

<p>IN THE MATTER OF THE CLAIM</p> <p>OF MARCIA STEVENS,</p> <p>CLAIMANT</p> <p>AGAINST THE MARYLAND HOME</p> <p>IMPROVEMENT GUARANTY FUND</p> <p>FOR THE ALLEGED ACTS OR</p> <p>OMISSIONS OF WILLIAM</p> <p>VELAZCO, T/A W&G GENERAL</p> <p>CONTRACTORS, LLC</p> <p>RESPONDENT</p>	<p>* BEFORE TRACEE N. HACKETT,</p> <p>* AN ADMINISTRATIVE LAW JUDGE</p> <p>* OF THE MARYLAND OFFICE</p> <p>* OF ADMINISTRATIVE HEARINGS</p> <p>*</p> <p>*</p> <p>*</p> <p>* OAH No.: LABOR-HIC-02-22-06099</p> <p>* MHIC No.: 21 (75) 326</p> <p>*</p>
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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 October 1, 2021,¹ Marcia Stevens (Claimant) filed a claim (Claim) with the Maryland Home Improvement Commission (MHIC) Guaranty Fund (Fund); under the jurisdiction of the Department of Labor (Department), for reimbursement of \$15,000.00² for actual losses allegedly suffered as a result of a home improvement contract with William Velazco, trading as W&G

¹ The Complaint Form was signed on September 24, 2021; however, according to the complaint received by date (Fund Ex. 3) and the MHIC's Hearing Order (Fund Ex. 1), the Claim was not received by the MHIC until October 1, 2021.

² The Claimant indicated on her Claim that the amount "may change once received final estimates" (Fund Ex. 3) and during the hearing, she submitted three estimates totaling \$30,833.11 (Clmt. Ex. 9, 11, 12).

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that this is crucial for the company's financial health and for providing reliable information to stakeholders.

2. The second part of the document outlines the specific procedures for recording transactions. It details the steps from identifying a transaction to entering it into the accounting system, ensuring that all necessary details are captured.

3. The third part of the document addresses the issue of reconciling accounts. It explains how to compare the company's records with bank statements and other external sources to identify and resolve any discrepancies.

4. The fourth part of the document discusses the importance of regular audits. It highlights that audits are essential for verifying the accuracy of the financial records and for detecting any potential errors or fraud.

5. The fifth part of the document provides a summary of the key points discussed. It reiterates the importance of accurate record-keeping and the need for regular audits to ensure the integrity of the financial data.

6. The sixth part of the document concludes with a statement of the author's hope that the information provided will be helpful to the reader in understanding and implementing proper accounting practices.

7. The seventh part of the document includes a list of references used in the document. These references provide additional resources for the reader to explore the topics discussed in more detail.

8. The eighth part of the document contains a list of appendices. These appendices provide supplementary information that supports the main text of the document.

9. The ninth part of the document includes a list of footnotes. These footnotes provide additional details and clarifications for specific points mentioned in the text.

10. The tenth part of the document contains a list of glossary terms. These terms define key concepts and terminology used throughout the document to ensure clarity and consistency.

General Construction, LLC (Respondent). Md. Code Ann., Bus. Reg. §§ 8-401 to -411 (2015).³

On March 2, 2022, the MHIC issued a Hearing Order on the Claim. On March 17, 2022, the MHIC forwarded the matter to the Office of Administrative Hearings (OAH) for a hearing.

On May 12, 2022, I held a hearing at the OAH in Hunt Valley, Maryland. Bus. Reg. §§ 8-407(a), 8-312. Hope Sachs, 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. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021); Code of Maryland Regulations (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 offered by the Claimant:⁴

Clmt. Ex. 1 - Letter from Claimant to MHIC, dated September 24, 2021

Clmt. Ex. 2 - Email from Claimant to Respondent, dated December 27, 2019

Clmt. Ex. 3 - Email from Claimant to Respondent, dated May 16, 2020

³ Unless otherwise noted, all references hereinafter to the Business Regulation Article are to the 2015 Replacement Volume of the Maryland Annotated Code.

⁴ The Claimant provided several documents that were not pre-marked, not offered, and not admitted, including a duplicate copy of the Claim Form already contained in the record as Fund Ex. 3; an email about appointment with Michael & Sons; an email about invoice from Michael & Sons; an email from the Claimant to Respondent dated February 17, 2021; a text message exchange between the Claimant and the Respondent with various dates; and a duplicate of Clmt. Ex. 1. These documents have been retained for the record. *See* COMAR 28.02.01.22C ("All exhibits marked for identification, whether or not offered in evidence and, if offered, whether or not admitted, shall be retained for purposes of judicial review."). The Claimant also offered a Diamond Granite & Cabinet invoice dated December 13, 2017, which was offered, but not admitted. *Id.*

Clmt. Ex. 4 - Email from Claimant to Respondent, dated May 31, 2020

Clmt. Ex. 5 - Text messages between the Claimant and the Respondent, with various dates between May 19, 2020 and June 25, 2020

Clmt. Ex. 6 - Eighty-eight color photographs:⁵

- A. Two photographs of the main bathroom tile, taken by the Claimant during the renovation in 2018;
- B. Two photographs of the main bathroom set up showing the free-standing tub within the encased shower, taken by the Claimant around September 2020;
- C. Five photographs of cracks in grout around the tiles of the shower floor within the main bathroom, taken by the Claimant between 2020 and 2021;
- D. One photograph of the kitchen ceiling showing water damage, taken by the Claimant shortly after the May 15, 2020 incident where water leaked from the main bathroom above;
- E. Three photographs of water damage on the kitchen ceiling, taken by the Claimant between 2020 and 2021;
- F. Eighteen pictures of various kitchen cabinets, taken by the Claimant between 2020 and 2021;
- G. Two photographs of the stove not being aligned with the countertop, taken by the Claimant between 2020 and 2021;
- H. Eight photographs of the backsplash and grout in the kitchen taken, by the Claimant between 2020 and 2021;
- I. Two photographs of an area of backsplash in the kitchen near the molding of the window taken, by the Claimant between 2020-2021;
- J. Seven photographs of the grout, backsplash, and underside of the upper kitchen cabinets, taken by the Claimant between 2020-2021;
- K. Seven photographs of baseboards in unspecified locations in the home, taken by the Claimant between 2020-2021;
- L. Three pictures of the molding around the sliding door, taken by the Claimant between 2020-2021;
- M. One photograph of the molding around the exterior of powder room/bathroom on the first floor, taken by the Claimant between 2020-2021;
- N. Nine photographs of the molding around various doors and windows in different unspecified areas of the house, taken by the Claimant between 2020-2021;

⁵ The Claimant testified for each set of photographs; therefore, I have listed the photographs in sets in accordance with her testimony. However, for ease of this decision, I have alphabetized each set of photographs listed in Clmt. Exhibit 6 so that I may refer to them logically. These photographs were not marked alphabetically during the hearing but were retained in the record in the same sequential order listed above collectively as Clmt. Ex. 6. The Claimant testified that she took most of these photographs between 2020-2021. I asked the Claimant to specifically identify the photographs which were not taken at this time period. For Clmt. Ex. 6-G, K, L, M, N, O, P, R, S, T, the Claimant did not specify a time frame, therefore, I infer that these sets were also taken between 2020-2021.

- O. Five photographs of LVL⁶ beam installed between the kitchen and sitting room area, taken by the Claimant between 2020-2021;
- P. Four photographs of drywall ceiling in the living room, taken by the Claimant between 2020-2021;
- Q. Two photographs of a hole in the wall and a partially installed vanity light in the powder room on the first floor taken, by the Claimant in June 2021;
- R. Two photographs of outlets in the sitting area near the kitchen and in the dining room, taken by the Claimant between 2020-2021;
- S. Three photographs of fallen racks in the main bedroom closet with clothes and other items on the floor, taken by the Claimant around September 2019;⁷
- T. One picture of an exterior of the sliding door, taken by the Claimant between 2020-2021; and
- U. One photograph of the installation of the cabinets, taken by the Claimant during the renovation in 2018

Clmt. Ex. 7 - Six Videos:

- 52-second video of water leaking through kitchen ceiling, taken by the Claimant on May 15, 2020
- 48-second video of water leaking through the kitchen ceiling, taken by the Claimant on May 15, 2020
- 1:02 minute-video of water leaking through the kitchen ceiling, taken by the Claimant on May 15, 2020
- 1:59 minute-video of water leaking through the kitchen ceiling, taken by the Claimant on May 31, 2020
- 5-second video of grout around the shower floor, taken by the Claimant on June 4, 2021
- 37-second video of grout around the shower floor, taken by the Claimant on June 11, 2021

Clmt. Ex. 8 - Michael & Sons Services Invoice, dated March 18, 2021

Clmt. Ex. 9 - Celestial Handyman Services Estimate, dated September 21, 2020

Clmt. Ex. 10 - Contract between the Claimant and the Respondent, dated December 20, 2017

Clmt. Ex. 11 - Celestial Handyman Services Estimate, dated October 4, 2021

Clmt. Ex. 12 - Celestial Handyman Services Estimate, dated December 6, 2021

⁶ Neither party provided an explanation of what LVL stands for or the purpose of this beam.

⁷ The Claimant testified that the racks fell about a year after the installation was completed.

