

IN THE MATTER OF THE CLAIM	* BEFORE CARLTON A. CURRY,
CHARLES BUDMAN,	* AN ADMINISTRATIVE LAW JUDGE
CLAIMANT	* OF THE MARYLAND OFFICE
AGAINST THE MARYLAND HOME	* OF ADMINISTRATIVE HEARINGS
IMPROVEMENT GUARANTY FUND	*
FOR THE ALLEGED ACTS OR	*
OMISSIONS OF CRINA GECUI,	*
T/A GREENTECH REMODELING,	* OAH No.: LABOR-HIC-02-22-09818
RESPONDENT	* MHIC No.: 22 (75) 234

\* \* \* \* \*

**PROPOSED DECISION**

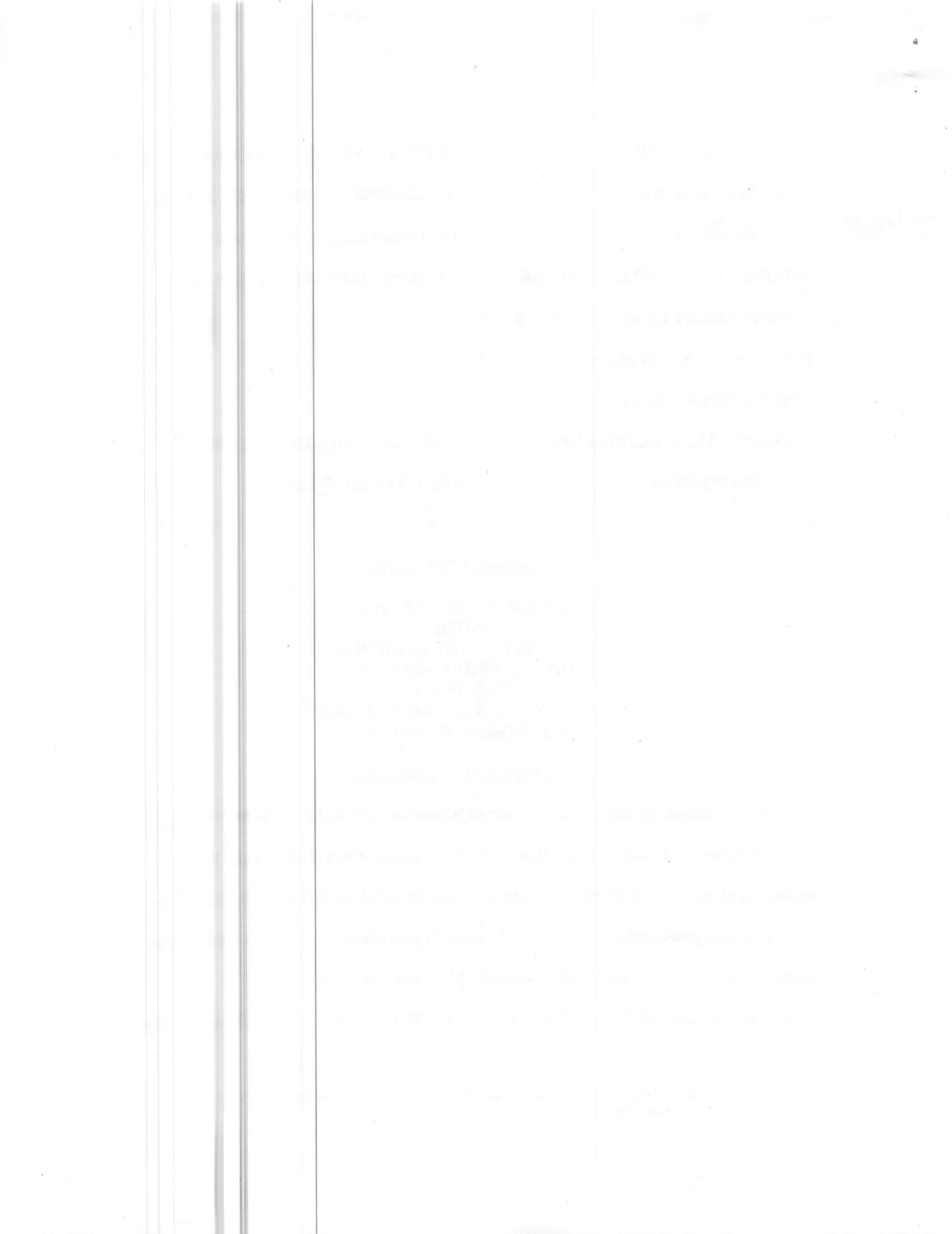
STATEMENT OF THE CASE  
ISSUES  
SUMMARY OF THE EVIDENCE  
PROPOSED FINDINGS OF FACT  
DISCUSSION  
PROPOSED CONCLUSIONS OF LAW  
RECOMMENDED ORDER

