IN THE MATTER OF THE CLAIM	*	**BEFORE A. J. NOVOTNY, JR,**
OF JACOB & HOLLY AMIR,	*	**AN ADMINISTRATIVE LAW JUDGE**
CLAIMANTS,	*	**OF THE MARYLAND OFFICE**
AGAINST THE MARYLAND HOME	*	**OF ADMINISTRATIVE HEARINGS**
IMPROVEMENT GUARANTY FUND	*	**OAH NO.: DLR-HIC-02-12-27887**
FOR THE ALLEGED ACTS OR	*	**MHIC NO.: 11 (75) 757**
OMISSIONS OF WILLIAM	*	
BROADDUS, III,	*	
T/A BROADDUS & BROADDUS	*	
CONTRACTING,	*	
RESPONDENT	*	

* * * * * * * * * * * * *

RECOMMENDED DECISION

STATEMENT OF THE CASE

On May 20, 2011, Jacob and Holly Amir (Claimants) filed a claim with the Maryland Home Improvement Commission (MHIC or Commission) Guaranty Fund (Fund) for reimbursement of $31,250.00 for actual losses allegedly suffered as a result of a home improvement contract with William Broaddus, III, t/a Broaddus & Broaddus Contracting (Respondent).

After investigation, on July 3, 2012, the Commission issued a Hearing Order and forwarded the case to the Office of Administrative Hearings (OAH) on July 5, 2012. On March 19, 2013, I held a hearing at the OAH on the Claimants' claim. The Claimants appeared, and were represented by Wayne Goddard, Esquire. The Respondent was present and was represented by Kim Parker, Esquire. The Fund was represented by Jessica Kauffman, Assistant Attorney General.

The contested case provisions of the Administrative Procedure Act, the procedural regulations of the Department, and the Rules of Procedure of the OAH govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2009 & Supp. 2012), Code of Maryland Regulations (COMAR) 09.01.03.01; 09.08.02.01; and 28.02.01.01.

ISSUE

Did the Claimants sustain an actual loss compensable by the Fund as a result of the Respondent's acts or omissions?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits on the Claimants' behalf:

Cl. 1 - Initial contract between Claimants and Respondent, June 23, 2010

Cl. 2 - Material purchases statement, June 28, 2010 - October 7, 2010

Cl. 3 - Packet of invoices, June 28, 2010 - October 10, 2010

Cl. 4 - Amended contract between Claimants and Respondent, October 10, 2010

Cl. 5 - Wood Floors Plus, Inc. receipts, June 28, 2010 and August 7, 2010

Cl. 6 - IFS Floors Corp. invoice, November 10, 2010

Cl. 7 - Benzi's, Inc. Invoice, June 28, 2011

Cl. 8 - John Heyn's inspection report, May 2, 2011

Cl. 9 - Letter to Respondent from Claimants' attorney, October 25, 2011

Cl. 10 - ALCAP Construction, Inc. (ALCAP) Proposal, October 24, 2011

Cl. 11 - DLLR license information for ALCAP, March 19, 2013

I admitted the following exhibits on the Fund's behalf:

Fund 1 - Notice of Hearing, February 26, 2013, with certified mail receipt

Fund 2 - Hearing Order dated July 3, 2012, with attachments[1]

Fund 3 - Respondent's Licensing Information, February 25, 2013

Fund 4 - Letter from MHIC to Respondent, May 25, 2011

The Respondent offered no documents into evidence.

Testimony

The Claimants testified on their own behalf and also presented the testimony of John Heyn, who I accepted as an expert in the field of Residential Construction and Cost Estimation.

The Respondent testified on his own behalf.

The Fund did not present any witnesses.

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, License No. 01-76795. (Fund 3).

2. On or about June 23, 2010, the Claimants and the Respondent entered into a home improvement contract wherein the Respondent was to remove the front west wall of the Claimants' house at 16938 Flickerwood Road, Parkton, Maryland 21120, and construct a

[1] Attachments included the Final Order of the Commission (Docket No. 757-2011), dated July 27, 2011.

one-story addition with a new kitchen and family room. The contract also provided for installation of hardwood flooring in the hallways and bedrooms. (Cl. 1).

3. The terms of the contract required the Claimants to pay the Respondent $23,500.00 for his labor and to pay for all materials. The Claimants provided the Respondent with their Visa credit card to allow him to purchase the materials for the project. (Cl. 1).