Clmt. Ex. 13 - Three photographs of the drywall on the ceiling of the main bathroom taken by the Claimant on or around May 9, 2022⁸

I admitted the following exhibits offered by the Respondent:⁹

Resp. Ex. 1 - Certificate of Occupancy, issued October 2, 2018, and Eleven Department of Housing and Community Development, Division of Construction and Building Inspection Permits, various dates¹⁰

Resp. Ex. 2 - Eleven black and white photographs:¹¹

- One photograph of the opened ceiling in the kitchen showing wires and plumbing, taken by the Respondent in 2017;
- One photograph of the closed kitchen ceiling, taken by the Claimant¹² between 2019-2021;
- Two photographs of the joints in the tile in the main bathroom prior to the installation of the grout/sealant, taken by the Respondent in 2018;
- Two photographs of the tub in the main bathroom filled with water, taken by the Respondent on the day of the inspection on September 20, 2018;
- Two photographs of the opened ceiling in the kitchen showing the wires and plumbing, taken by the Respondent in 2017;
- One photograph of the main bathroom prior to the grout/sealing installation and the installation of the tub with an arrow pointing to the bathtub faucet, taken by the Respondent in January/February 2018;
- One photograph of the Eaton Combination Arc Fault Circuit Breaker label, taken by the Respondent;¹³
- One photograph of the Squared D QO Red Visi-Trip©, Tripped Circuit Breaker, taken by the Respondent¹⁴

⁸ The Claimant testified that she took these three pictures on her cell phone two to three days ago, meaning from the date of the hearing. The Claimant showed these three pictures to the Respondent and the Fund on her cell phone, and I permitted the Claimant to email me and the parties these photographs by 5:00 p.m. on May 13, 2022, which she did.

⁹ The Respondent provided copies of several documents (36 pages) which were not offered and not admitted. The Respondent testified that these were documents that he provided to the MHIC in response to the Claim. The Respondent elected not to offer these exhibits despite having the opportunity to do so. These documents were not marked but have numbers in the left hand-side that are not all in sequential order. I have retained these documents in the order provided, and they are included in the record. See COMAR 28.02.01.22C.

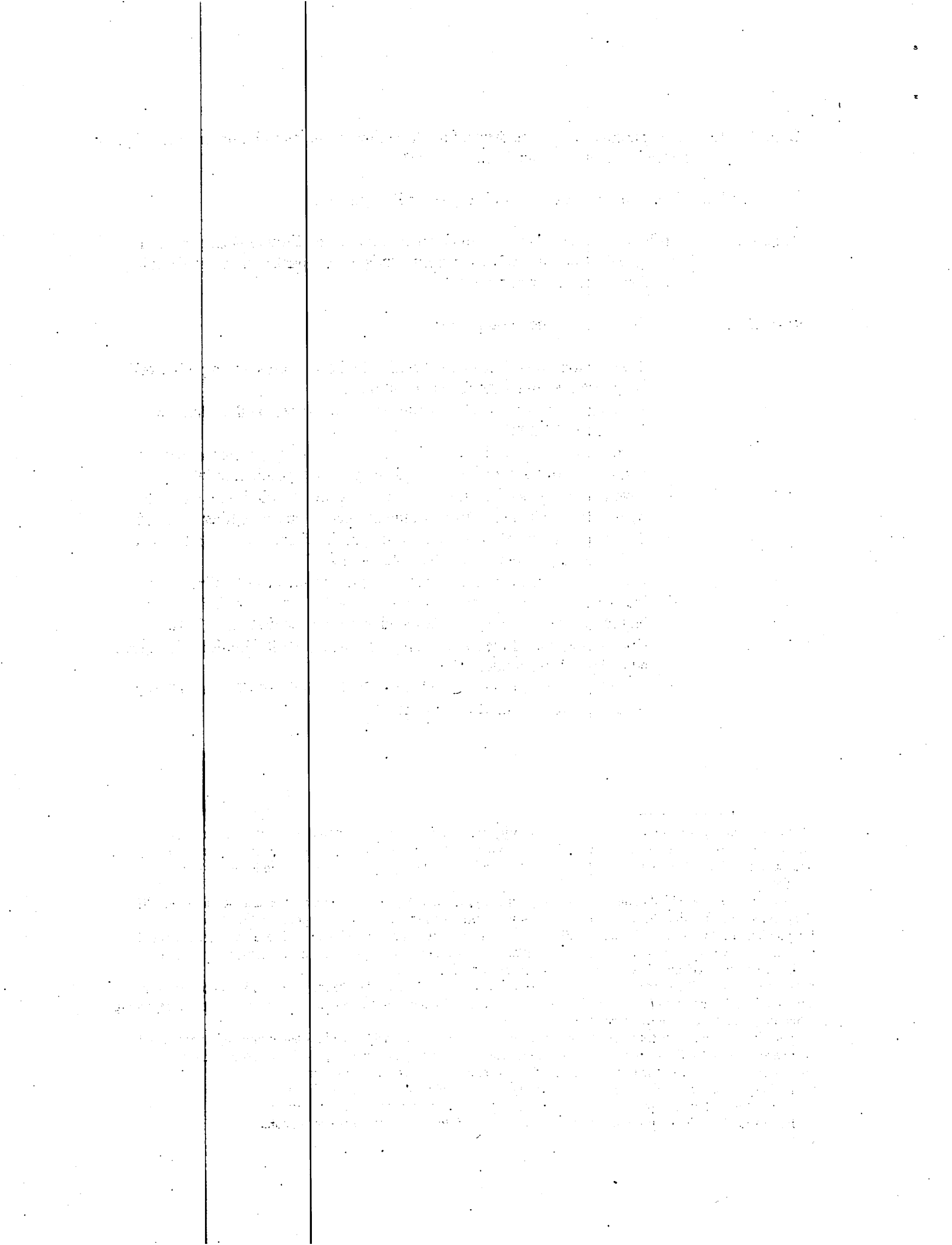
¹⁰ There are handwritten notes in Spanish on two of the permits. I asked the Claimant to clarify that the notes did not contain information that I needed to consider, and he testified that these were notes he made to himself regarding scheduling that I did not need to consider.

¹¹ I permitted the Respondent to either switch his colored photographs with the black and white copies at the end of the hearing, or to email the colored copies of these eleven photographs; however, he did not exchange the colored photographs at the end of the hearing, and he did not send the colored copies by email.

¹² The Respondent testified that this picture was taken by the Claimant and emailed to him.

¹³ The Respondent did not provide evidence regarding the date that he took this photograph.

¹⁴ The Respondent did not provide evidence regarding the date that he took this photograph.



- Resp. Ex. 3 - Square D Plug-On Circuit Breakers Manufacturer Specifications, undated with attachments: one page narrative from Claimant, undated; and article, "Where Arc-Fault Circuit Interrupter (AFCI) Protection is Required in Residential Dwelling Units," by Fritz Gunther, News, Newsletter Archive, dated April 21, 2021
- Resp. Ex. 4 - Maryland Home Improvement Contractor's Surety Bond, issued October 8, 2020
- Resp. Ex. 5 - Markel Evanston Insurance Company Policy, effective October 8, 2021 to October 8, 2022
- Resp. Ex. 6 - Accord Certificate of Liability Insurance, dated November 14, 2018; Accord Certificate of Liability Insurance, dated November 4, 2020; and MHIC Contractor's License, expiration date December 15, 2022
- Resp. Ex. 7 - Video and twelve pictures taken by the Respondent¹⁵
- Picture of the entire completed kitchen from the left side
 - Picture of the lower half of the completed kitchen from the right side
 - Picture of the upper tile wall and a portion of the tub faucet in the main bathroom
 - Picture of the entire completed kitchen from the right side
 - Picture of the left side of the kitchen of the lower cabinets with a level, no countertops, and no door or drawer hardware (knobs or handles) and part of the upper cabinets with no door hardware
 - Picture of the left side of the kitchen of the lower cabinets with a level, no countertops, and no hardware and part of the upper cabinets with no door hardware at different angle
 - Picture of the right side of the kitchen of the lower cabinets with a level, no countertops, and no hardware and the upper cabinets with no hardware.
 - Picture looking down at the right side of the kitchen at the lower cabinets with no countertops or hardware
 - Picture of the right side of the kitchen of the lower cabinets with no countertops or hardware and part of the upper cabinets with no hardware
 - Picture of lower cabinets (area for the sink) with a level and without countertops or hardware
 - Video of bathtub being filled with water for September 20, 2018 inspection

¹⁵ The Respondent did not provide specific dates for when he took these pictures. The Respondent showed the Fund and the Claimant these videos and pictures on his laptop during the hearing and I permitted the Respondent to email the video and pictures to me and the parties by 5:00 p.m. on May 13, 2022, which he did. During the hearing, he mistakenly said he had five picture and one video; however, it was clarified in his email that he showed twelve pictures and one video. Over the Claimant's objection, I admitted all pictures and the video and placed them on a jump drive. A copy of email Claimant's objection has been retained for the record with this exhibit.

I admitted the following exhibits offered by the Fund:

- Fund Ex. 1 - Notice of Hearing, issued March 29, 2022 and Hearing Order, signed March 2, 2022
- Fund Ex. 2 - Maryland Department of Labor, I.D. Registration, Home Improvement Commission Inquiry, dated May 11, 2022
- Fund Ex. 3 - Letter from MHIC to Respondent, dated November 5, 2021, with Home Improvement Claim Form attachment, signed September 24, 2021

Testimony

The Claimant testified and presented the testimony of Harvest Stevens, her father.

The Respondent testified and did not present other witnesses.

