

**IN THE MATTER OF THE CLAIM
OF ESTHER AND HOWARD EPSTEIN**

**MARYLAND HOME IMPROVEMENT
COMMISSION**

**AGAINST THE MARYLAND HOME
IMPROVEMENT GUARANTY FUND
FOR THE ACTS OR OMISSIONS
OF MARK A. LUGENBEEL, SR. t/a
TCM HOME IMPROVEMENT, LLC**

**MHIC CASE NO. 16(90)682
OAH CASE NO. DLR-HIC-02-17-07782**

* * * * *

FINAL ORDER

This matter was originally heard before an Administrative Law Judge (“ALJ”) of the Office of Administrative Hearings (“OAH”) on May 30, 2017. Following the evidentiary hearing, the ALJ issued a Recommended Decision on August 8, 2017, concluding that the homeowners Esther and Howard Epstein (“Claimants”) failed to prove that they sustained an actual loss as a result of the acts or omission of Mark A. Lugenbeel, Sr. t/a TCM Home Improvement, LLC (“Contractor”). *ALJ Recommended Decision* p. 12. In a Proposed Order dated September 12, 2017, the Maryland Home Improvement Commission (“MHIC”) affirmed the Recommended Decision of the ALJ to deny an award from the MHIC Guaranty Fund. The Claimants subsequently filed exceptions of the MHIC Proposed Order.

On February 1, 2018, a hearing on the exceptions filed in the above-captioned matter was held before a three- member panel (“Panel”) of the MHIC. The Claimants and the Contractor were present without counsel. Hope Sachs, Assistant Attorney General, appeared at the exceptions hearing to present evidence on behalf of the MHIC.

At the exceptions hearing the Claimants sought to admit additional evidence that was not presented at the hearing before the ALJ. The test that must be met in order to admit additional evidence at an exceptions hearing is found at Code of Maryland Regulations (“COMAR”) 09.01.03.09K, under which a party must prove that the additional evidence: (1) Is relevant and

material; (2) Was not discovered before the ALJ hearing; and (3) Could not have been discovered before the ALJ hearing with the exercise of due diligence. The Claimants were given the opportunity to present oral argument regarding their request for the admission of additional evidence. The Claimants sought to admit their original complaint form with attached narrative, photographs with written descriptions, as well as a number of emails and text messages. The Claimants argued that the ALJ erred by preventing them from reading documents in to the record, such as the narrative attached to their original complaint, and therefore the Panel should now allow them to enter such documents into evidence. The transcript of the OAH hearing at page 19 shows that the Claimants attempted to read their prepared narrative into the record instead of testifying. The ALJ reasonably instructed the Claimants that they were allowed to testify as to what occurred in their case but that they were not allowed to simply read a prepared statement. *OAH Hearing Transcript* p. 19-20. The Claimant's also offered into evidence photographs with post-it notes on them containing written descriptions, and the ALJ required that the post-it notes be removed prior to entering the photographs into evidence, but allowed them to testify as to what was in the photographs. *OAH Hearing Transcript* p. 63. The ALJ was tasked with observing the demeanor of the witnesses as they testify, judge their credibility, and ultimately make findings of fact based on this testimony. To allow a witness to simply read a prepared statement into the record instead of testifying as to their recollection circumvents the ALJ's assessment of the demeanor and credibility of a witness. More importantly, despite the Claimants' assertion in their written exceptions, the transcript of the OAH hearing reveals that the Claimants never offered the complaint form and attached narrative into evidence at the hearing, and also complied with the ALJ's direction to remove the post-it notes without objection. *OAH Hearing Transcript* p. 19-20, 63. Moreover, the documents and photographs that the

Claimants sought to admit at the exceptions hearing were in their possession at the time of the OAH hearing, or otherwise could have been discovered prior to the OAH hearing. Therefore the Panel found on the record at the exceptions hearing that the Claimants have not met the test under COMAR 09.01.03.09K and would not admit the documents and photographs into evidence. After denying the Claimant's request to present additional evidence, the Panel allowed the Claimant to present further argument as to why the ALJ's decision should be overturned.

