

DLLR

STATE OF MARYLAND
DEPARTMENT OF LABOR, LICENSING AND REGULATION

MARTIN O'MALLEY, Governor
ANTHONY G. BROWN, Lt. Governor

Division of Occupational & Professional Licensing
Maryland Home Improvement Commission
Stanley J. Batts, Commissioner

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IN THE MATTER OF THE CLAIM OF * BEFORE **STEPHEN J. HILL**,
EDWARD K. HILL * AN ADMINISTRATIVE LAW JUDGE
AGAINST THE MARYLAND HOME * OF THE MARYLAND OFFICE
IMPROVEMENT GUARANTY FUND * OF ADMINISTRATIVE HEARINGS
FOR THE ALLEGED VIOLATIONS OF * OAH No.: DLR-HIC-02-09-01816
DAVID B. BARKLEY, t/a * MHIC No.: 07 (75) 1812
OMEGA CONSTRUCTION & *
REMODELING *

* * * * *

PROPOSED DEFAULT ORDER

On **January 25, 2008**, **Edward K. Hill** ("Claimant") filed a claim with the Maryland Home Improvement Commission ("MHIC") Guaranty Fund ("Fund") for reimbursement of \$138,100.00 for actual losses allegedly suffered as a result of home improvement work performed by **David B. Barkley, t/a Omega Construction & Remodeling** ("Respondent").

By letter dated **June 10, 2009**, the Office of Administrative Hearings (OAH) issued Notices of Hearing (Notices) to the Claimant, the Claimant's attorney, and to the Respondent via certified and first class mail at their addresses of record. The Notices stated that a hearing was scheduled for Thursday, October 1, 2009, at 9:30 a.m., at the OAH, 11101 Gilroy Road, Hunt Valley, Maryland. The Notices further advised the parties that failure to attend the hearing might result in "a decision against you."



The U.S. Postal Service did not return the Notices sent by first class mail. The U.S. Postal Service returned a "green card" evidencing delivery of the Notice sent to the Claimant by certified mail, which was delivered to the Claimant's address of record and signed by the Claimant on June 17, 2009. The U.S. Postal Service also returned a "green card" evidencing delivery of the Notice sent to the Claimant's attorney by certified mail, which was delivered to the Law Offices of Allyson Harris Owens, LLC, and signed for by Allyson H. Owens on or about June 24, 2009. The U.S. Postal Service returned the Notice sent by certified mail to the Respondent as "unclaimed." The OAH did not receive any requests for postponement prior to the date of the hearing.

Administrative Law Judge **Stephen J. Nichols** convened the hearing as scheduled on **Thursday, October 1, 2009**, pursuant to Md. Code Ann., Bus. Reg. §§ 8-312(a) and 8-407(c)(2) (i)(Supp. 2009). Neither the Claimant nor the Respondent, or anyone authorized to represent them, appeared. **Hope M Sachs**, Assistant Attorney General, Department of Labor, Licensing, and Regulation, represented the Fund. After waiting **thirty** minutes, during which time the Claimant and the Respondent still had not appeared, the Assistant Attorney General made a motion to dismiss the claim against the Fund.

THEREFORE, it is **PROPOSED** that the Maryland Home Improvement Commission **ORDER** that:

1. The Claimant, **Edward K. Hill**, is found in **DEFAULT**; and
2. All further proceedings in the captioned matter be **TERMINATED**, and a disposition of **DISMISSAL** be entered in this case pursuant to COMAR 28.02.01.20A; and
3. In accordance with COMAR 09.01.03.09A and 28.02.01.20C, the Claimant or his representative may file with MHIC, a written Motion to Modify or Vacate this

Default Order within 20 days. The Claimant or their representative is further informed that any such motion must state the grounds for the request to modify or vacate the Default Order. If good cause is not shown to excuse the default, the Default Order will be upheld.

December 15, 2009
Date

John Borz
John Borz, Chairman
Maryland Home Improvement Commission

Copies to:

Edward K. Hill
3106 Rices Lane
Windsor Mill, MD 21244

Nichole M. Hatcher, Esq.
10400 Little Patuxent Pkwy, Ste 290
Columbia, MD 21044

David B. Barkley
T/a Omega Construction & Remodeling
7527 Main Street
Sykesville, MD 21784