**STATEMENT OF THE CASE**

On December 28, 2021, Charles Budman (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 \$10,630.00 for actual losses allegedly suffered as a result of a home improvement contract with Crina Cegui, trading as Greentech Remodeling (Respondent). Md. Code Ann., Bus. Reg. §§ 8-401 to -411 (2015 & Supp. 2022).<sup>1</sup> On April 22, 2021, the MHIC issued a Hearing Order

---

<sup>1</sup> Unless otherwise noted, all references hereinafter to the Business Regulation Article are to the 2015 Replacement Volume of the Maryland Annotated Code.



on the Claim. On April 28, 2022, the MHIC forwarded the matter to the Office of Administrative Hearings (OAH) for a hearing.

On May 4, 2022, the OAH provided a Notice of Hearing (Notice I) by United States mail first class and certified delivery to the Respondent's address of record<sup>2</sup> with the OAH. COMAR 09.08.03.03A(2); COMAR 28.02.01.05C(1). Notice I stated that a hearing was scheduled for July 7, 2022, at 9:30 a.m., at the OAH in Hunt Valley, Maryland. At the July 7, 2022, Administrative Law Judge Syeetah Hampton-El reviewed the file on the record and asked if the Fund had searched for an alternate address for the Respondent since certified delivery of Notice I was returned with the notation "Not deliverable as addressed." Based on the Fund's response that it had not searched for an alternate address for the Respondent, ALJ Hampton-El determined that the Respondent did not receive proper notice and postponed the hearing for the Fund to provide an alternate address to the OAH. The Fund provided an alternate address for the Respondent on the same date.<sup>3</sup> On July 8, 2022, the OAH provided a Notice of Hearing (Notice II) by United States mail first class and certified delivery to the Respondent's alternate address<sup>4</sup> with the OAH. COMAR 09.08.03.03A(2); COMAR 28.02.01.05C(1).

Notice II stated that a hearing was scheduled for September 22, 2022, at 9:30 a.m. at the OAH in Hunt Valley, Maryland. Notice II further advised the Respondent that failure to attend the hearing might result in "a decision against you."

The United States Postal Service did not return Notice II sent via first class mail to the OAH. The Notice II which was sent via certified mail was returned to the OAH as unclaimed<sup>5</sup>. The Respondent did not notify the OAH of any change of mailing address. COMAR