4. The work was performed poorly and progressed slowly. During this time, the Respondent purchased materials with the Claimants' credit card that were not used on their project. (Cl. 2; Cl. 3).

5. Prior to October 10, 2010, the Claimants and the Respondent agreed to changes in the scope of work under the contract. On October 10, 2010, they executed an amended contract reflecting those changes. Changes included installation of a patio, skylights, air conditioning and renovation of the master bathroom and pantry. All work was to be completed by November 1, 2010. (Cl. 4).

6. As part of the October 10, 2010 Amended Contract, the parties agreed that the Respondent owed the Claimants $10,720.27, representing charges on the Claimants' credit card by the Respondent for purchases not related to their contract. (Cl. 4).

7. The Respondent did little work after October 10, 2010. The project was not completed by the agreed upon completion date, November 1, 2010. Since the project was not completed by the agreed upon date, the Claimants terminated the contract. (Cl. 9).

8. The following conditions existed at the Claimants' home at the time the Respondent stopped working:

    - The footings were not properly installed

- The Respondent installed the wrong hardwood flooring (Brazilian Cherry was specified, cheaper Indonesian hardwood was installed)
- The hardwood floors were installed early during construction, and then damaged by being left unprotected from the weather and subsequent demolition and the other construction
- The specified entry steps were missing
- The entry doors were improperly installed and were not hung square
- The concrete patio improperly slopped toward the house rather than away from the house
- The bathroom shower stall floor was incorrectly angled to direct water away from the drain
- Painting was unfinished and spotty
- The kitchen cabinets were not all installed.
- Roof shingles, flashing and edging were not properly installed.

(Fund 2; Cl. 8).

9. On or about October 24, 2011, the Claimants obtained a proposal from ALCAP, a licensed home improvement contractor, for $31,705.00 to complete and correct the home improvements left by the Respondent under their contract. (Cl. 10).

10. Based upon the agreed labor costs ($23,500.00) and the cost of materials charged by the Respondent on the Claimants' Visa card ($49,710.74), the Claimants paid a total of $73,210.74 on this contract. (Cl. 4).

DISCUSSION

An owner may recover compensation from the Fund "for an actual loss that results from an act or omission by a licensed contractor." Md. Code Ann., Bus. Reg. § 8-405(a) (Supp. 2012). *See also* COMAR 09.08.03.03B(2). Actual loss "means the costs of restoration, repair, replacement, or completion that arise from an unworkmanlike, inadequate, or incomplete home improvement." Md. Code Ann., Bus. Reg. § 8-401 (2010). In order to be compensated by the Fund, the Claimant bears the burden of proving by a preponderance of the evidence that he or she suffered an actual loss incurred as a result of misconduct by a licensed contractor. Md. Code Ann., Bus. Reg. § 8-405(a) (Supp. 2012) and § 8-407(e) (2010); COMAR 09.08.03.03.

There is no dispute that the Respondent was a licensed home improvement contractor at the time he entered into the contract with the Claimants. (Fund 3). The Fund argued that there can be no dispute that the Respondent's work was incomplete and unworkmanlike and in violation of section 8-311(a)(10) of the Business Regulation Article because that determination was made by the Commission in a Final Decision (Case No. 757-2011) issued on July 27, 2011 (Fund 2), and as such, is *res judicata.*

The hearing before the Commission that resulted in the July 27, 2011 Final Decision, was based upon an emergency suspension of the Respondent's home improvement license in connection with Respondent's performance under the contract with the Claimants. Based upon findings of facts (specifically Finding 12 relating to the workmanship defects) (Fund 2), the Commission concluded as a matter of law that the Respondent violated section 8-311(a)(10) of the Business Regulation Article by performing an incomplete or unworkmanlike home improvement under the contract with the Claimants. (Fund 2).

The claim in this case is based upon whether the Claimants suffered an actual loss because of a licensed contractor's acts or omissions, including incomplete or unworkmanlike home improvements. As such, I will address the Fund's argument that the Commission's decision is *res judicata* or otherwise binding upon this decision.