The Fund did not present any witnesses.

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 01-221362 and 05-134062.
2. At some point, not identified in the record, the Claimant obtained a 203(k) loan.¹⁶
3. On or around December 20, 2017,¹⁷ the Claimant and the Respondent entered into a contract to build a new kitchen to include installation of new drywall, molding, a kitchen island, an LVL beam, a sliding door, cabinets, and ceramic flooring; to build a new half bath to include installation of ceramic flooring, a sink and a toilet; to build a new laundry room; to fix the ceiling and the walls in closet (second floor); to build a new master bathroom to include

¹⁶ "Section 203(k) insurance enables homebuyers and homeowners to finance both the purchase (or refinancing) of a house and the cost of its rehabilitation through a single mortgage or to finance the rehabilitation of their existing home." See https://www.hud.gov/program_offices/housing/sfh/203k/203k--df (last visited, August 1, 2022). See also 12 U.S.C.A § 1709(k) (2021) (part of the Fair Housing Act).

¹⁷ The exact date that the Contract was fully executed by both parties is unclear as the Claimant provided a copy that was only signed by the Respondent. See Clmt. Ex. 10. The Respondent did not refute that he and the Claimant had a valid Contract. Therefore, I find that the parties had a Contract, even though neither party submitted a fully executed copy of the Contract into evidence.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is essential for ensuring transparency and accountability in the organization's operations.

2. The second part of the document outlines the various methods and tools used to collect and analyze data. It highlights the need for consistent data collection procedures and the use of advanced analytical techniques to derive meaningful insights from the data.

3. The third part of the document focuses on the role of technology in data management and analysis. It discusses how modern software solutions can streamline data collection, storage, and analysis processes, thereby improving efficiency and accuracy.

4. The fourth part of the document addresses the challenges associated with data management, such as data quality, security, and privacy. It provides strategies to mitigate these risks and ensure that the data remains reliable and secure throughout its lifecycle.

5. The fifth part of the document concludes by summarizing the key findings and recommendations. It stresses the importance of a data-driven approach in decision-making and the need for continuous monitoring and improvement of the data management process.

framing of a bathroom partition; to expand another existing second floor bathroom to include installation of a sink, toilet, and ceramic flooring; and to install new plumbing, drywall, electric wire, outlets, switches and lights, and painting throughout various areas of the house (Contract).

4. The Contract specified that the Respondent “will provide ONLY basic materials, (2x4, Insulation, Drywall), if there are any changes, the owner shall pay the difference of price.” Clmt. Ex. 10, p. 2.

5. The original agreed-upon Contract price was \$47,764.00. The Contract specified a payment schedule of an initial deposit of \$9,000.00 for demolition and permits; a first payment of \$9,000.00 for framing; a second payment of \$9,000.00 for plumbing and electrical rough-in; a third payment of \$14,000.00 for drywall, insulation, floors, cabinets, and paint; and a fourth payment of \$6,764.00 upon work completion.

6. The Contract did not specify when the work would begin; however, the work started on or around December 27, 2017, and was completed on September 20, 2018.

7. On or around December 15, 2017, the Respondent was paid \$14,920.00 through a second draw authorized by the United States Department of Housing and Urban Development (HUD), Office of Housing and signed by the HUD-accepted Consultant,¹⁸ under the Claimant’s Section 203(k) loan. This payment comprised \$9,000.00 for a partition wall, \$3,000.00 for plumbing, \$2,800.00 for electrical, and \$1,200 for clean-up.¹⁹

8. At some point not identified in the record, the Claimant paid the full Contract Price through her 203(k) loan.

¹⁸ HUD maintains a list of qualified consultants. See 24 Code of Federal Regulations (C.F.R.) § 203.50(l) (2021); unless otherwise identified all references to C.F.R. will be the 2021 volume.

¹⁹ The Claimant did not provide any other proof of payment or any documentation for subsequent draws. However, the Claimant testified that she paid the Contract price, and the Respondent did not refute her testimony.

Faint, illegible text, possibly bleed-through from the reverse side of the page. The text is arranged in several paragraphs and is mostly obscured by noise and low contrast.

9. On October 2, 2018, the Baltimore City Department of Housing and Community Development, Division of Construction and Building Inspection issued a Certificate of Occupancy for use of the Claimant's home as a single-family house.

10. The Claimant expressed concerns about the quality of the Respondent's work during the construction project to the Respondent and his project manager, but did not notify the Respondent of any other issues in the home prior to December 27, 2019.

11. On December 27, 2019, the Claimant emailed the Respondent and indicated that the garbage disposal trips the circuit breaker and the kitchen cabinets have shifted. Various doors and drawers on the Claimant's kitchen cabinets would not close entirely and remained slightly ajar. The Claimant requested that the Respondent contact her to discuss these concerns, but the Respondent did not reply or call.

12. Between December 28, 2019 and May 14, 2020, the Claimant and the Respondent had no further interactions.

13. The Claimant's main bathroom has a shower design where the free-standing tub (not attached to the shower) is installed inside of the enclosed shower. The shower floor has a slope so that the water can drain. The shower head is located close to the shower door and the bathtub is located at the back of the shower floor.

14. At some point between September 20, 2018 and May 15, 2020, the Claimant noticed water marks and water bubbles on her kitchen ceiling, but no leaks. This area of the kitchen ceiling is located immediately below her main bathroom. She did not contact the Respondent about this issue while it was occurring.

15. On May 15, 2020, while cleaning her master bathroom shower floor for the first time, the Claimant poured a significant amount of water on the shower floor, and then noticed that water was leaking from the shower floor through the ceiling below into her kitchen.

16. On May 16, 2020, the Claimant contacted the Respondent through email to inform him of the water leakage in the kitchen ceiling and included a video clip attachment.

17. On May 22, 2020, the Respondent came to the Claimant's home to inspect the bathroom and determined that caulking could fix the issue and that he would fix the ceiling at a later date. He advised the Claimant to throw excessive water on the shower floor again to see if the leaking continued and informed the Claimant that he would send someone to fix the caulking on May 29, 2020. No one ever came to Claimant's home on behalf of the Respondent on that date or any other date thereafter.

18. On May 31, 2020, the Claimant informed the Respondent via email that the ceiling was leaking again from the water around the shower floor, and included another video clip attachment.

19. Between May 19, 2020 and June 25, 2020, the Claimant and the Respondent engaged in an email exchange during which the Claimant requested that the Respondent repair the leaks, and the Respondent either replied with a video about caulking or provided reasons for delay such as issues with the work van breaking down, or did not respond at all.

20. In June 2020, the Claimant removed the vanity light fixture in the powder room on the first floor of her home and discovered a hole in the wall where the previous vanity light was installed. The hole was large because the drywall in this portion of the wall was missing.

21. On September 19, 2020, the Claimant obtained a \$2,400.00 estimate from Celestial Handyman Services for repairing the ceiling below the bathroom water leak. In its estimate, Celestial Handyman Services stated that it needed to "determine source of water leak weather [sic] is [sic] coming from bad grout on the floor or the plumbing." Clmt. Ex. 9.

22. On March 18, 2021, Michael & Son Services completed a “no charge trip” at the Claimant’s home, observed the Claimant’s bathroom, and determined that the plumbing was working properly, but the leaks should be fixed professionally by a “tile person.” Clmt. Ex. 8.

23. On October 4, 2021, the Claimant obtained an estimate in the amount of \$17,018.19 from Celestial Handyman Services to repair and replace the bathroom floor tile and a partial wall, repair the laundry room, upgrade the base moldings, repair a hole in the wall in the first-floor powder room, repair and replace the backsplash in the kitchen, and repair and paint the kitchen ceiling damaged by water (October 4, 2021 Estimate).

24. On December 6, 2021, the Claimant obtained an estimate in the amount of \$11,414.92 from Celestial Handyman Services to repair two bedroom doors, repair a crooked wall and ceiling framing, replace boxed frames surrounding outlets, and realign kitchen cabinet doors and drawers (December 6, 2021 Estimate).

DISCUSSION

I. Legal Framework

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 (2021); 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). The Respondent bears the burden to show that the Claim was untimely by a preponderance of the evidence. COMAR 28.02.01.21K(1), (2)(b).

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 partial eligibility for compensation.

II. The Parties’ Positions

The Claimant argued that she hired the Respondent to complete a new renovation of her home to include a new kitchen, drywall, ceiling, plumbing and electrical, but there were numerous defects during the project and after the work was completed. It was the Claimant’s position that the Respondent provided workers who were inexperienced. The Claimant argued that she requested that the Respondent provide a different crew and resolve the defects, but he refused. The Claimant further argued that the Respondent completed inadequate and poor work on baseboards, trim, and molding throughout the home; the installation of the LVL beam; the installation of boxed outlets; the installation of bathroom/shower tile, the installation of kitchen cabinets, drawers, doors, and backsplash; the installation of drywall; the installation of closet racks; the installation of electrical components; and the sliding glass door installation. The Claimant requests recovery for the full amount of all three invoices that she submitted during the hearing.

The Respondent argued that he completed all of the work appropriately with trained staff who had all necessary licenses/credentials. The Respondent argued that if there were any new workers on the job, their sole responsibilities were to collect trash and clean. The Respondent indicated that there may have been a communication issue between the Claimant and some of the workers who did not speak English, but he denied that his workers performed any unworkmanlike home improvements on the Claimant’s home. Furthermore, it was the Respondent’s position that he obtained all necessary work permits, was fully insured, that the work passed inspection during the final walk through, and that he approved the Certificate of

Occupancy demonstrates that he did not perform unworkmanlike, inadequate, or incomplete work. He also argued that the Claimant approved the work when she provided the final payment and if there were any concerns with the quality of work, she should have brought them to his attention earlier. He requested that I deny the Claimant's request for recovery.