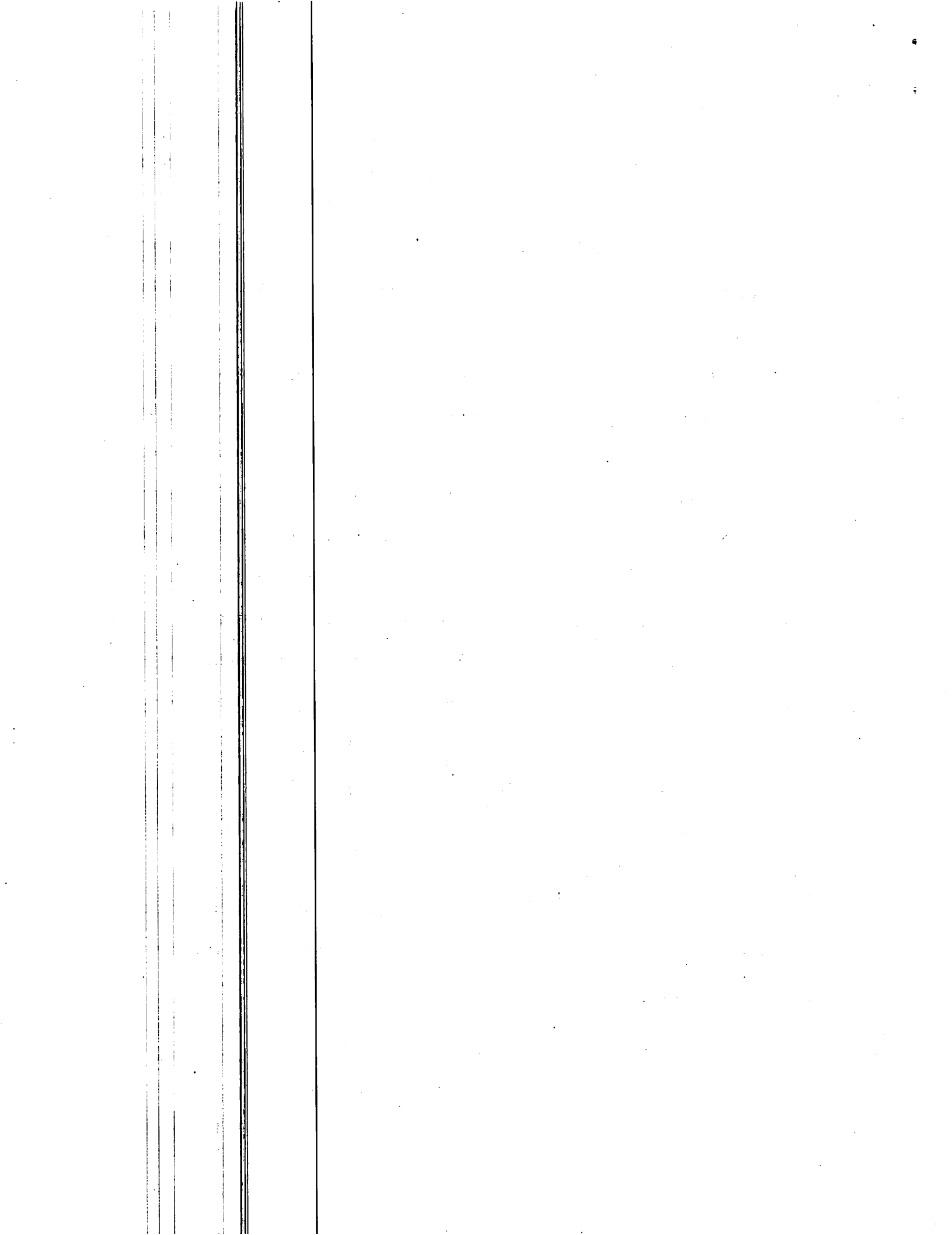
---

<sup>2</sup> Stedmall Place in Gaithersburg, Maryland. On May 10, 2022, Notice I sent certified delivery was returned as undeliverable.

<sup>3</sup> The alternate address matched the Respondent's address on file with the Motor Vehicle Administration.

<sup>4</sup> Lions Crest Way in Gaithersburg, Maryland.

<sup>5</sup> On August 8, 2022, Notice II sent certified delivery to the Respondent at Lions Crest Way was returned unclaimed.



28.02.01.03E. The Respondent made no request for postponement prior to the date of the hearing. COMAR 28.02.01.16.

On September 22, 2022, I held a hearing at the OAH in Hunt Valley, Maryland. Bus. Reg. §§ 8-407(a), 8-312; Code of Maryland Regulations (COMAR) 28.02.01.20A. Eric B. London, Assistant Attorney General, Department, represented the Fund. The Claimant was self-represented. The Respondent failed to appear. After waiting fifteen minutes for the Respondent or the Respondent's representative to appear, I proceeded with the hearing. Applicable law permits me to proceed with a hearing in a party's absence if that party fails to attend after receiving proper notice. Code of Maryland Regulations (COMAR) 28.02.01.23A. I determined that the Respondent received proper notice, and I proceeded to hear the captioned matter. COMAR 28.02.01.05A, C.

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); COMAR 09.01.03; COMAR 28.02.01.

