

**IN THE MATTER OF THE CLAIM
OF DELBY B. ALLEN
AGAINST THE MARYLAND HOME
IMPROVEMENT COMMISSION
GUARANTY FUND ON ACCOUNT
OF ALLEGED MISCONDUCT OF
S. E. FALGOUST
t/a LIBERTY FENCE & RAILING
(formerly, t/a MEDALLION
SECURITY DOOR & WINDOW**

**MARYLAND HOME
IMPROVEMENT COMMISSION**

CASE NO. 1312 - 2009

FINAL ORDER OF DISMISSAL

On September 29, 2009, the Claimant, Delby A. Allen ("Allen"), filed a claim with the Maryland Home Improvement Guaranty Fund against contractor S. E. Falgoust, t/a Liberty Fence & Railing (formerly, t/a Medallion Security Door & Window) ("Medallion").

On July 8, 2010, the Maryland Home Improvement Commission dismissed Allen's Guaranty Fund claim as legally insufficient, on the grounds that Allen had unreasonably rejected good faith efforts by the contractor to resolve the claim. Under Business Regulation Article, § 8-405(d), Annotated Code of Maryland, the Commission may deny a claim, if the Commission finds that the claimant has unreasonably rejected good faith efforts by the contractor to resolve the claim.

On or about November 28, 2007, Allen and Medallion entered into a home improvement contract for the installation of two exterior doors at Allen's residence. The contract price for the two doors was \$3,386.00. The doors were installed in December 2007. Subsequently, Allen complained to Medallion that air was entering the house at the bottom of the doors. In response to Allen's complaints, during the period January - October 2008, Medallion made five service calls to Allen's residence. Allen remained

dissatisfied, and Medallion scheduled a sixth service call for December 16, 2008. Prior to the December 16 appointment, Allen and Medallion discussed, by telephone, signing a written agreement regarding further repairs. When Medallion's workers arrived on December 16, they presented Allen with a written agreement for her signature. Allen objected to the terminology in the agreement stating that Medallion would "service" the doors, rather than use of the term that Medallion would "fix" the doors. Allen refused to agree to further repairs, unless the term "fix" was used in the agreement.

The Commission finds that the respondent contractor, Medalion, made good faith efforts to resolve the dispute with claimant Allen, as evidenced by the five prior service calls. The Commission further finds that Allen's rejection of Medallion's repair effort on December 16, 2008, because of Medallion's use of the term "service" rather than "fix," was unreasonable.

Pursuant to regulation, claimant Allen was permitted to file a written response to the dismissal of her Guaranty Fund claim. Claimant Allen's response was reviewed, and it was the decision of the Commission to affirm the dismissal of the claim.

Therefore, on this 14th day of February, 2011, the Maryland Home Improvement Commission hereby:

ORDERS that the Claimant's claim against the Home Improvement Guaranty Fund is **DISMISSED** as legally insufficient, pursuant to Business Regulation Article §8-407(c)(2)(ii) of the Annotated Code of Maryland.

This Order shall become effective thirty (30) days from this date, to allow time for any party to file an appeal of this decision to the Circuit Court.

John Borz _____

Chairman