The Fund argued that the Claimant has proven actual loss for the work related to the bathroom tile (grout) and the kitchen ceiling related to the water leak. It was the Fund's position that even though the Claimant did not provide expert testimony, her photographic and video evidence sufficiently proves the unworkmanlike and inadequate work related to the water leak because the grout is excessively cracked only eighteen months after the work completion and water is clearly leaking from the ceiling in the videos. The Fund argued that the calculation in COMAR 09.08.03.03B(3)(c) is applicable using the estimates for this specific work in Clmt. Ex. 9, 11, and 12, and that the Claimant is entitled to that amount for recovery.

Timeliness

During the hearing, the Respondent objected to most of the Claimant's evidence on the basis that she should have expressed concerns with the issues earlier. Other than email exchanges regarding the electrical work, cabinetry, and water leakage, the Claimant testified that she generally expressed dissatisfaction with the quality of the work throughout the project, although she did not provide details about the dates, the deficiencies, or scope of work for these generic complaints. I interpret the Respondent's argument as an affirmative defense that the Claim is untimely.

A claim "shall be brought against the Fund within 3 years after the claimant discovered or, by use of ordinary diligence, should have discovered the loss or damage." Bus. Reg.

§ 8-405(g). Similarly, COMAR 09.08.03.02(G) provides that “[a] claim may not be brought against the Fund after 3 years from the date that the claimant discovered, or by exercise of ordinary diligence should have discovered, the loss or damage.”

The Claimant filed her MHIC Claim on October 1, 2021. The Claimant testified that the Respondent completed the work in October 2018. The Certificate of Occupancy issued on October 2, 2018 permitted the Claimant’s property to be used as a single-family home. The Claimant provided the 203(k) “Draw Request” #2 which was signed by a “HUD-Accepted Consultant/Plan Reviewer” on December 15, 2017. She only provided page one of three. Draw Request #2 provided that a payment of \$14,920.00 was released for payment to the Respondent. The Claimant did not provide any other documentary proof of payment to the Respondent, such as cancelled checks, paid invoices, or the final Draw Request.

The responsibilities of the HUD consultant are set forth in HUD’s federal regulations. Specifically, 24 C.F.R. § 203.50(l) states:

HUD maintains a list of qualified consultants, in accordance with §§ 200.190 through 200.193 of this title. When the borrower elects to use the services of a consultant, the lender must select a consultant on the list to perform one or more of the following tasks:

- (1) Conduct a preliminary feasibility analysis before or after the submission of a sales contract;
- (2) Prepare the cost estimate, work write-up, and architectural exhibits required for the rehabilitation of the property;
- (3) Conduct a plan review; and
- (4) Conduct the draw inspections for the release of funds during the construction phase of the project.

Additionally, to be qualified for placement on the list of HUD consultants, an individual must either have three years of experience as a “remodeling contractor, general contractor or home inspector” or be a “state-licensed architect or state-licensed engineer” and provide proof of licensure for home inspections if required by the applicable state. *See* 24 C.F.R. §200.191(b).

Based upon the Claimant's own evidence, the HUD-Accepted Consultant/Plan Reviewer had to conduct draw inspections prior to the release of funds.

Furthermore, the Respondent testified that all building inspections were completed satisfactorily. He specifically identified September 20, 2018 as the final inspection date once he reviewed the issuance date of October 2, 2018 on the Certificate of Occupancy to refresh his recollection.²⁰ With all of the building permits, the Respondent also submitted "Inspection Guidelines and Other Permit Information" from the Baltimore City Division of Housing which indicated that "all permits require inspections" and that "a Certificate of Occupancy requires the following inspection prior to issuance . . . single family dwelling . . . building inspection." Furthermore, "all work permits must have a final inspection before a Certificate of Occupancy can be issued." It is unclear if all of the building permit inspections occurred on or before the September 20, 2018 final inspection date.

The Respondent also testified the Claimant approved the completion of the work when she provided the final payment.²¹ He explained that when his workers finished the project, the Claimant agreed that "everything was okay," so he applied for the Certificate of Occupancy, which he received a couple of days later. When the Respondent provided the Claimant with the Certificate of Occupancy, she provided him with the final check. He testified that he completed a walk through, everything was working properly/correctly, and all final paperwork had been completed. The Claimant did not refute the Respondent's evidence that all inspections were passed or that she issued all payments to the Respondent.

I find the Respondent's testimony credible, and his documentary evidence to be persuasive compared to the Claimant's generic statement that the work was completed in

²⁰ Ten days prior to the October 2, 2018 Certificate of Occupancy issuance date was Saturday, September 22, 2018; therefore, September 20, 2018 was the prior business day.

²¹ As the Claimant did not provide the second or third page of the Draw Request #2, it is not clear if she is also required to sign the Draw Requests as the borrower of the 203(k) loan.

October 2018. The Respondent testified that he is conscientious by ensuring that he is licensed, bonded, and insured and that he obtains any required permits for his projects. He provided proof of his liability insurance, security bonds, and the permits for this project. He even explained that he incurred additional costs for an electrical permit for this project at no charge to the Claimant. He testified that the “inspectors do not play around” and that they test everything before approving the work. I do not believe that the Respondent would have performed work outside of the scope of the permits and I find that he is familiar with the inspection procedures/protocols as a licensed contractor. Rather than guessing a date or relying solely on memory, he referred to the Certificate of Occupancy to refresh his recollection and appropriately identify the exact date of the final inspection (through a backdate calculation). As such, I find that with the exception of “closing up walls” the work was completed on or before September 20, 2018, the date of the final inspection.

With the exception of the electrical work and cabinetry issues which she discovered in December 2019, the water leakage damage discovered in May 2020, and the hole in the powder room she discovered in June 2020, the remaining items (listed below under each scope of work) that the Claimant seeks to recover are time barred as she should have known with due diligence of the Respondent’s unworkmanlike, inadequate or incomplete work, at least by the date when the project was completed on September 20, 2018. As such, her Claim on these items must have been filed no later than September 20, 2021. Md. Code Ann. Bus. Reg. § 8-405(g); COMAR 09.08.03.02(G). Below, I will address the timeliness of each scope of work as submitted in the Claimant’s estimates from other contractors.

III. Analysis

Laundry Room Wall Project²²

In her "list of complaints" which the Claimant attached to her Claim (Clmt. Ex. 1), the Claimant did not include any issues with the laundry room project. The Claimant testified that the laundry room wall project was not one of the issues that she was addressing in her Claim, but went on to explain that the laundry room wall was not measured correctly to consider the space in bedroom so that furniture can fit. She further testified that the laundry closet²³ was larger and took up part of the space in the bedroom, which made the room awkward and difficult to place furniture inside. The October 4, 2021 Estimate includes a cost of \$3,586.62 with a list of scope of work for the Laundry Room Wall Project. Clmt. Ex. 11.

The Respondent testified that the laundry room was made to the specifications that the Claimant requested and that if she was not satisfied with them, she should have expressed it earlier in the project. The Claimant did not present any further evidence to refute the Respondent's testimony.

I agree with the Respondent and find that the Claimant has not satisfied her burden to recover from the Fund for this work. Bus. Reg. §8-405(a). The fact that the Claimant has changed her mind about the dimensions that she would like for her laundry room and her bedroom, does not equate to unworkmanlike, inadequate, or incomplete work completed by the Respondent. The Claimant did not testify that she could not fit her furniture, just that it was "awkward" or difficult. Without more, this is not sufficient to prove inadequacy or poor workmanship. Bus. Reg. §8-401. Furthermore, this portion of the Claim is untimely as the Claimant should have known that the room "was awkward" at the time that the framing was put

²² I have listed each scope of work in the order the same order on each estimate, with one exception; the Bathroom Floor Tile and Wall (Partial) Replacement Project is listed after the Water Damaged Kitchen Ceiling Repair and Paint Project, as these two items are intertwined.

²³ The Claimant referred to the laundry room as a laundry closet.

in place or at least when the project was complete in September 2018. *See* Md. Code Ann., Bus. Reg., §8-405(g); COMAR 09.08.03.02(G). Lastly, the Claimant did not include this item in her Claim and her attempt to now include this argument for recovery would be prejudicial to the Respondent. *See* COMAR 09.08.03.02.²⁴

Base Moldings Upgrade Project

The Claimant testified that the Respondent performed unworkmanlike and inadequate work when he provided uneven and gapped baseboards, trim, and molding throughout her home. The Claimant provided pictures of molding in the kitchen as well as pictures of the baseboards and door trim throughout her home (Clmt. Ex. 6-K, L, M, N). Other than outside of the first-floor powder room (Clmt. Ex. 6-M) and near the sliding door (Clmt. Ex. 6-L), the Claimant did not identify the locations in the other pictures.