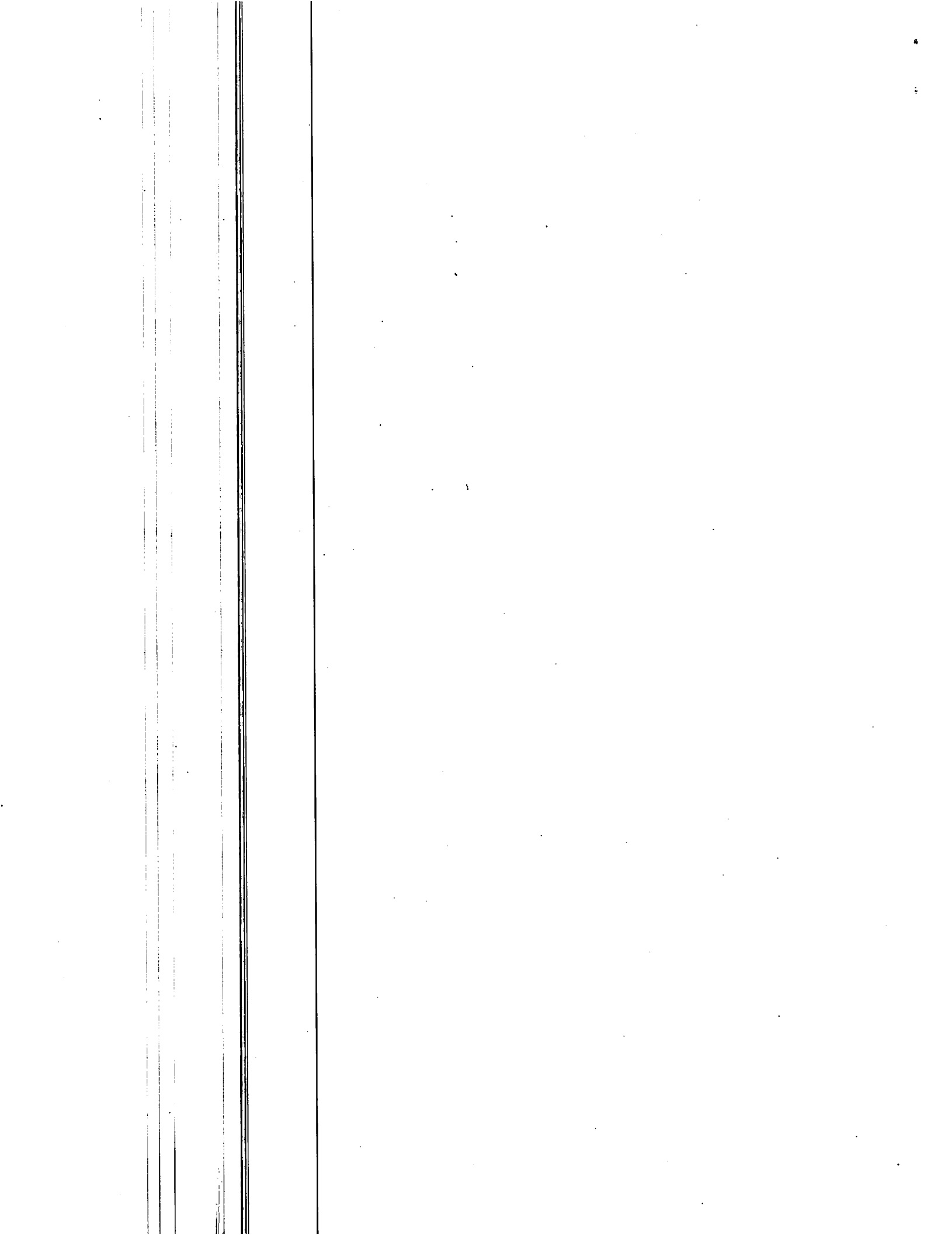
### **ISSUES**

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 have attached a complete Exhibit List as an Appendix.



## Testimony

The Claimant testified and did not present other witnesses.

The Respondent did not attend or offer any witnesses.

The Fund did not offer any witness testimony.

