

**IN THE MATTER OF THE CLAIM  
OF ANNIE TISDALE,  
CLAIMANT  
AGAINST THE MARYLAND HOME  
IMPROVEMENT GUARANTY FUND  
FOR THE ALLEGED ACTS OR  
OMISSIONS OF PAUL CONNERS,  
T/A PMC HOME IMPROVEMENT,  
LLC,  
RESPONDENT**

**\* BEFORE DEBORAH S. RICHARDSON,  
\* AN ADMINISTRATIVE LAW JUDGE  
\* OF THE MARYLAND OFFICE  
\* OF ADMINISTRATIVE HEARINGS  
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\* OAH No.: LABOR-HIC-02-24-09086  
\* MHIC No.: 24 (75) 460**

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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 December 7, 2023, Annie Tisdale (Claimant) filed a claim (Claim) with the Maryland Home Improvement Commission (MHIC)<sup>1</sup> Guaranty Fund (Fund) for reimbursement of \$3,967.00 for actual losses allegedly suffered as a result of a home improvement contract with Paul Connors, trading as PMC Home Improvement, LLC (Respondent). Md. Code Ann., Bus. Reg. §§ 8-401 to -411 (2015 & Supp. 2024).<sup>2</sup>

<sup>1</sup> The MHIC is under the jurisdiction of the Department of Labor (Department).  
<sup>2</sup> Unless otherwise noted, all references to the Business Regulation Article are to the 2015 Volume of the Maryland Annotated Code.

On April 1, 2024, the MHIC issued a Hearing Order on the Claim. On March 29, 2024, the MHIC forwarded the matter to the Office of Administrative Hearings (OAH) for a hearing.

On July 18, 2024, I held a hearing by video. Bus. Reg. §§ 8-407(a), 8-312; Code of Maryland Regulations (COMAR) 28.02.01.20B(1)(b). The Claimant represented herself. The Respondent represented himself. Catherine Villareale, Assistant Attorney General, Department, represented the Fund.

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 & Supp. 2024); COMAR 09.01.03; COMAR 28.02.01.

### ISSUES

1. Did the Claimant sustain an actual loss compensable by the Fund as a result of the Respondent's acts or omissions?
2. If so, what is the amount of the compensable loss?

### SUMMARY OF THE EVIDENCE

#### Exhibits

I admitted the following exhibit offered by the Claimant:

Clmt. Ex. 1 - Package of documents containing the following:

- Table of Contents
- Agreement, April 28, 2021 (pp. 1-2)
- Check, April 28, 2021 (p. 3)
- District Court Complaint, August 23, 2022 (pp. 4-5)
- District Court Judgment, December 3, 2022 (p. 6)
- Motion and Order Compelling Answers to Interrogatories in Aid of Execution, February 7, 2023 (pp. 7-8)
- Judgment Debtor Information Sheet, undated (pp. 9-10)
- Clerk's Entry granting motion to compel, March 8, 2023 (p. 11)
- Request for Show Cause Order for Contempt, June 18, 2023 (pp. 12-14)
- Complaint Form Department of Labor, October 10, 2023 (pp. 15-16)
- Letter from MHIC to the Respondent, November 28, 2023 (p. 17)

- Typed response from the Respondent, November 21, 2023 (p. 18)
- Typed and handwritten notes from the Claimant, undated (p. 19)
- Home Improvement Claim Form, December 7, 2023 (pp. 20-21)
- Typed notes from the Claimant, May 9, 2024 (pp. 22-23)
- Letter from the MHIC to the Respondent, February 12, 2024 (pp. 24-25)
- Proposed Order, February 12, 2024 (pp. 26-27)

The Respondent did not offer any exhibits for admission into evidence.

I admitted the following exhibits offered by the Fund:

- GF Ex. 1 - Home Improvement Claim Form, December 7, 2023
- GF Ex. 2 - Hearing Order, April 1, 2024
- GF Ex. 3 - Notice of Remote Hearing, April 15, 2024
- GF Ex. 4 - Licensing information, printed July 12, 2024

Testimony

The Claimant testified in her own behalf.

The Respondent presented testimony from James Mowery, an employee of the Respondent.<sup>3</sup>

The Fund did not present any testimony.

**PROPOSED FINDINGS OF FACT**

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

1. At all times relevant to the subject of this hearing, the Respondent was a licensed home improvement contractor under MHIC license number 01-106935 (individual) and 05-139751 (corporate).

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<sup>3</sup> The Respondent also presented testimony from Mary Jane Conners, who presumably is a family member of the Respondent but whose role with the company was not explained. She testified on direct examination and cross-examination by the Claimant. During the Fund's cross-examination of the witness, the Respondent objected, asking that the cross-examination stop entirely, on the ground that English was not the witness's first language and that she needed an interpreter. I ruled that it was not fair to limit cross-examination on those grounds when the Respondent had already elicited direct testimony. I offered to make an interpreter available for the witness or that I would strike her testimony entirely. The Respondent stated that he would prefer her testimony be stricken. Therefore, I did not consider this witness's testimony in making my decision.