Res judicata and the related doctrine of collateral estoppel have the dual purpose of protecting litigants from the burden of re-litigating an identical issue with the same party or his privy and of promoting judicial economy by preventing needless litigation. *Blonder-Tongue Laboratories, Inc. v. University of Illinois Foundation*, 402 U.S. 313, 328-29 (1971). Although the doctrines of *res judicata* and collateral estoppel are related, they are different. As the Court of Special Appeals, explained:

> [T]he terms used to denote these separate concepts sometimes begin to be used interchangeably, as though they meant the same thing, one being but a synonym for the other; and thus confusion comes about as the differences in the concepts themselves become blurred.
>
> So it is with the doctrines known as *Res judicata*, collateral estoppel, and collateral attack. *See*, for example, 46 Am.Jur.2d Judgments, § 397. All three of these derive immediately from the larger jurisprudential demand that properly entered judgments be regarded as final, a concept which itself emanates from, and is required by, the societal need for certainty in the law. These three doctrines, though related, are different; they apply in different circumstances and they prevent different things.

Klein v. Whitehead, 40 Md. App. 1, 11-12 (1978).

The distinction between the two is not merely a technical one. In *MPC, Inc. v. Kenny*, 279 Md. 29, 33 (1977), the Court of Appeals stated:

> Suffice it to say that the question whether this is a case of *res judicata* on the one hand or collateral estoppel on the other is one of critical importance. If, for example, the two causes of action are the same, and *res judicata* is therefore applicable, the first judgment would bar appellants . . . from raising any matters which could have been decided in that case. . . . If, however, we are not dealing with the same cause of action, collateral estoppel rather than *res judicata* would

apply and only those determinations of fact or issues actually litigated in the first case are conclusive in this action.

After considering these principles, the Court of Special Appeals proposed a "simple comparative checklist for determining which, if either, of the two doctrines is applicable." *Klein*, 40 Md. App. at 15. The Court explained:

> ...For either to apply, the second action must be between the same parties or those in privity with them. For direct estoppel to apply, it must be shown, in addition, that the two causes of action are the same. Collateral estoppel does not require that the causes of action be the same, but it applies only with respect to issues of fact actually determined in the earlier proceeding.

Id.

A. *Res Judicata.*

The Maryland Court of Appeals has stated with regard to the doctrine of res judicata:

> The basic rule of *res judicata* is that facts or questions which were in issue in a previous action and were therein determined by a court which had jurisdiction of the parties and the subject matter are conclusively settled by a final judgment in the first case and may not again be litigated in a subsequent action between the same parties or their privies even though the subsequent suit takes on a different form or is based on a different cause of action. [Citations omitted.]

Pat Perusse Realty Co. v. Lingo, 249 Md. 33, 35 (1968).

Further explanation of the doctrine of *res judicata* is found in *Cassidy v. Board of Education*, 316 Md. 50 (1989), in which the Maryland Court of Appeals set forth the following three-prong test to determine if *res judicata* is applicable:

> (1) That the parties in the present litigation are the same or in privity with the parties to the earlier dispute,
>
> (2) That the claim presented in the current action is identical to the one determined in the prior adjudication, and
>
> (3) That there was a valid, final judgment on the merits.

Id. at 57. *See also Batson v. Shifflett*, 325 Md. 684, 704 (1992).

In *Weatherly v. Great Coastal Exp. Co., Inc.*, 164 Md. App. 354, 368 (2005), the Court of Special Appeals, citing *Lizzi v. Washington Metro. Area Transit Auth.*, 384 Md. 199, 206 (2005), stated:

> The Court of Appeals has said:
>
> *Res judicata* literally means "a thing adjudicated," and generally indicates "[a]n affirmative defense barring the same parties from litigating a second lawsuit on the same claim, or any other claim arising from the same transaction or series of transactions and that could have been - but was not - raised in the first suit."
>
> . . . .
>
> Often referred to as "claim preclusion," res judicata applies when the following conditions are met:
>
> [T]he parties to a second suit are the same or in privity with the parties to a first suit; the first and second suits present the same claim or cause of action; and there was a final judgment rendered on the merits in the first suit, by a court of competent jurisdiction.

Id.

Although the Claimants were present and testified in both proceedings, the parties are not exactly the same in the present Fund case as in the hearing before the Commission. The parties in the hearing before the Commission were the Commission and the Respondent. The Commission was not acting on behalf of the Claimants during that proceeding, so the Claimants had no privity with either of the parties. Although there was a valid, final judgment on the merits of whether the Respondent performed an incomplete or unworkmanlike home improvement, the claims presented at the two proceedings are not identical. The matter before the Commission was whether the Respondent was subject to sanction for violating 8-311(a)(10) of the Business Regulation Article by performing an incomplete or unworkmanlike home improvement under the contract with the Claimants. The issue before the OAH in the Fund case is whether the

Claimants sustained an actual loss under sections 8-405(a) and 8-407(e) Business Regulation Article because of the Respondent's incomplete or unworkmanlike home improvement.