Through their written exceptions and during oral argument before the Panel, the Claimants challenged the findings of fact made by the ALJ. The Claimants, however, failed to cite to any specific parts of the transcript or exhibits admitted into evidence at the OAH hearing to support their basis for why the ALJ erred in making a specific finding of fact. Moreover, many of the findings of fact challenged by the Claimants in their exceptions are irrelevant to the ultimate issue in this case, which is whether the Contractor or the Claimants were responsible for the cessation of work on this project.

The ALJ correctly states in her decision that the Claimants have the burden of proving the validity of their claim by a preponderance of the evidence. *ALJ Recommended Decision* p. 9. In order to recover from the Fund the Claimants had to prove at the OAH hearing that they suffered an "actual loss that results from the act or omission by a licensed contractor." Maryland Annotated Code, Business Regulation Article ("BR"), § 8-405(a). The term "actual loss" is defined in the statute as "the costs of restoration, repair, replacement, or completion that arise from an unworkmanlike, inadequate, or incomplete home improvement." BR § 8-401. It is undisputed that the Contractor did not complete the project prior to being locked out by the Claimants. Therefore, the ALJ correctly found that this case turns on "whether the [Contractor's] failure to complete the project was due to his conduct or that of the Claimants."

ALJ Recommended Decision p. 9. The ALJ in this case expressly found the Contractor's version of events to be more credible. *ALJ Recommended Decision* p. 10. The ALJ found that the Claimants' "indecisiveness directly impeded the [Contractor's] ability to perform under the contract." *ALJ Recommended Decision* p. 10. The ALJ based this finding on the testimony of the Contractor that she found to be credible, as well as the corroborating testimony of the subcontractor Charles Webb. *ALJ Recommended Decision* p. 10; *OAH Hearing Transcript* p. 95, 111, 114, 156-160. The ALJ further found that the Claimants did not adequately communicate to the Contractor any issues they had with the work prior to sending the Contractor a letter on October 8, 2015. *ALJ Recommended Decision* p. 10. The ALJ based this finding on Mr. Epstein's testimony on cross examination where he acknowledged that the October 8, 2015 letter was the first time they communicated their concerns to the Contractor. *ALJ Recommended Decision* p. 11; *OAH Hearing Transcript* p. 71. The ALJ also found that the Claimants did not give the Contractor an adequate opportunity to rectify the issues and complete the project, when they declined the Contractor's offer to meet and resolve their differences, and responded that they would only accept a refund of their \$20,000 payment to the Contractor for Phase II of the project. *ALJ Recommended Decision* p. 11; *OAH Hearing Transcript* p. 74. This finding is also supported by the Claimants' testimony on cross examination. *OAH Hearing Transcript* p. 74. Based on these findings of facts, that are supported by evidence in the record, the ALJ reasonably concluded that "I find it is more likely than not the project was not completed because the Claimants did not allow the Respondent to complete it." *ALJ Recommended Decision* p. 11.

In addition to incomplete work, actual loss can also arise from unworkmanlike and inadequate work. BR § 8-401. Having found that the Contractor's failure to complete the job

was due to the conduct of the Claimants, the ALJ correctly then assessed whether the Claimants had met their burden of proving that the work that was done by the Contractor was unworkmanlike or inadequate. *ALJ Recommended Decision* p. 11. Other than presenting photographs of an ongoing worksite that was halted before completion, the ALJ noted that the Claimants did not produce any witnesses who could testify as to whether the work that was done by the Contractor was inadequate or unworkmanlike. *ALJ Recommended Decision* p. 11-12. Although the Claimants now offer on exceptions to produce such witnesses, they held the burden to prove their case at the evidentiary hearing before the ALJ. The ALJ's decision is thorough, supported by the evidence in the record and correct as a matter of law. Having heard the arguments presented by the parties, the Panel does not find that the ALJ erred in her decision and will not overturn it on exceptions.

Having considered the parties' arguments, the documentary evidence contained in the record, and the ALJ's Recommended Decision, it is this 2nd day of May 2018 **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**; AND
- C. That the Recommended Decision and Order of the Administrative Law Judge is **AFFIRMED**;
- D. Any party has thirty (30) days from the date of this Final Order to appeal this decision to Circuit Court.