The Claimant further testified that she requested that the Respondent purchase a prefabricated molding but instead the Respondent purchased materials from Home Depot and supplied the finish. The Claimant testified that the Respondent improperly cut the angles at the corners where the molding should be at a 90-degree angle, and she was told “by a couple of people” that the space between the baseboard and the “finger joint” should be one-third to one-half inches. She explained that the spacing and the misalignment are noticeable and that the molding near the sliding door was not seamless. She further indicated that all of the moldings in the pictures were either misaligned, deteriorating, had rough edges, poor wood grain, contained “yellow pine knots” and were not sealed.²⁵

²⁴ “Once a verified claim has been filed with the Commission, the claimant may not amend the claim unless the claimant can establish to the satisfaction of the Commission that either the: (1) Claimant did not know and could not have reasonably ascertained the facts on which the proposed amendment is based at the time the claim was filed; or (2) Claimant's proposed amendment would not prejudice the contractor whose conduct gave rise to the claim.” COMAR 09.08.03.02C.

²⁵ The Claimant did provide further evidence to explain pine knots or finger joints.

Faint, illegible text, possibly bleed-through from the reverse side of the page. The text is arranged in several paragraphs and is mostly obscured by noise and low contrast.

The Claimant also provided the testimony of her father, Mr. Stevens, who indicated that he is a handyman by trade. Mr. Stevens testified that he has worked in all trades, previously worked for the Department of Agriculture for twenty-seven years, and has overseen the building and inspection of three houses. Mr. Stevens has certifications in "mechanics and automotives." Mr. Stevens demonstrated with two small pieces of wood how the baseboard molding should have been constructed, i.e., at a 45-degree angle, with the two pieces making a "V" or a corner angle. Mr. Stevens testified that the Respondent installed the baseboard molding incorrectly, i.e., perpendicular, with one of the pieces not directly at the end of the other (about ¼ inch off rather than at the 45-degree angle). He clarified that the individual who did the incorrect installation could not have been a professional journeyman, but must have been a handyman. Mr. Stevens testified that the incorrect installation resulted in baseboards which were not flush. He further clarified that the one of the other workers who completed the baseboards upstairs performed the work correctly, professionally, and must have been a journeyman, but the worker who completed the baseboards incorrectly also worked on the kitchen and the bathroom tile. Mr. Stevens briefly mentioned in his testimony that he tried to "clear it up," but did not further elaborate. The Respondent testified that Mr. Stevens and his project manager were on the job site daily. Therefore, I find that Mr. Stevens had personal knowledge of the work completed by the Respondent.

Lastly, the Claimant presented the October 4, 2021 Estimate (Clmt. Ex. 11), which included a cost of \$4,247.72 to repair the base moldings. This estimate describes the project as: "includes the base moldings in the entire lower floor of the house and the upper hallway. Bedroom baseboards are not included in this quote." Clmt. Ex. 11. I find it persuasive that this work is referred to in the October 4, 2021 estimate as an "upgrade" project rather than a repair or replacement project. *Id.* Additionally, the scope of work includes that the "customer's

complaint is that the upper portion of the molding is not flush with the lower portion of the base molding.” *Id.* The scope of work also includes adding “Bondo Wood Filler” to fill gap “creating the look that the base molding is one piece not two pieces,” sanding where the gaps are not pronounced, painting all moldings, and cleaning and removing debris. *Id.* Unlike other portions of this estimate, Celestial Handyman Services did not include any “notes” about the previous contractor’s work, i.e., the Respondent.

The Contract (Clmt. Ex. 10) required the Respondent to install molding in the kitchen and “on the second floor as needed.” *Id.* Other than in the kitchen, the Contract did not specify that the Respondent would complete any molding on the first floor of the Claimant’s home.²⁶ The Respondent and the Claimant disagreed about who purchased the materials. The Respondent testified that the Claimant selected and bought the material, and that the molding was installed on existing doors. He later explained that sometimes Mr. Stevens would accompany his worker to Home Depot to purchase materials. Conversely, the Claimant testified that the Respondent’s project manager purchased the materials recommended by the Respondent from Home Depot. The Draw #2 for the Claimant’s 203(k) loan reflected a total cost of wood trim for \$1,350.00 as part of the total Contract price of \$47,764.00. *Id.*

Although I find the testimony of Mr. Stevens to be credible and persuasive that the base molding was not properly installed, I cannot reconcile the work that the Claimant argued that the Respondent completed with the work specified in the Contract. During cross-examination by the Fund, the Claimant testified that there was nothing in her estimates that were beyond the scope of the Respondent’s work. This testimony is not consistent with the documentary evidence. The original scope of the Contract and payment thereunder is relevant to the actual loss analysis. The

²⁶ There is a reference in the Contract that the Respondent would be responsible for painting all molding throughout the house, but it does not state that he would be responsible for the installation of molding throughout the house. Clmt. Ex. 10.

Claimant is ineligible for recovery from the Fund because the molding on the first-floor and staircase was not a part of the original scope of work in the December 20, 2017 contract. As such, the Claimant did not pay any monetary funds directly to the Respondent for this work. In other words, it appears that the Respondent completed this work for free.

In this case, the Claimant's actual loss for this work is \$0.00, as there was no amount paid directly to the Respondent (contractor) for the molding installation on the first floor and staircase. The extent of this project related to the "upper hallway" was included in the Contract. But, because the scope of this project in the October 4, 2021 Estimate does not separate the cost for the upper hallway, the Claimant has not proven the actual loss for the upper hallway either.

This is not to say that the actions of the Respondent were appropriate, but just that the Claimant has not met her burden. "The Fund was established to provide an additional remedy for homeowners who suffered actual loss due to unsatisfactory work performed by a home improvement contractor." *Brzowski v. Maryland Home Imp. Comm'n*, 114 Md. App. 615, 628 (1997) (emphasis added). The payment of claims from the Fund is limited to "only those claims that establish that a homeowner has suffered 'actual loss' due to the act or omission of a licensed contractor." *Id.* (emphasis added). Allowing any claimant to recover from the Fund without regard to that claimant's own financial loss has the potential to result in a windfall²⁷ to a claimant to the detriment of the party who, in fact, incurred the actual loss. In this case, the Respondent completed the work for free, and the Claimant has no loss.

I do not discount Mr. Steven's testimony that "he tried to clear it up," which implies he worked on the base molding after the Respondent. Since Mr. Stevens did not elaborate or explain how he "tried to clear it up," the effect of Mr. Steven's work performed subsequently to

²⁷ Windfall is "an unanticipated benefit, usu. in the form of a profit and not caused by the recipient." *Black's Law Dictionary* (11th ed. 2019).

the Respondent is unknown. Accordingly, I am unable to determine whether the problems moldings complained of by the Claimant are attributable to the Respondent, Mr. Stevens, or both. For this reason and the reasons stated above, I find that the Claimant has not proven by a preponderance of evidence that she incurred an actual loss as a result of the acts or omissions of the Respondent's work on the base molding. Bus. Reg. §§ 8-401; 8-405(a). Furthermore, I find that even if the Claimant had proven actual loss, this portion of the Claim would have been time barred as the Claimant would have been able to see the quality of the baseboards when the project was completed on September 20, 2018. Bus. Reg. § 8-405(g); COMAR 09.08.03.02(G).

Hole in Wall Behind Lamp in Lower Bathroom Project

The Claimant testified that in June 2020, she tried to install a new light in her first-floor bathroom/powder room and discovered a large hole where the previous light was installed that was not centered. She testified when she put the new light up, she discovered a larger hole, and explained it is hard to center due to position of the "vanity box." Further, the Claimant testified she could see "an indent at the top," but did not realize how severe the hole was until she tried to replace it with "a new vanity." The Claimant testified that the vanity lighting has to be relocated and new drywall has to be installed in order to close the "big opening." In support of her testimony, the Claimant presented two photographs (Clmt. Ex. 6-Q), which show a partially installed vanity light above the mirror in the powder room with a visible hole where the previous vanity had been removed.

The October 4, 2021 Estimate (Clmt. Ex. 11) includes a cost of \$150.00 and a potential additional cost of \$27.53 for the purchase of paint, if necessary (\$177.53 total). This project includes removing the lamp assembly, framing behind the wall (as needed), installing sheetrock (as needed), applying joint compound, sanding, and painting.

The existence of a visibly large hole in the wall is inadequate and unworkmanlike. It appears that the Respondent attempted to hide this hole by covering it with a vanity lamp assembly, which is also unworkmanlike. Because there is a large hole with missing drywall rather than small screw holes, it is clear that the Claimant did not cause this damage when she removed the existing light fixture, nor did the Respondent argue this point. The Contract includes building a new half bath on the first floor, with installation of “ceramic, sink and toilet” and installation of “lights” on the second floor. The Respondent submitted no evidence to refute her testimony and did not object to the Claimant’s photographic or this portion of the documentary evidence. Since the Claimant could not have discovered the existence of this hole until she removed the existing vanity lamp in June 2020, this portion of her Claim is timely. Bus. Reg. § 8-405(g); COMAR 09.08.03.02(G). Therefore, I find that the Claimant has proven that she incurred an actual loss for this work. Bus. Reg. §§8-401; 8-405(a).

Backsplash Project

The Claimant testified that as part of the Contract, the Respondent built a brand-new kitchen in her home “from the studs.” Clmt. Ex. 6-U. She further testified that the kitchen backsplash was shoddy, uneven, and had excessive grout which was deteriorating. In support of her position, the Claimant had photographic evidence. Clmt. Ex. 6-H, I, J. The Respondent objected to these pictures and argued that the Claimant should have told him about this issue earlier or “at the beginning.” In response, the Claimant testified she asked the Respondent to clean up the grout, and he suggested that she go to Home Depot to get a grout cleaner solution to clean off the excessive grout.²⁸ The Claimant also explained that throughout the project she had generally complained about different issues with the workmanship, and this backsplash cannot simply be replaced because it is not aligned.