Thus, because the actual parties are not the same, and because present claim is similar, but not *identical* to the one determined in the prior adjudication, under parts one and two of the *Cassidy* three prong test, I conclude that the Commission's decision is not binding under the doctrine of *res judicata.*

B. Collateral Estoppel.

Collateral estoppel applies "[w]hen an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim." *Murray Int'l Freight Corp. v. Graham*, 315 Md. 543, 547 (*quoting Restatement (Second) of Judgments*, § 27 (1982))(1989).

The claims need not be identical. The doctrine of collateral estoppel states that "[w]hen an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim." *Brown v. Mayor*, 167 Md. App. 306, 319-320 (2006) (quoting *Murray,* 315 Md. at 547).

The Court of Appeals has approved a four-part test for determining when collateral estoppel bars re-litigation of an issue. That test, repeated in *Brown,* 167 Md. App. at 320, requires answers to the following questions:

1. Was the issue decided in the prior adjudication identical with the one presented in the action in question?

2. Was there a final judgment on the merits?

3. Was the party against whom the plea is asserted a party or in privity with a party to the prior adjudication?

4. Was the party against whom the plea is asserted given a fair opportunity to be heard on the issue?

As to the first question of the *Brown* test, the core issue of the complaint in this matter is based upon whether the Respondent performed an incomplete or unworkmanlike home improvement, because of which, the Claimants suffered an actual loss. Md. Code Ann., Bus. Reg. § 8-405(a) (Supp. 2012) and § 8-407(e) (2010). The issue decided by the Commission on July 27, 2011 was that the Respondent performed incomplete or unworkmanlike home improvements under the contract with the Claimants, in violation of section 8-311(a)(10) of the Business Regulation Article. Thus, I conclude that although the purposes of the two proceedings are different, the issue of whether the Respondent performed incomplete or unworkmanlike home improvements is the same issue in both proceedings. As such, the issue of whether the Respondent performed incomplete or unworkmanlike home improvements under the contract with the Claimants passes the first part of the *Brown* test.

The Court of Special Appeals in *Weatherly v. Great Coastal Exp. Co., Inc.*, 164 Md. App. 354, 369 (2005), added an additional element, which is present but not explicitly set forth in the four questions listed in *Brown*: "determination of the issue must have been a critical and necessary part of the decision in the prior proceeding."[2] Critical to the issue in the suspension action decided by the Commission was whether, under the contract with the Claimants, the Respondent performed incomplete or unworkmanlike home improvements. Md. Code Ann., Bus. Reg. § 8-311(a)(10). Likewise, critical to an award in the Fund claim is the issue of

[2] The Court cited *Thacker v. City of Hyattsville,* 135 Md. App. 268, 288-89 (2000) (quoting *Sedlack v. Braswell Servs. Group, Inc.*, 134 F.3d 219, 224 (4th Cir.1998)), *cert. denied,* 363 Md. 206 (2001) to establish the addition of this element to the analysis.

whether, under the contract with the Claimants, the Respondent performed incomplete or unworkmanlike home improvements. Md. Code Ann., Bus. Reg. § 8-405(a) (Supp. 2012) and § 8-407(e) (2010).

The issue of whether, under the contract with the Claimants, the Respondent performed incomplete or unworkmanlike home improvements is a critical issue in both proceedings. Thus, I conclude that the matter meets the additional test of collateral estopple noted in the *Weatherly* case.

As to question two under the *Brown* test, the Commission's July 27, 2011 decision was a final administrative decision finding that the Respondent violated section 8-311(a)(10) of the Business Regulation Article by performing an incomplete or unworkmanlike home improvement under the contract with the Claimants. The Respondent had the opportunity to appeal the Commission's decision to the Circuit Court, but he did not. Accordingly, the Commission's July 27, 2011 decision was a final decision on the merits of whether, under the contract with the Claimants, the Respondent performed incomplete or unworkmanlike home improvements, satisfying the second condition stated in *Brown*.

Question three of the *Brown* test addresses whether the party against whom the plea is asserted was a party or in privity with a party to the prior adjudication. The Respondent was a party in the prior proceeding before the Commission. His Home Improvement License was suspended after a hearing, by the Commission, for violating section 8-311(a)(10) of the Business Regulation Article by performing an incomplete or unworkmanlike home improvement under the contract with the Claimants. The Respondent is a party in the current proceeding. He is the person charged with performing incomplete or unworkmanlike home improvements under the

Claimants' Fund claim, and the plea is being asserted against him. Accordingly, I conclude that the third condition stated in *Brown* is satisfied.

