoked arbitration, which was conducted in January 2018. (Proposed Decision pp. 16-17.) During arbitration, the parties entered a settlement agreement under which an unlicensed subcontractor of the Contractor, Mr. Mootoo, would take over responsibility for further work under the contract, perform the work under the permits obtained by the Contractor, pay the Contractor six percent of the draw payments he received under the contract, and be solely responsible for warranty of past and future work under the contract, with the Contractor being absolved of any responsibility under the contract. (OAH Hearing Respondent's Exhibit 2.)

The Claimant was unsatisfied with Mr. Mootoo's work with respect to the installation of an HVAC system and a pervious paver walkway and filed a claim with the Commission on June 17, 2019. At the hearing before the ALJ, the Contractor's sole argument was that the settlement agreement precluded the Claimant from recovering an award from the Guaranty Fund. (Proposed Decision p. 9.) The ALJ rejected the Claimant's argument, holding that *Md. Code Ann.,* Bus. Reg. § 8-103 prohibits the waiver of rights under the home improvement law and that the Contractor remained responsible for the contract as the only licensed home improvement contractor on the project. (Proposed Decision p. 10.) At the hearing, the Contractor stated that he did not wish to assert that the dispute should be submitted to arbitration and that he wanted to address the Claimant's claims via the hearing. (Proposed Decision p. 9, n.3.) Prior to the hearing before the ALJ, the Claimant sent two letters via certified mail to two addresses provided by the Contractor,

but the Contractor refused to accept the letters. (Proposed Decision p. 8.)

On exception, the Contractor argued that the ALJ erred in making an award from the Guaranty Fund because the Claimant did comply with a provision of the contract between the parties requiring that they submit their dispute to arbitration by filing a written demand for arbitration with the other party and the American Arbitration Association and, therefore, failed to comply with *Md. Code Ann.,* Bus. Reg. § 8-405(c), which provides that "[a] claimant shall comply with a written agreement to submit a dispute to arbitration before seeking recovery from the Fund."

The Commission finds no error with the ALJ's Proposed Decision. The Commission finds that the Contractor waived his right to arbitrate the dispute both expressly, when he advised the ALJ that he was not raising the arbitration clause and that he wanted to address the claims at the hearing, and through his conduct, including by refusing to accept the Claimant's written demand to arbitrate the dispute and voluntarily litigating the dispute before the ALJ[1]. *See The Redemptorists v. Coulthard Services, Inc.*, 145 Md. App. 116, 136-41 (2002). Because the Contractor waived his right to arbitrate the dispute under the contract, the Commission holds that *Md. Code Ann.,* Bus. Reg. § 8-405(c) does not preclude the Claimant from obtaining an award from the Guaranty Fund.

Having considered the parties' arguments, the evidence contained in the record, and the ALJ's Recommended Decision, it is this 30th day of June 2021, **ORDERED:**

A. That the Findings of Fact of the Administrative Law Judge are **AFFIRMED;**

B. That the Conclusions of Law of the Administrative Law Judge are **AFFIRMED;**

[1] On exception, the Contractor argues that the Claimant's written demand for arbitration did not satisfy the requirement of *Md. Code Ann.,* Bus. Reg. § 8-405(c) that a claimant comply with a written agreement to submit a dispute to arbitration because the contract called for the submission of the claim in writing to the American Arbitration Association and the opposing party. Because the Commission finds that the Contractor waived his right to enforce the arbitration clause, we do not have to decide that issue. However, the Contractor's refusal of the written demands to arbitrate is indicative of his intent to waive arbitration.

C. That the Proposed Decision and Recommended Order of the Administrative Law Judge is **AFFIRMED;**

D. That the Claimant is awarded $20,000.00 from the Maryland Home Improvement Guaranty Fund;

E. That the Contractor shall remain ineligible for a Maryland Home Improvement Commission license until the Contractor reimburses the Guaranty Fund for all monies disbursed under this Order plus annual interest of at least ten percent (10%) as set by the Commission, *Md Code Ann.*, Bus. Reg. §§ 8-410(a)(1)(iii), 8-411(a);

F. That the records and publications of the Maryland Home Improvement Commission shall reflect this decision; and

G. Any party has thirty (30) days from the date of this Final Order to appeal this decision to Circuit Court.

Bruce Quackenbush

Maryland Home Improvement Commission