2. At all times relevant to this matter, the Claimant owned a home in Upper Marlboro, Maryland (Property).

3. On April 21, 2021, the Claimant and the Respondent entered into a contract for the Respondent to build an enclosed patio at the Property (Contract).

4. The original agreed-upon Contract price was \$11,900.00.

5. The Contract stated that work would begin within two to four weeks and would be completed within five to ten days.

6. On April 28, 2021, the Claimant paid the Respondent \$3,967.00 by check.

7. The Contract provided that an additional \$3,966.00 was due on layout and \$3,966.00 was due upon completion.

8. The Contract provided the following in the preprinted conditions:

Owner agrees that if this contract is canceled by him or them for any reason, other than set forth under Federal of State Statutes allowing Recission, to pay the contractor a sum of money equal to twenty five percent of the Contract price herein agreed to be paid, as fixed, liquidated and ascertained damages without proof of loss or damage. The Company agrees to accept such as reasonable and just compensation for said cancellation. All materials, whether on the property of the owner or not shall remain the property of the Contractor.

(Clmt. Ex. 1, p. 2).

9. The Contract provided in handwriting "if permit is denied by county, client will receive refund minus cost of permit." (Clmt. Ex. 1, p. 1).

10. Sometime after the parties entered into the Contract, the Respondent assigned a project manager to the Claimant's job. That project manager did not obtain a county building permit.

11. The assigned project manager left the Respondent's employment and the Respondent assigned a new project manager to the Claimant's job. The new project manager also failed to obtain a county building permit.

12. The Respondent has performed no work under the Contract.

13. Several months after April 28, 2021, no work having been performed under the Contract, the Claimant demanded a refund from the Respondent. The Respondent refused to provide a refund.

14. On August 23, 2022, the Claimant filed a complaint in the District Court of Maryland seeking a return of her deposit.

15. On November 30, 2022, the Claimant was awarded judgment in her favor in the amount of \$3,967.00.

16. The Claimant has been unable to collect that judgment from the Respondent.

### DISCUSSION

The Claimant has the burden of proving the validity of the Claim by a preponderance of the evidence. Bus. Reg. § 8-407(e)(1); 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 Cnty. Police Dep't*, 369 Md. 108, 125 n.16 (2002).

An owner may recover compensation from the Fund "for an actual loss that results from an act or omission by a licensed contractor." Bus. Reg. § 8-405(a) (Supp. 2024); *see also* COMAR 09.08.03.03B(2) ("The Fund may only compensate claimants for actual losses . . . incurred as a result of misconduct by a licensed contractor."). "[A]ctual loss' means the costs of restoration, repair, replacement, or completion that arise from an unworkmanlike, inadequate, or

incomplete home improvement.” Bus. Reg. § 8-401. For the following reasons, I find that the Claimant has proven eligibility for compensation.

The Respondent was a licensed home improvement contractor at the time the Respondent entered into the Contract with the Claimant. By statute, certain claimants are excluded from recovering from the Fund altogether. In this case, there are no such statutory impediments to the Claimant’s recovery. The claim was timely filed. Bus. Reg § 8-405(g) (2015 & Supp. 2024). The Claimant testified that the District Court case, in which she attempted to recover her deposit from the Respondent, has concluded unsuccessfully, the District Court having advised her it was unable to help her execute on her judgment. Given the date of the judgment, the time to appeal has expired. Bus. Reg § 8-408(b)(1) (2015 & Supp. 2024). The Claimant resided in the home that is the subject of the claim at the time of the events at issue. *Id.* § 8-405(f)(2) (Supp. 2024). The parties did not enter into a valid agreement to submit their disputes to arbitration. *Id.* §§ 8-405(c), 8-408(b)(3) (2015 & Supp. 2024). The Claimant is not a relative, employee, officer, or partner of the Respondent, and is not related to any employee, officer, or partner of the Respondent. *Id.* § 8-405(f)(1) (Supp. 2024).

The Claimant testified, clearly, comprehensively, and credibly, about the events at issue. She signed the Contract with the Respondent on April 28, 2021 for him to build an enclosed patio at her home, and gave him a \$3,967.00 deposit that same day. The Claimant explained that the Respondent assigned her a project manager, who soon after left the Respondent’s employment. She was then assigned another project manager, who also soon after left the Respondent’s employment. She testified that her homeowners’ association (HOA) had to provide approval for the project, but that was not a limiting factor in completing the Contract – the HOA was not able to review and approve the project until it had the opportunity to review the county building permit, which the Respondent never obtained.