Lastly, question four under the *Brown* test addresses whether the Respondent was given a fair opportunity to be heard in the proceeding before the Commission. At the hearing before the Commission on June 16, 2011 and July 22, 2011, the Commission heard testimony from the Complainants, from John Heyn, licensed home inspector, and the Respondent, who was represented by an attorney. Additionally, the Respondent presented the testimony of one of his employees, Rodney James. The Respondent was given the opportunity at the Commission hearing to fully litigate the issue in question, satisfying the fourth condition of the *Brown* test for collateral estoppel as to that issue. He was also given the opportunity to appeal the Commission's decision to the Circuit Court, but did not.

Thus, in applying *Brown* four part test, I conclude that collateral estoppel is applicable to the issue of whether, under the contract with the Claimants, the Respondent performed unworkmanlike and incomplete home improvements at the Claimants' residence. Based upon the Commission's July 27, 2011 final decision and the doctrine of collateral estoppel, the Respondent performed unworkmanlike and incomplete home improvements under the contract with the Claimants, at the Claimants' residence.

However, even without the Commission's decision that, under the contract with the Claimants, the Respondent performed unworkmanlike and incomplete home improvements, it is clear that the Claimants have shown by a preponderance of the evidence[3] that the Respondent performed unworkmanlike and incomplete home improvement at the Claimants' residence.

[3] Although the evidence relating to the Commission's decision was presented preliminarily by the Fund, in order to provide for a complete record in this proposed decision, I allowed the parties to present all of the evidence that could be relevant.

It being determined that Respondent performed unworkmanlike and incomplete home improvements under the contract with the Claimants, the matter turns to a determination of actual loss. The Claimants presented Mr. Heyn and his report, replete with photographs. (Cl. 8.). Mr. Heyn, whose expertise was undisputed, not only made a personal inspection on April 18, 2011, but testified consistently both before the Commission on June 16, 2011, and at this hearing. Mr. Heyn noted the following conditions, which I have summarized (and as found by the Commission in its July 27, 2011, decision, Fact 12) reflecting unworkmanlike and incomplete home improvements during his April 18, 2011 inspection of the Claimants' residence: The hardwood flooring is the wrong wood, it is warped, and in need of replacement; the doors are out-of-square; the shower drains the wrong way, as does the patio; tile edging was missing, as were steps; the kitchen cabinets were not all installed; painting was incomplete and uneven; footings needed replacement as did roof shingles, exterior flashing and panel sections. Mr. Heyn's report includes very detailed photographs along with his contemporaneously made notes. Mr. Heyn's estimate for completion and restoration of the home improvement contract (Cl. 4) is $31,250.00. The Claimants based their Fund claim on Mr. Heyn's estimate.

Although styled somewhat differently from Mr. Heyn's report, the ALCAP proposal (Cl. 10) obtained by the Claimants for completion and repair of the Respondent's work, finely details the scope of work to be done to complete and repair the work done by the Respondent at the Claimants' residence. Included in the proposal are the costs to: excavate for footers; install missing flashing; rework/replace roof shingles; install steps; replace trim and adjust door alignment; replace improperly installed siding; replace the patio; replace the hardwood flooring; rework the bathroom/shower floor; install tile edging, and re-do necessary painting and clean-up. The ALCAP proposal price is $31,705.00.

Mr. Heyn testified that he had not reviewed the subsequent ALCAP proposal prior to this hearing. When he reviewed it at the hearing, Mr. Heyn testified that he found it to be reasonable and accurate. Mr. Heyn's May 2, 2011 report is strikingly similar to prior ALCAP proposal in the scope of the work needed and costs. Mr. Heyn estimated that the cost to complete and repair the Respondent's work would be $ 31,250.00. ALCAP's proposal was $31,705.00. The difference between Mr. Heyn's estimate and ALCAPS' proposal is minimal, a mere $455.00, mostly attributable to a more detailed estimation of material costs. Thus, I conclude that the ALCAP proposal and the Heyn estimate are accurate and corroborate each other. Nonetheless, the minimal difference between the estimate and the proposal will not affect an award from the Fund since an award is limited to $20,000.00. Md. Code Ann., Bus. Reg. §8-405 (e)(1) and (5) (Supp. 2012).

The Respondent admitted that he owed the Claimants $10,720.27 for charges on their credit card for purchases not related to their contract. Although the Respondent had questions about the cost estimates to complete and repair the project, he otherwise did not dispute the claim.