Joseph Tunney
Chairperson –Panel
Maryland Home Improvement
Commission

| | |
|----------------------------|--------------------------------|
| CLAIM OF | * BEFORE LATONYA B. DARGAN |
| ESTHER AND HOWARD EPSTEIN | * AN ADMINISTRATIVE LAW JUDGE |
| AGAINST THE | * OF THE MARYLAND OFFICE |
| MARYLAND HOME IMPROVEMENT | * OF ADMINISTRATIVE HEARINGS |
| COMMISSION GUARANTY FUND | * |
| FOR THE ACTS OR OMISSIONS | * OAH No.: DLR-HIC-02-17-07782 |
| OF MARK A. LUGENBEEL, SR., | * MHIC No.: 16 (90) 682 |
| RESPONDENT, | * |
| t/a | * |
| TCM HOME IMPROVEMENT, LLC | * |

* * * * *

PROPOSED DECISION

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

STATEMENT OF THE CASE

On or around November 9, 2015, Harold and Esther Epstein (Claimants) filed a complaint and claim with the Maryland Home Improvement Commission (MHIC) Guaranty Fund (Fund) seeking an award from the Fund for actual monetary losses allegedly suffered as the result of inadequate, incomplete, or unworkmanlike home improvement performed by Mark A. Lugenbeel, Sr. (Respondent), t/a TCM Home Improvement, LLC. On March 16, 2017, MHIC ordered the

Claimants should have a hearing to establish their eligibility for an award from the Fund, and it forwarded the matter to the Office of Administrative Hearings (OAH) on March 16, 2017.

On May 30, 2017, I conducted a hearing at OAH headquarters in Hunt Valley, Maryland. Md. Code Ann., Bus. Reg. §§ 8-312(a), 8-407(e) (2015). The Claimants represented themselves. The Respondent represented himself. Hope Sachs, Assistant Attorney General, Department of Labor, Licensing & Regulation (DLLR), represented the Fund.

The contested case provisions of the Administrative Procedure Act, the procedures for hearings before the Secretary of DLLR, and the OAH Rules of Procedure govern this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2016); Code of Maryland Regulations (COMAR) 09.01.03 and 28.02.01.

ISSUES

1. Did the Claimants sustain an actual monetary loss as a result of the Respondent's acts or omissions, and, if so;
2. What is the amount of award to the Claimants from the Fund?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits for the Claimants:¹

CL Ex 1: Contract, June 24, 2015, with the addendum

CL Ex. 2: Invoice from Greenspring Carpet Source, October 13, 2015

CL Ex. 3: Photographs of subfloor, undated

CL Ex. 4: The Claimants' letter to the Respondent, October 8, 2015

CL Ex. 6: The Respondent's letter to the Claimants, October 29, 2015

¹ Claimant Exhibit No. 5 was offered, but an objection to its admission was made which I sustained. I retained the exhibit to preserve the record, but I did not consider it in rendering this Proposed Decision. Claimant Exhibit No. 11 was not offered.

- CL Ex. 7: The Claimants' email to the Respondent, October 29, 2015
- CL Ex. 8: David R. Finneran's email to Mr. Epstein, October 30, 2015
- CL Ex. 9: Steve Dallis' email to Mrs. Epstein, November 3, 2015
- CL Ex. 10: Photographs, taken between October 30, 2015 and November 3, 2015
- CL Ex. 12: Correspondence between the Claimants and the Better Business Bureau
- CL Ex. 13: Invoices from contractors hired to complete the work under the contract
- CL Ex. 14: Emails between Mr. Epstein and Steadley Hunter, January 28, 2016
- CL Ex. 15: Photographs of master bathroom, undated
- CL Ex. 16: Photographs, taken on October 9, 2015

I admitted the following exhibits for the Respondent:

- RESP. Ex. 1: Contract, June 24, 2015, without the addendum
- RESP. Ex. 2: Respondent's reply to complaint made before the Better Business Bureau, January 16, 2016

I admitted the following exhibits for the Fund:

- FUND Ex. 1: Notice of Hearing, issued on March 16, 2017
- FUND Ex. 2: Respondent's MHIC Licensing Information
- FUND Ex. 3: MHIC's letter to the Respondent, with attachments, January 26, 2017
- FUND Ex. 4: Cancelled checks

Testimony

Howard Epstein testified on behalf of the Claimants. The Respondent testified and presented Charles Webb and Charles Debolt as witnesses.² The Fund did not present any witnesses.