²⁸ The Claimant did not specify when this conversation occurred.

The October 4, 2021 Estimate (Clmt. Ex. 11) includes a cost of \$1,525.90 for this project (\$1,300.00 for labor and \$225.90 for materials) which does not include the price of the actual backsplash. The project includes removal and replacement of the kitchen backsplash, repair of any drywall damaged by the removal (as necessary), removal of outlets and light switches (as necessary), application of grout the next day after the mortar has dried, cleaning excess grout, cleaning, and removal of debris. *Id.*

Through her testimony and the photographic evidence, the Claimant has proven that the backsplash work completed by the Respondent was unworkmanlike and inadequate. The backsplash underneath the upper cabinets near the electrical outlet in the kitchen have an inconsistent amount of spacing between each tile, there are a few tiles which are slanted/crooked, and there is excessive grout, which looks like sand, directly underneath the upper cabinets. The Respondent's solution to clean the excessive grout would not rectify the improperly installed tiles.

However, this portion of the claim is time barred. Bus. Reg. § 8-405(g); COMAR 09.08.03.02(G). Even though the Claimant testified that the grout has deteriorated, she also testified that she informed the Claimant about the grout "before" and he advised her to get grout cleaner. Therefore, the Claimant was aware of this issue. Additionally, the Claimant would have seen the slanted, crooked backsplash at the time the work was completed.

Water Damaged Kitchen Ceiling Repair and Paint Project

The Claimant testified that on May 15, 2020, she observed significant water leaking through the ceiling in her kitchen from the full bathroom above, after she did her first "deep cleaning" of the shower floor. The Claimant indicated she had been cleaning for "a while" and when she came downstairs, she saw that water was leaking from the seams of the drywall, through the smoke detector and recessed lighting onto the kitchen countertops and floor. The

Claimant took a video which she sent to the Claimant on May 16, 2020 as an attachment to an email (Clmt. Ex. 3). The video evidence supports her testimony regarding where the leaks were occurring (Clmt. Ex. 7). The Claimant testified that the Respondent opened (the drywall was removed, and the pipes and wiring were exposed) and closed (the drywall was replaced) this area on at least three occasions without explanation (Resp. Ex. 2), and her father also testified to observing the Respondent opening and closing the ceiling at least three times.

The Claimant further explained that she received no response to her email from the Respondent over the weekend, so she called him the following Monday or Tuesday. The Respondent told the Claimant during that phone call that he would come out to evaluate the situation, but the Claimant testified that she did not hear from him until he came to her home on May 22, 2020. During his assessment, the Respondent told the Claimant to throw water on the shower floor excessively and that he would send someone to fix it on May 25, 2020. The Claimant explained that this was actually Memorial Day, so no one came to her home and the Respondent then told her that he would send his worker on May 29, 2020; however, the Respondent kept delaying by either providing a video on caulking, not responding, or saying that the worker van had to be repaired. The Claimant provided text messages to support her testimony. Clmt. Ex. 5.

On May 31, 2020, the Claimant followed the Respondent's advice and threw additional water on the shower floor, which resulted in water leaking through the ceiling again. The Claimant took a video of the water leaking (Clmt. Ex. 7) and sent the second video to the Respondent on the same day (Clmt. Ex. 4). No one ever came to the Claimant's home on behalf of the Respondent to fix this issue.

The Respondent testified that the ceiling was only opened two times. He explained that the first time was because his electrician discovered that one of the three-way switches for the

lights in the kitchen was not connected. The Respondent instructed his workers to open the ceiling to allow the electrical work to be fixed. According to his testimony, Mr. Stevens called him and asked why the ceiling was opened – to which the Respondent gave the above explanation. The Claimant has a special bathtub, which requires a plumber to connect the faucet for the bathtub from the bottom/underneath. The Respondent acknowledged that the second time that he opened the ceiling was because his plumber made a mistake by not realizing that he needed to put a seal on the faucet before the other workers repatched the ceiling. The Respondent explained that if the house does not have movement, then the seal will not break.

Additionally, the Respondent testified that on September 20, 2018, the bathtub was filled with water to ensure no leaks and the project passed the final inspection. However, he also conceded that it is possible for a seal to break, which is why in February 2021, he offered to fix the water leak and the ceiling and when the Claimant rejected this offer, he then offered the Claimant \$1,500.00. The Respondent also testified that when the Claimant began pointing out other issues throughout the home, he was not comfortable fixing the other issues as the work had been completed several years ago, it was beyond his one-year warranty, and he did not know what could have occurred in the home to cause these issues since the date the project was completed.

Based upon the evidence before me, the Claimant has proven that the water leaking through the ceiling resulted from the Respondent's inadequate and unworkmanlike home improvement work. The Respondent conceded that the seal for the bathtub faucet can break. It is clear from the video that water was leaking from the bathroom above through the kitchen ceiling, which left visible water marks on the kitchen ceiling. The \$1,500.00 offer from the Respondent is consistent with the \$1,137.22 estimate to fix this work (Clmt. Ex. 11). Although the Claimant saw water marks/bubbles at some identified date prior to May 15, 2020, she could

not have discovered the extent of the water leak until May 15, 2020 when it was visible, and as such, this portion of the claim is timely. Bus. Reg. § 8-405(g); COMAR 09.08.03.02(G).

Therefore, I find that the Claimant has met her burden to recover from the Fund for the ceiling repair work. Bus. Reg. §§8-401, 8-405(a).

Bathroom Floor Tile and Wall (Partial) Replacement Project

The Claimant testified that as a result of the water leak described above, the bathroom floor tile and wall in her main bathroom will need to be repaired and replaced. In support of her testimony, the Claimant provided photographs and videos with significant visible cracks in the grout surrounding the shower floor as well as the December 6, 2021 Estimate (Clmt. Ex. 12). The December 6, 2021 Estimate included a total cost of \$6,370.73 to disconnect the water supply and drains from the bathtub, remove the bathtub, remove and replace the wall tile, remove and replace the floor tile, remove and replace the concrete foundation, remove and replace the plumbing, install a new PVC shower pan liner, apply grout, deglaze and clean the tile, and apply caulk. *Id.*

Based upon the evidence before me, I find that the Claimant has incurred an actual loss due to the improper grout in the shower and improper installation of the sealed pipe on the bathtub completed by the Respondent. Bus. Reg. §8-401. Originally, on September 21, 2020, Celestial Handyman Services indicated that it was unsure of whether the water leak was caused by “bad grout on the [shower] floor or the plumbing.” Clmt. Ex. 9. Michael & Sons concluded on March 18, 2021, that the Claimant “would need a tile person to fix the problem professionally” and that the plumbing is “sound and working properly.” Clmt. Ex. 8. Neither of these two individuals were present to provide an explanation for how they reached their conclusions or the basis of their opinions. *See* COMAR 28.02.01.21D(2) and “Kitchen Cabinet Doors and Drawers Alignment Project” section on this decision. However, the Respondent also

acknowledged in his testimony that the seal for the pipe in the bathtub can crack, and this was the work that the plumber forgot to do, which necessitated the removal of the ceiling to make the repair.

When the Claimant brought the water leakage to the Respondent's attention in May 2020, he provided her with videos about caulking and offered to fix the grout, but never followed through. In February 2021, the Respondent offered to fix the kitchen ceiling and the grout related to the May 2020 water leak and the Claimant rejected this offer. Then the Respondent offered to pay the Claimant \$1,500.00 for this repair work, which the Claimant also rejected. Given the Respondent's history of delaying or not being responsive to this requested repair, I find the Claimant's rejection of the Respondent's offer was reasonable. Bus. Reg. §8-405(d).

Although the Claimant acknowledged that the cracking of the grout deteriorated over time, she did not discover the extent of the poor workmanship and inadequacy until the water leakage occurred in May 2020; therefore, this portion of the Claim is timely. Bus. Reg. § 8-405(g); COMAR 09.08.03.02(G). Furthermore, the Claimant is entitled to recover from the Fund for the improper grout and seal installation completed by the Respondent. Bus. Reg. §§ 8-401, 8-405(a).

Bedroom Doors Repair Project (Two Doors)

The Claimant testified that the Respondent completed this work when he switched the doors and made a new door opening. She further testified that the Respondent's work was inadequate and unworkmanlike because the doors were cut slanted and were not even and the molding was crooked. The December 6, 2021 Estimate (Clmt. Ex. 12) includes a quote of \$3,730.48 for the removal of doors, door casing, door frames, the modification of door frame as necessary to make it level and plumb; the reinstallation of the door frame, cutting the door to proper size, repairing, and painting the wall as necessary, painting the doors and frame, and

cleaning. The Claimant also provided pictures of “door frames and windows” but only testified that these were in “different areas” of the home (Clmt. Ex. 6-U).

The Respondent objected to this photographic evidence and testified that these were existing doors. In response, the Claimant testified that the molding on the doors was newly installed. It is not clearly delineated in the Contract that the Respondent installed new framing for bedrooms – the only reference to framing is the “bathroom partition (main room).” One of the permits (Resp. Ex. 1, p. 3) was for “install[ation of] 6 interior doors” but the location of these doors was not specified.