MHIC's regulations offer three formulas for measurement of a claimant's actual loss. COMAR 09.08.03.03B(3). One of those formulas, as follows, offers an appropriate measurement in this case, since the Claimants have the ALCAP proposal to finish the work:

> 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).

Applying the formula set out above, I find that the Claimant sustained an actual loss as follows:

Total Amount Paid to the Respondent	$ 73,210.74[4]
Amount to Correct or Complete Work	+$ 31,250.00[5]
	$104,460.74
Amount of Original Contract	-$ 62,490.47[6]
Amount of Actual Loss	**$ 41,970.27**

The Claimants' actual loss in this matter is $41,970.27. However, the Claimants are entitled to only a portion of their actual loss from the Fund. The maximum recovery from the Fund is limited to the lesser of $20,000.00 or the amount paid by or on behalf of the Claimants to the Respondent. Md. Code Ann., Bus. Reg. §8-405 (e)(1) and (5) (Supp. 2012). The Claimants paid $73,210.74 to the Respondent, and their actual loss, which is $ 41,970.27, is more than the $20,000.00 maximum payable from the Fund. Hence, the Claimants are entitled to reimbursement from the Fund in the amount of $20,000.00.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the Claimants have established that they sustained an actual loss under Section 8-401 of the Business Regulation Article as a result of the Respondent's work being incomplete and unworkmanlike and in violation of section 8-311(a)(10). Md. Code Ann., Bus. Reg. § 8-311(a)(10) (2010). Therefore, the Claimants are entitled to be compensated from the Fund for the

[4] This figure includes the $10,720.27 charged on the Claimants' credit card for materials not related to their project. The Claimants and Fund agreed that because this figure was included in the amended contract, it could be included in the calculations. Because of the cap on awards, the actual Fund award will not be affected whether the $10,720.27 is included or not.

[5] I am using the Heyn figure since it is for the lesser amount and because it is the estimate upon which the Claimants based their Fund claim. However, as noted, based upon the cap on an award, the actual Fund award will not be affected whether the ALCAP figure or the Heyn figure is considered.

[6] This figure was determined by adding the agreed upon labor amount of $23,500.00 to the materials properly charged to the Claimants' credit card.

acts or omissions of the Respondent in the amount of $20,000.00. Md. Code Ann., Bus. Reg. §§ 8-401 and 8-405(e)(5) (2010 & Supp. 2012); COMAR 09.08.03.03B(3)(c).

RECOMMENDED ORDER

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

ORDER that the Claimants be awarded $20,000.00 from the Maryland Home Improvement Guaranty Fund;

ORDER that the Respondent be 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 at least ten percent (10%) as set by the Commission, Md. Code Ann., Bus. Reg. § 8-411(a) (2010); and,

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

Signature on File

June 17, 2013
Date Decision Mailed

A. J. Novotny, Jr.
Administrative Law Judge

142946

STATE OF MARYLAND
DLLR
DEPARTMENT OF LABOR, LICENSING AND REGULATION

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
MARYLAND HOME IMPROVEMENT COMMISSION
500 N. Calvert Street, Room 306
Baltimore, MD 21202-3651

PROPOSED ORDER

WHEREFORE, this 19th day of July 2013, 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.

Marilyn Jumalon

Marilyn Jumalon
Panel B

MARYLAND HOME IMPROVEMENT COMMISSION

	*	IN THE
	*	
IN THE MATTER OF	*	CIRCUIT COURT
	*	
THE PETITION OF	*	FOR
	*	
WILLIAM BROADDUS	*	BALTIMORE CITY
	*	
	*	Case No. 24-C-13-005518
	*	

*

ORDER

Upon consideration of the Petition for Judicial Review **(1)**, Appellant's Memorandum of Law **(1/2)**, Appellee's Memorandum of Law **(12)**, oral arguments of the parties, and review of the record, it is this 9th day of June, 2014, by the Circuit Court for Baltimore City, Part 22, hereby

ORDERED, that the decision of the Maryland Home Improvement Commission, dated July 19, 2013, is hereby **AFFIRMED.** And, further

ORDERED, that costs shall be paid by Appellant.

Judge's signature appears on the original of this document.

Judge Alfred Nance
Circuit Court for Baltimore City

AN/ln

CC: Court File
All Parties

Kim D. Parker, Esq.
Joel A. Jacobson, Esq.
Wayne S. Goddard, Esq.