² Mr. Webb and Mr. Debolt are two of the subcontractors who worked on the project.

FINDINGS OF FACT

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

1. At all relevant times, the Respondent was licensed by MHIC as a home improvement contractor.
2. In April 2015, the Claimants hired the Respondent to perform an inspection at 7 Sherborne Court, Reisterstown, Maryland (Property), which the Claimants planned to purchase for use as their primary residence. In addition to performing the inspection, the Respondent prepared an estimate of the cost for various renovations the Claimants wanted performed before moving into the Property. As a result of their satisfaction with his inspection and estimate, the Claimants decided to hire the Respondent to perform the renovations at the Property.
3. On or around June 24, 2015, the Claimants entered into a contract with the

Respondent for him to perform the following work on the interior of the Property:

- Demolish the existing master bathroom
- Remove existing first floor carpeting and tile
- Remove existing kitchen cabinets
- Widen existing door entrance between the living room and kitchen area
- Construct mudroom off of the kitchen area and install a new washing machine, dryer, stainless steel sink, and three pantry closets in the new mudroom
- Remodel master bathroom and install new walk-in shower, bathtub, vanity, heated floor, shower transom, and heat light
- Install new tiles on floor and walls of master bathroom
- Change existing hardware and hinges throughout the home to brushed nickel fittings
- Remove existing window screens
- Install skylight over living room door
- Install kitchen appliances
- Install LED lights on the steps leading to the living room
- Remove existing sconces from dining room

4. Under the original contract, the Respondent was to perform the following on the exterior of the Property:
- Paint steel beams below decking
 - Tighten handrails
 - Install two new frost-free hose bibs
 - Clean the garage walls and paint them white
 - Fix windows in the kitchen, master bedroom, and bathroom so they can be closed from the outside
 - Repair leak at gutter line near the front door
 - Fix the crack in the cover to the sump pump ejector or replace the cover if the crack cannot be fixed
 - Wash upper level and back windows
 - Repair flashing by the back door to prevent further leaks
5. In connection with the renovation/repair project, the Claimants also hired interior designer Michelle Miller, of Michelle Miller Interiors (MMI), to develop the look for the renovations.
6. When Ms. Miller got involved with the project, she made recommendations to the Claimants which resulted in a change order to the contract. The following additional items were to be completed by the Respondent under the contract revisions:
- Install a bench 20" deep x 128" long x 4" high in the family room, with material to be decided by MMI
 - Renovate the kitchen based on design plans prepared by MMI; renovation included the demolition of existing countertops and existing stone floor, and the removal and replacement of existing appliances, existing swing door which led to the dining room, existing plumbing fixtures and existing recessed lighting
 - Install new kitchen cabinetry, selected by MMI
 - Install new barn-style door for a new opening from master bedroom to walk-in closet, details to be provided by MMI
 - Install new pocket door from closet into water closet, door selection made by MMI
 - Install new lighting, fixtures to be provided by MMI
 - Install new decorative and recessed lighting in the kitchen, fixtures to be provided by MMI
 - Install new vanity mirrors in master bathroom, to be provided by MMI
 - Install new hardwood floors, materials to be provided by the Claimants

7. Under the contract, the Claimants were responsible, through either MMI or other sources, for providing the materials to be used in the project while the Respondent was responsible for the necessary labor.
8. The total contract price was \$35,000.00, which was to be paid in installments at each phase of the project, as follows: 1) \$8,000.00 deposit for Phase I (demolition); 2) \$22,000.00 payment upon completion of demolition and before commencement of Phase II (renovations of master bedroom, family room, kitchen, and mudroom); and 3) \$5000.00 payment upon completion of the final phase (renovations of master bathroom and installation of fixtures, appliances, and lighting).
9. The Respondent requested payment of the \$30,000.00 prior to actual construction and installation because the Claimants wanted to move in to the Property no later than ninety days after final purchase.
10. The Respondent advised the Claimants the project would take approximately two-and-a-half months to complete.
11. The Claimants paid the Respondent \$8,000.00 prior to Phase I of the project, which called for the demolition of the existing bathroom and kitchen. Prior to the commencement of Phase II of the project, the Claimants paid the Respondent an additional \$22,000.00, as specified in the contract.
12. The Respondent started the demolition phase sometime in late June 2015. The Respondent completed the demolition phase of the project without incident.
13. MMI drew up at least two design plans for the kitchen remodel. The Claimants were indecisive for an extended period about which plan they wished to use. Additionally, the Claimants and MMI were indecisive at times about which materials and products