Because the Claimant did not specify that the Contract included framing work for these two bedroom doors and because she also did not identify which of various pictures of doors were the actual bedroom doors, she has failed to prove that she incurred an actual loss as the result of the Respondent’s acts or omissions for this particular bedroom doors repair project. See Bus. Reg. §8-401; COMAR 09.08.03.03B(4), D(2)(a) and “Base Molding Upgrade Project” section of this decision. Therefore, she is not entitled to recover from the Fund for this work. Bus. Reg. 8-405(a). Furthermore, this door framing is not something that would be discovered over time, rather the Claimant would have known when the work was completed on September 20, 2018, that these doors were slanted and the molding was crooked; therefore, this portion of the Claim would have been time-barred as well. Bus. Reg. § 8-405(g); COMAR 09.08.03.02(G).

Crooked Wall/Ceiling Framing Repair Project

The December 6, 2021 Estimate (Clmt. Ex. 12) includes a \$4,241.98 cost for labor and materials related to removing ceiling plaster (as necessary), demolishing the soffit (as needed for drywall and existing framing), reframing the soffit (as needed), installing new drywall, taping joints, applying joint compound, sanding, painting the soffit and the entire ceiling, and cleaning. The specific area of the home where this work would be completed is not specified/identified in

the December 6, 2021 Estimate. *Id.* During cross examination by the Fund, the Claimant testified that the Respondent did this work, and the estimate did not include work outside the scope of the Respondent's original work. However, the Claimant failed to identify which portion of the Contract aligned with this work, as she complained of the LVL beam installation and the ceiling in various areas of the home. There was no evidence to explain what a soffit is and why this work is necessary to fix or repair work completed by the Respondent.

The Claimant testified that the LVL beam was installed crooked, it is not level, and you can noticeably see the seams between the kitchen and the sitting area. The Claimant testified that she told the Respondent about her dissatisfaction with the lack of leveling or making sure things are straight or right during the project. In support of her argument, the Claimant provided five pictures of the LVL beam, but did not elaborate or explain what an LVL beam is or its purpose. Clmt. Ex. 6-O. In the pictures there is a "beam" in the ceiling above the wide opening which separates the kitchen and another room for a sitting area. There is no door on this wide-open frame between the two areas of the home. The first and second pictures show that the left side of the beam appears to be warped and it does not appear to be aligned straight across. I cannot tell from the pictures that any wall is crooked, and there is no complete wall; rather, there are portions of walls that are closer to the size of columns, on each side of the wide opening separating the two areas. Only the left "column" is visible in the pictures. *Id.*

The Respondent objected to these pictures, arguing that his workers did not do any reframing and he can tell from the pictures that it is not new framing. The Respondent also testified that the LVL beam that was installed by his workers passed inspection. In response, the Claimant argued that the inspection would not address the quality of the work.

The Claimant also provided four pictures of the new drywall ceilings in the living room, kitchen, sitting area across from the kitchen, and main bathroom upstairs. Clmt. Ex. 6-P. The

Claimant testified that you can see compound tape and joints, that the drywall in these areas is not seamless in the corners, there are indentions where the tape is poking out; and that it does not look like new ceilings have been installed.

As the burden of proof rests with the Claimant, it was her obligation to prove that she incurred a loss as a result of the poor installation of the LVL beam. The LVL beam had to be installed prior to the September 20, 2018 final inspection. Not only should the Claimant have discovered that the beam was installed improperly prior to the final inspection, she also testified that she told the Respondent that she was dissatisfied with the lack of leveling throughout the project. As the Claimant was clearly aware of any problems related to the beam and leveling, I find that this portion of her Claim is untimely. Bus. Reg. § 8-405(g); COMAR 09.08.03.02(G).

Further, even if I had found this Claim was timely, I would have been unable to calculate her actual loss, as she has not sufficiently met her burden to show how the work outlined in December 6, 2021 Estimate is consistent with the scope of work in the Contract. Bus. Reg. §8-401. The Claimant did not also prove why the work is necessary to repair or replace work completed by the Respondent. Therefore, I find that the Claimant is not entitled to recovery from the Fund for these reasons. Bus. Reg. §§ 8-401, 8-405(a).

Boxed Frame Install Outlet Replacement Project

There are two outlets in the Claimant's home, one in the sitting area near the kitchen and one in the dining room, where the outlet and wall plate are not flush with the wall. Instead, there is a box surrounding the outlet that is protruding from the wall. Clmt. Ex. 6-R. The December 6, 2021, Estimate includes a cost of \$1,642.46 to repair this work. Clmt. Ex. 12. This estimate also included a note "[a]t this point, we do not know why the previous contractor installed the receptacle as he did. We do not know if the reason could be that there is something inside the wall that did not allow the electrical box to be installed flushed with the wall. If that is

the case we may have to relocate the outlet which will incur an extra charge for labor and materials NOT included in this quote” (emphasis in original). Clmt. Ex. 12.

The Respondent testified that the inspector required a “pancake box” for these two outlets. He explained that these two outlets could not go inside the wall; therefore, his electrician needed to put more cover, so he installed an exterior box outside the wall a half-inch around the outlet, called the “pancake box.” Then the Respondent’s workers put molding around to make it “look nicer.”

Even though the Claimant may not be pleased with the appearance of the boxed outlet, her dissatisfaction alone is insufficient evidence of unworkmanlike, inadequate, or incomplete work. I find the Respondent’s testimony regarding why this type of pancake box was required for these two outlets to be credible and it is supported by the note in the Claimant’s own exhibit. The Claimant offered no evidence to show that the outlet does not work. It appears that this is an acceptable method of installation according to the Respondent and therefore, I find that the Claimant has not proven an actual loss as a result of the acts or omissions of the Respondent as it relates to these two outlet boxes. Bus. Reg. §§ 8-401, 8-405(a). One of the photographs is blurry, but in the other one, I can see that the right lower portion of the molding is slightly cracked and the white paint above the outlet box is also on the blue wall, as it was slightly painted unevenly. Clmt. Ex. 6-R. However, the Claimant’s complaint is that the outlets are not flush with the wall, which the Claimant would have known was an issue when the work was completed. Therefore, this portion of the Claim would have been time-barred as well. Bus. Reg. § 8-405(g); COMAR 09.08.03.02(G).

Kitchen Cabinet Doors and Drawers Alignment Project

The Claimant testified that the kitchen cabinets and drawers were not installed properly as they had shifted beginning in December 2019, were not aligned, were uneven with the

countertops, and had noticeable gaps in between each cabinet. The Claimant testified that the cabinet drawers do not shut properly and the molding around the cabinetry is coming apart. In support of her position, the Claimant provided eighteen photographs of several cabinets in her kitchen (Clmt. Ex. 6-F), and two photographs showing the uneven alignment between the countertop and stove (Clmt. Ex. 6-G), as well as the December 6, 2021 Estimate (Clmt. Ex. 12). The Claimant testified that these pictures were taken after the work was completed, at some point between 2020 and 2021.

Mr. Stevens also testified that the kitchen molding is slanted with open gaps in the upper cabinets, and that because the upper cabinets are not level, the molding will not connect at the right angle at both ends. Instead, there are different angles resulting in gaps. Mr. Stevens testified that he informed the Respondent's workers about this issue, and they tried to fix it a couple of times to no avail, so they "quit on that."

In the Claimant's photographs, it is evident that there is at least one set of upper cabinets with a visible gap between two cabinets, that there is a split in the angle of the crown molding on at least three sections of the upper cabinets, and that the countertop near the stove is not aligned.²⁹ Clmt. Ex. 6-F, G. Her photographs also show that there are doors and cabinets which are slightly ajar. *Id.* Based upon the December 6, 2021 Estimate, another contractor has confirmed that the cabinet doors and drawers need to be realigned. Clmt. Ex. 12.

The December 6, 2021 Estimate projects a cost of \$1,800.00 for realigning all kitchen cabinet doors and drawers and reattaching cabinet crown moldings if possible. *Id.* The Estimate includes two "notes." The first applies to the cabinets and states: "This quote does NOT include adjustment of the cabinets themselves. The cabinets were improperly installed by the previous

²⁹ The Claimant has not submitted any estimates regarding replacement or repair of the countertops. Therefore, I will not further address the issues with the countertops.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud. The text notes that without reliable records, it would be difficult to track the flow of funds and identify any irregularities.

2. The second part of the document focuses on the role of internal controls. It states that internal controls are designed to ensure that transactions are recorded accurately and in a timely manner. These controls include procedures for authorizing transactions, verifying the accuracy of data, and reconciling accounts. The document stresses that strong internal controls are a key component of an effective risk management strategy.

3. The third part of the document addresses the issue of transparency and accountability. It argues that organizations should be open and honest about their financial activities. This involves providing clear and concise financial statements to stakeholders and being willing to answer questions about the data. The text suggests that transparency helps to build trust and confidence in the organization's financial reporting.

4. The fourth part of the document discusses the importance of regular audits. It explains that audits provide an independent assessment of the organization's financial records and internal controls. By identifying weaknesses and areas for improvement, audits help to ensure that the organization is operating in accordance with applicable laws and regulations. The document notes that regular audits are also a good way to detect and prevent fraud.

5. The fifth part of the document concludes by reiterating the importance of these practices. It states that maintaining accurate records, implementing strong internal controls, being transparent, and conducting regular audits are all essential for the success of any organization. The text encourages organizations to take a proactive approach to financial management and to continuously improve their processes.

contractor and they are not plumb, square or level.” *Id.* The second note applies to reattaching the seams of the crown moldings and states: “This operation would be possible ONLY if the previous contractor properly cut the angles. Otherwise, it will be impossible to properly join the crown moldings at the seams in which case we are not responsible if the end result is not perfect.” *Id.* (emphasis in original).