The Claimant detailed her attempts to have the Respondent begin the work under the Contract – to no avail. While the Claimant was not able to pinpoint the exact date she finally gave up asking the Respondent to perform work under the Contract, she credibly explained that it was at least six months after the parties entered into the Contract. This was more than a reasonable amount of time to wait for a contractor to obtain a building permit, a requirement before the Respondent could begin work on the patio installation. This is especially so considering that the Contract provided that the Respondent was to begin working on installing the patio within two to four weeks of the Contract date. Finally, after asking for a refund and being denied that request, the Claimant filed a claim for the return of her deposit in the District Court for Prince George's County, in August 2022, sixteen months after the Contract had been signed.

The Respondent argued that the Claimant cancelled the Contract after the seven days allowed by law, and therefore he refused to provide a refund of the deposit. While the Respondent attempted to introduce testimony from one of his employees about the Claimant coming to his office to cancel the Contract, the testimony was vague, internally inconsistent, and directly and credibly refuted by the Claimant. Moreover, there was absolutely no testimony about when this cancellation allegedly occurred.

The Respondent argued that the Claimant's HOA prevented him from moving forward with the Contract. The Respondent's argument was unsupported by the testimony and documentary evidence. There is no doubt the Respondent never obtained a building permit from the County for the patio installation. The only explanation provided by the Respondent as to why he failed to obtain the county building permit to begin the Contract was that it was during the COVID-19 pandemic, even though the Contract was signed a full year after the start of that pandemic and the Claimant allowed sixteen months before filing in the District Court to have her

deposit returned. The Respondent failed to produce a shred of credible testimony about when the Claimant cancelled the Contract. Nor did he produce any evidence about his attempts to obtain the building permit, such as a date-stamped application, emails to the County government, or internal emails or calls to show that his staff was working on the Claimant's Contract.

The Claimant has established, by a preponderance of the evidence, that the Respondent failed to complete any work on the Contract, effectively abandoning the job, and she rightfully demanded a refund of her deposit.

As the Respondent abandoned the Contract, I find that the Respondent performed an incomplete home improvement. I thus find that the Claimant is eligible for compensation from the Fund. Having found eligibility for compensation I must determine the amount of the Claimant's actual loss and the amount, if any, that the Claimant is entitled to recover. The Fund may not compensate a claimant for consequential or punitive damages, personal injury, attorney fees, court costs, or interest. Bus. Reg. § 8-405(e)(3) (Supp. 2024); COMAR 09.08.03.03B(1). The MHIC's regulations provide three formulas to measure a claimant's actual loss, depending on the status of the contract work.

The Respondent abandoned the Contract without doing any work. Accordingly, the following formula appropriately measures the Claimant's actual loss: "If the contractor abandoned the contract without doing any work, the claimant's actual loss shall be the amount which the claimant paid to the contractor under the contract." COMAR 09.08.03.03B(3)(a). Therefore, the Claimant's actual loss is the \$3,967.00 deposit she paid to the Respondent on April 28, 2021.



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.<sup>4</sup> Bus. Reg. § 8-405(e)(1), (5) (Supp. 2024); COMAR 09.08.03.03B(4). In this case, the Claimant's actual loss is equal to the amount paid to the Respondent and less than \$30,000.00. Therefore, the Claimant is entitled to recover her actual loss of \$ 3,967.00.

### **PROPOSED CONCLUSIONS OF LAW**

I conclude that the Claimant has sustained an actual and compensable loss of \$ 3,967.00 as a result of the Respondent's acts or omissions. Md. Code Ann., Bus. Reg. §§ 8-401, 8-405 (2015 & Supp. 2024); COMAR 09.08.03.03B(3)(a). I further conclude that the Claimant is entitled to recover that amount from the Fund. Bus. Reg. § 8-405(e)(1), (5) (Supp. 2024); COMAR 09.08.03.03B(4).

### **RECOMMENDED ORDER**

I **RECOMMEND** that the Maryland Home Improvement Commission:  
**ORDER** that the Maryland Home Improvement Guaranty Fund award the Claimant \$3,967.00; and  
**ORDER** that the Respondent is ineligible for a Maryland Home Improvement Commission license until the Respondent reimburses the Guaranty Fund for all monies disbursed under this Order, plus annual interest of ten percent (10%) as set by the Maryland Home Improvement Commission;<sup>5</sup> and

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<sup>4</sup> On or after July 1, 2022, the increased cap is applicable to any claim 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").

<sup>5</sup> *See* Md. Code Ann., Bus. Reg. § 8-410(a)(1)(iii) (2015); COMAR 09.08.01.20.

**ORDER** that the records and publications of the Maryland Home Improvement

Commission reflect this decision.

October 15, 2024  
Date Decision Issued

*Deborah S. Richardson*  

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Deborah S. Richardson  
Administrative Law Judge

DSR/sh  
#214386

**PROPOSED ORDER**

***WHEREFORE, this 26<sup>th</sup> day of February, 2025, 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***