they wanted used in the areas of the Property undergoing complete renovation. As a result of the Claimants' indecisiveness, the Respondent and his subcontractors were delayed in completing work in Phase II of the project.

14. Between June 24, 2015 – the date on which the original contract was signed – and approximately October 8, 2015, the Claimants did not communicate to the Respondent any dissatisfaction they had with his work on the project.
15. On or around October 8, 2015, the Claimants sent the Respondent a letter in which they detailed their concerns about the progress on the project and the number of items under the contract and the change order which were still not completed. The Claimants sought a timetable from the Respondent for when the items would be completed.
16. On or around October 29, 2015, the Respondent sent the Claimants a response to their letter of October 8, 2015. In the response, the Respondent identified the items under the original contract which still needed to be completed. The Respondent further identified several items that were additional changes requested by the Claimants, but not included in the addendum related to MMI's involvement, and provided an estimate for the cost of those changes. The Respondent further advised the Claimants of the materials they were responsible for providing, but had not yet provided. The Respondent indicated that once the balance for any change orders was paid, work at the Property would "restart" on November 2, 2015. (*See* Cl. Ex. 6.)
17. On October 29, 2015, the Claimants responded to the Respondent's email with a list of items the Claimants considered to be incomplete.

18. At some point between October 29, 2015 and October 31, 2015, the Claimants researched the Respondent's company on the Better Business Bureau's (BBB) website. The Claimants discovered at least one complaint about the Respondent from a former client. As a result of the BBB complaint, the Claimants changed the locks at the Property on or around October 31, 2015.

19. As of October 31, 2015, the Respondent had not completed the following items from the original contract and the MMI addendum:

- install fireplace shelf
- insulation of two frost-free hose bibs on upper/lower decks + garage
- building outside electrical box
- install hardwood floors
- install paint grade shoe molding
- install barnyard-style door to the opening of the mudroom and opening of the master bedroom
- install new lights in master bathroom
- install shower tile in master bathroom
- install new vanity and vanity mirrors in master bathroom
- kitchen renovation, with the exception of the cabinet installation
- mudroom construction
- optional items listed in the contract addendum

20. The Claimants subsequently hired the following MHIC-licensed contractors³ to complete the project: Atkisson Plumbing and Heating Company; Renaissance Contractors, LLC; and Silver Hill Contracting, Inc.

21. The Claimants seek an award from the Fund in the amount of \$20,000.00, which represents the payment to the Respondent for Phase II of the project.

³ The Claimants also hired Dallas Electrical Services, but no evidence was presented to demonstrate that company is licensed by the MHIC.

DISCUSSION

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);⁴ *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.

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).⁵ “[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)). For the reasons articulated below, I find the Claimants have not proven eligibility for compensation.

There is no dispute the Respondent was a home improvement contractor licensed by the MHIC at the time he entered into the contract with the Claimants. There is also no dispute the Respondent did not complete the project prior to being locked out of the Property by the Claimants on or around October 31, 2015. The dispute lies in the question of whether the Respondent’s failure to complete the project is due to his conduct or that of the Claimants. The Fund argued, when declining to make a recommendation for an award to the Claimants, the case turns on the question of which party I find to be more credible about the circumstances of the

⁴ Unless otherwise noted, all references to the Business Regulation Article hereinafter cite the 2015 Replacement Volume.

⁵ As noted above, “COMAR” refers to the Code of Maryland Regulations.

project's termination. I agree. I find the Respondent more credible on the issue of the problems with the project, for the following reasons.