The Claimant attempted to offer the original Diamond Granite and Cabinet invoice to prove the replacement cost for the cabinets. However, it was not admitted based upon its speculative nature. The Claimant offered nothing to support her claim that the cabinets need to be replaced; solely an allegation that the Respondent installed the cabinets improperly. Furthermore, the December 6, 2021 Estimate expressly did not include any repair or replacement material or labor costs. As such, the Claimant did not show that the cabinets themselves needed to be replaced due to the acts or omissions by the Respondent. Bus. Reg. §§ 8-401, 8-405(a).

The Respondent testified that the Claimant was responsible for the purchase of the cabinet materials in accordance with the Contract. The Respondent was only responsible for the provision of basic materials as stated in the Contract. Clmt. Ex. 10. He further explained that the cabinets came with the doors and drawers already attached, and therefore, it was a manufacturer defect rather than an issue with the proper installation. The Respondent did not provide any evidence to support this claim, such as an invoice for the cabinets, any documentary evidence, the manufacturer’s warranty, or any photographs of how the cabinets looked when they were delivered. His photographs (Rep. Ex. 7) show that the door hardware had to be installed on the cabinets, but not that the cabinet came with the doors or drawers already installed.

The Respondent provided ten photographs (Res. Ex. 10) of the kitchen, three showed the completed final kitchen with the stove from the same angle, and the remainder (seven) showed

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the installment of the cabinets prior to the countertop installation. Of those seven pictures, three were taken with a level showing that the lower cabinets were leveled at the time of the installation. In all of the Respondent's pictures, there is no appearance of any shifting or misalignment of the cabinets, or their doors and drawers. The Respondent also testified that the Claimant selected and purchased the molding, and he only provided the labor for the installation.

In this instance, the hearsay evidence offered by the Claimant through the "notes" in the December 6, 2020 Estimate was an expert opinion. The author of this Estimate was not present at the hearing and was not available for cross-examination. There is no evidence to corroborate the basis of the author's unsworn statements or to determine their level of expertise. The only additional information regarding the author is the name of the company "Celestial Handyman Services" and that the company is MHIC licensed. Therefore, there is insufficient evidence for me to accept these "notes" on their face as expert opinions as there was no evidence of the "knowledge, skill, experience, training, or education" of the author of the "notes" contained in the Estimate. COMAR 28.02.01.21D(2). To do so would be prejudicial.³⁰

It is unclear if there was any intervening cause between the completion of the work in September 2018 and when the Claimant first noticed the shifting of the cabinets in December 2019. It would have been beneficial for the author of the December 6, 2021 Estimate to be present to explain why he or she concluded the cabinets were improperly installed and how the cabinets shifted based upon improper installation, but no such evidence was presented. Thus, I find that there is insufficient evidence to support that the Claimant suffered an actual loss as a result of the improper installation of the cabinets themselves.

³⁰ "The Court countenances the relaxation of evidentiary rules so long as they are not applied in an arbitrary or oppressive manner that deprives a party of his or her right to a fair hearing. *Travers v. Baltimore Police Dep't*, 115 Md. App. 395, 412 (1997).

Based upon the Claimant's testimony, Mr. Stevens' testimony, and the photographs that depict cabinet doors, drawers, and molding. I find that there was improper installation. I do not find the Respondent's testimony that the cabinets came with the doors and drawers attached to be credible since the Claimant refuted his testimony that he did not purchase the cabinetry. As such, the Claimant is entitled to recover the Fund her actual loss as a result of this work. Bus. Reg. §§ 8-401; 8-405(a). Since the Claimant demonstrated that she did not discover the "shifting" until December 2019, this portion of her claim is timely. Bus. Reg. § 8-405(g); COMAR 09.08.03.02(G).

Miscellaneous Concerns

The Claimant also alleged that the Respondent completed inadequate and unworkmanlike home improvements related to the installation of drywall throughout the home, installation of a sliding glass door, installation of closet racks, and electrical issues but she provided no evidence to support her actual loss and none of these items were listed in any of her estimates. See Clmt. Ex. 1, 6, 8, 9, 11, 12. Therefore, I need not address the timeliness of these items, as the Claimant has not met her burden that she incurred an actual loss as a result of the acts or omissions of the Respondent related to these delineated items of work. Bus. Reg. §§ 8-401, 8-405(a).

Amount of Recovery

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.

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 Claimant paid the Respondent a total of \$47,764.00, which was also the total price under the Contract. Based upon the analysis above, the Claimant has proven that she incurred an actual loss resulting for the "Hole in Wall Behind Lamp in Lower Bathroom," "Water Damaged Kitchen Ceiling Repair and Paint," "Bathroom Floor Tile and Wall (Partial) Replacement," and "Kitchen Cabinet Doors and Drawers Alignment" projects. Clmt. Ex. 11, 12. The September 21, 2020 Celestial Handyman Services Estimate, which involved testing the source of the leak in the bathroom, became unnecessary based upon the Michael & Sons Estimate as testing to determine the cause of the leaking was no longer needed; therefore,

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4. The fourth part of the document addresses the challenges associated with data security and privacy. It stresses the importance of implementing robust security measures to protect sensitive information and ensure compliance with relevant regulations.

5. The fifth part of the document concludes by summarizing the key findings and recommendations. It reiterates the importance of a data-driven approach and encourages the organization to continue exploring new technologies and methodologies to enhance its data capabilities.

the Claimant is not entitled to recover this amount. See Clmt. Ex. 8, 9. As such, she is entitled to recover \$9,485.48, calculated as follows:³¹

Amount Paid to Contractor (Respondent)	\$47,764.00	
Plus Amounts to Other Contractor	\$177.53	(Hole in Wall)
	\$1,137.22	(Water Damaged Ceiling)
	\$6,370.73	(Bathroom Floor Tile/Wall)
	<u>+\$1,800.00</u>	(Kitchen Doors/Drawers)
	\$57,249.48	
Less the Contract Price	<u>-\$47,764.00</u>	
	\$9,485.48	

Effective July 1, 2022, a claimant's recovery is capped at \$30,000.00 for acts or omissions of one contractor, and a claimant may not recover more than the amount paid to the contractor against whom the claim is filed.³² In this case, the Claimant's actual loss is less than the amount paid to the Respondent and less than \$30,000.00. Therefore, the Claimant is entitled to recover her actual loss of \$9,485.48.

PROPOSED CONCLUSIONS OF LAW

I conclude that the Claimant should have discovered with due diligence the existence of any workmanship or inadequacies with the laundry room construction, base molding throughout the home, installation of the kitchen backsplash, door framing for two bedroom doors, crooked wall/ceiling framing installation, and two boxed frame outlets, at the time that the project was completed on September 20, 2018. The Claimant did not file her Claim until October 1, 2021

³¹ "Although the applicable regulation does not expressly address the effect of a limitations bar to a portion of a claim, the Commission's decision to consider only those repair costs paid to other contractors that were not time barred was reasonable and consistent with the Guaranty Fund's limited purpose of compensating homeowners for actual loss. We conclude that the Commission's application of COMAR 09.08.03.03B(3) was not an error of law." See *Watnoski v. Maryland Home Improvement Guar. Fund*, No. 2141, Sept. Term, 2019, 2021 WL 933990, at *4 (Md. Ct. Spec. App. Mar. 11, 2021), cert. denied sub nom. *Watnoski v. Md. Home Improvement Comm'n*, 474 Md. 735, 255 A.3d 1098 (2021).

³² H.D. 917, 2022 Leg., 444th Sess. (Md. 2022) (to be codified in section 8-405(e)(1) of the Business Regulation Article). See also Bus. Reg. § 8-405(e)(5); COMAR 09.08.03.03B(4), D(2)(a). The increased cap is applicable to any claim on or after July 1, 2022, regardless of when the home improvement contract was executed, the claim was filed, or the hearing was held. See *Landsman v. MHIC*, 154 Md. App. 241, 255 (2002) (explaining that the right to compensation from the Fund is a "creature of statute," these rights are subject to change at the "whim of the legislature," and "[a]mendments to such rights are not bound by the usual presumption against retrospective application").

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and therefore, the Claimant is time-barred from recovery for these portions of the Claim. Bus. Reg. § 8-405(g); COMAR 09.08.03.02(G).

I further conclude that the Claimant has sustained an actual and compensable loss of \$9,485.48 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 that amount from the Fund. *Id.*

RECOMMENDED ORDER

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

ORDER that the Maryland Home Improvement Guaranty Fund award the Claimant \$9,485.48; 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,³³ and

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

August 10, 2022
Date Decision Issued

TNH/at
#198218

Tracee N. Hackett

Tracee N. Hackett
Administrative Law Judge

³³ See Md. Code Ann., Bus. Reg. § 8-410(a)(1)(iii) (2015); COMAR 09.08.01.20.

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5. The fifth part of the document concludes by summarizing the key findings and recommendations. It stresses the importance of a data-driven approach in decision-making and the need for continuous monitoring and improvement of the data management process.

PROPOSED ORDER

WHEREFORE, this 16th day of September, 2022, 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.

Chandler Louden

Chandler Louden

Panel B

***MARYLAND HOME IMPROVEMENT
COMMISSION***



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