Initially, I note the Claimants acknowledged, in their October 8, 2015 letter to the Respondent, there were "delays" in selecting changes to the final kitchen plans and selections for the plumbing fixtures and features. (CL. Ex. 4.) The responsibility for selecting which kitchen design to use, and for selecting and providing the materials for not only the plumbing portions of the project, but for all the portions of the project, ultimately rested with the Claimants. If the Claimants delayed in choosing a design, or choosing the materials to be used for a particular renovation, the Respondent could not perform the corresponding work until such time as the Claimants reached a decision. The Respondent consistently maintained, in his January 16, 2016 response to the BBB and in his testimony before me, the Claimants were frequently indecisive about what materials to use or how they wanted items installed. For example, although the project began in late June 2015, the Claimants did not settle on which of the two kitchen designs they wanted until sometime in September 2015, which necessarily delayed any renovation work once the existing kitchen components were demolished during Phase I. The Respondent was corroborated on the issue of the Claimants' indecisiveness by Charles Webb, one of the individuals who actually performed work at the Property. According to Mr. Webb, he spoke with one or both of the Claimants almost every day he worked, and the Claimants frequently had changes they wanted to make to particular details of the project. I find it is more likely than not that the Claimants were indecisive about exactly what they wanted throughout the project, and this indecisiveness directly impeded the Respondents' ability to perform under the contract.

I further find the Claimants did not adequately communicate to the Respondent any issues they had with his work *prior* to October 8, 2015 and, after doing so in that letter, they did

not give the Respondent an adequate opportunity to rectify the issues and complete the project. On cross-examination, Mr. Epstein acknowledged the October 8, 2015 letter was the first time the Claimants communicated any concerns to the Respondent. Mr. Epstein further admitted the Respondent wrote to the Claimants and asked for a meeting to discuss the issues in the October 8, 2015 letter and to work out how to move forward, but the Claimants were only willing to accept a refund of the \$20,000.00 payment they made to him to begin Phase II. I find it troubling that the Claimants were not willing to work with the Respondent despite his indication of a willingness to work with them to move forward with the project. I am mindful the Claimants had concerns, but the Respondent *offered to address those concerns in person* and the Claimants, by their own admission, declined to allow him to do so. The Claimants reached out to the Respondent once, approximately three-and-a-half months into the project, to express concerns, but then (1) declined to meet with him, and (2) locked him out of the Property. I find it is more likely than not the project was not completed because the Claimants did not allow the Respondent to complete it.

Finally, and for the sake of comprehensive analysis, I note the Claimants did not produce sufficient evidence to demonstrate that with respect to the work the Respondent *was* able to complete before being locked out of the Property, the work was somehow inadequate or unworkmanlike. I agree with the Respondent that the photographs offered by the Claimants are not reliable as to the adequacy of the Respondent's work because the project was not completed. A major, in-progress home renovation such as the one envisioned under the June 24, 2015 contract is, by necessity, a messy affair while work is *on-going*. It is not possible for me, as a layperson with no specialized knowledge of home improvement renovations, to look at the pictures and reliably determine the work depicted is inadequate when the work is literally *in*

media res. Additionally, the Claimants did not produce any witnesses (1) with expertise in home improvement, construction, and/or remodeling and (2) capable of offering an expert opinion as to the adequacy or lack thereof of the work the Respondent did complete. Accordingly, I cannot find the work the Respondent did complete to be inadequate.

As the Claimants have failed to demonstrate they sustained an actual loss because of the Respondent's acts or omissions related to an inadequate, incomplete, or unworkmanlike home improvement, they are not entitled to an award from the Fund.

PROPOSED CONCLUSION OF LAW

I conclude that the Claimants have not sustained an actual and compensable loss of \$20,000.00 as a result of the Respondent's acts and omissions. Md. Code Ann., Bus. Reg. §§ 8-401, 8-405 (2015).

RECOMMENDED ORDER

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

ORDER that the Maryland Home Improvement Guaranty Fund **DENY** the Claimants' claim; and,

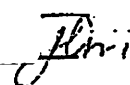
ORDER that the records and publications of the Maryland Home Improvement Commission reflect this decision.

Signature on File

August 8, 2017
Date Decision Issued

LBD/cmg
#169126

Latonya B. Dargan
Administrative Law Judge



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