## **PROPOSED FINDINGS OF FACT**

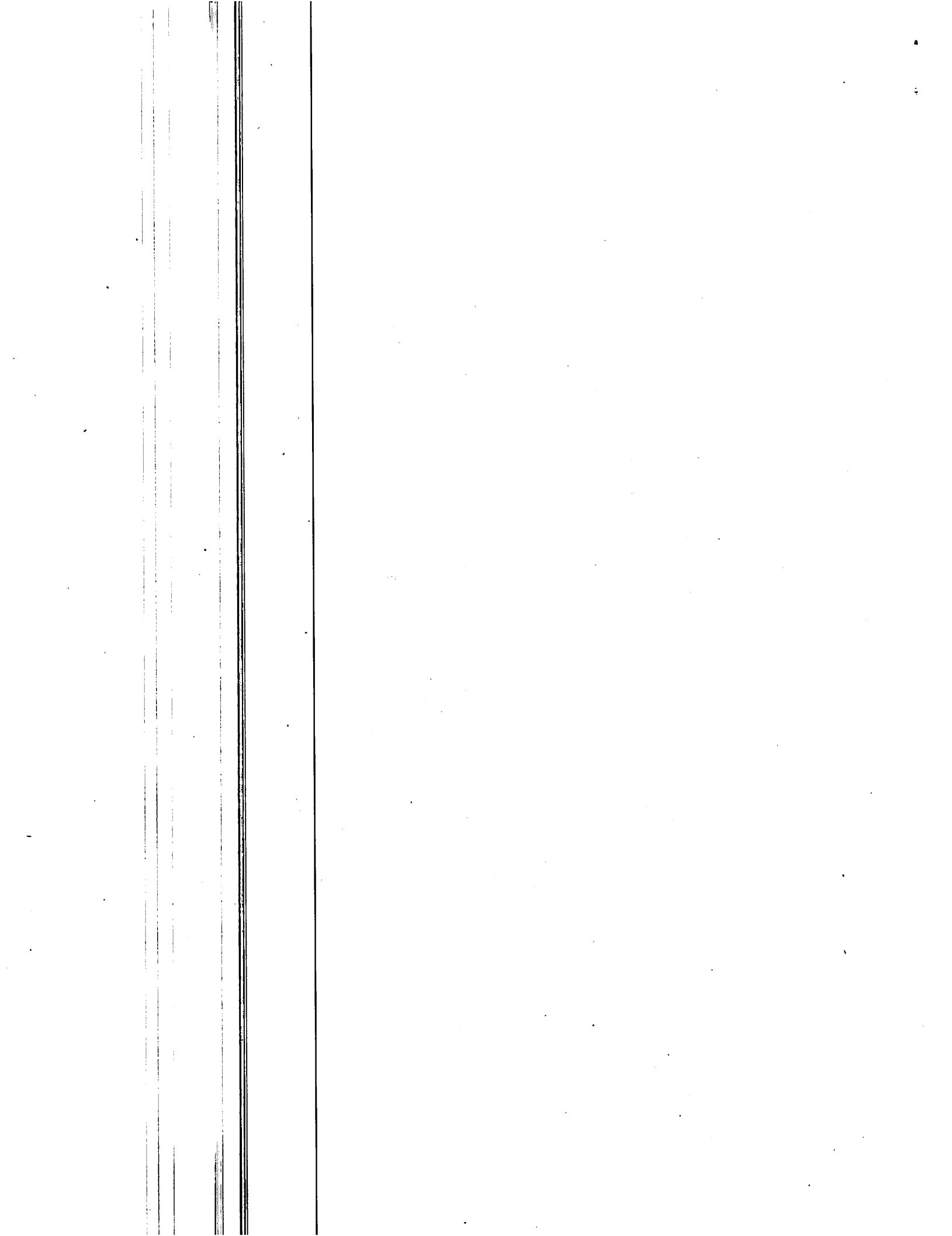
I find the following facts by a preponderance of the evidence:

1. At all times relevant to the subject of this hearing, the Respondent was a licensed home improvement contractor under MHIC license number 01-104513.
2. On January 14, 2021, the Claimant and the Respondent entered into a home improvement contract to renovate the Claimant's home (Contract). The scope of work, as outlined in the Contract, was extensive and included but was not limited to:
  - Drain and remove oil tank and inlet pipes;
  - Remove outdoor air conditioner compressor;
  - Remove existing basement oil furnace and air conditioner condenser equipment;
  - Relocate water heater to storage area adjacent to sump pump pit and route emergency overflow pipe to sump pit;
  - Relocate all plumbing where needed;
  - Remove PVC<sup>6</sup> above floor behind current furnace that receives HVAC<sup>7</sup> condensate lines, hot water heater emergency overflow line, and washing machine emergency overflow line, seal floor, and reroute condensate overflow lines as needed directly to sump pit install condensate pump to route and condensate to sum pit if needed;
  - Evacuate attic heat pump coil of freon, reroute coil and condensate lines to above basement I-beam, and recharge system with freon, if needed;
  - Install an inground 22-gallon heavy duty sump pump basin and connected wasteline discharge;
  - Install three quarter horsepower sewage pump and route pump line to home waste line stack;
  - Install new Trane three-ton heat pump; and,
  - Install train thermostat or rewire existing thermostat in family room as appropriate for heat pump with electric backup/emergency heat.

---

<sup>6</sup> Polyvinyl chloride.

<sup>7</sup> Heating, ventilation, and air conditioning.





3. The original agreed-upon Contract price was \$41,000.00. The Contract was itemized and included: \$14,000.00 for plumbing and air ducts; \$7,000.00 for a heat pump; and \$20,000.00 in labor (Cl. Ex. 3).

4. On February 19, 2021, the Contract was modified to install a second three-ton Trane heat pump into to attic for and additional cost of \$8,000.00, resulting in a revised Contract price of \$49,000.00.

5. From January 18, 2021, through April 7, 2021, the Claimant paid the Respondent a total of \$51,134.30, which included:

- \$15,000.00 for initial deposit on January 18, 2021, by credit card (Cl. Ex. 4);
- \$10,134.00 for the additional heat pump and supplies<sup>8</sup>, per the revised Contract, by check dated March 2, 2021 (Cl. Ex. 11);
- \$10,000.00 on March 2, 2021, by credit card (Cl. Ex. 10);
- \$10,000.00 on March 17, 2021, by credit card (Cl. Ex. 10); and
- \$6,000.00 for final payment, by check dated April 7, 2021 (Cl. Ex. 11).

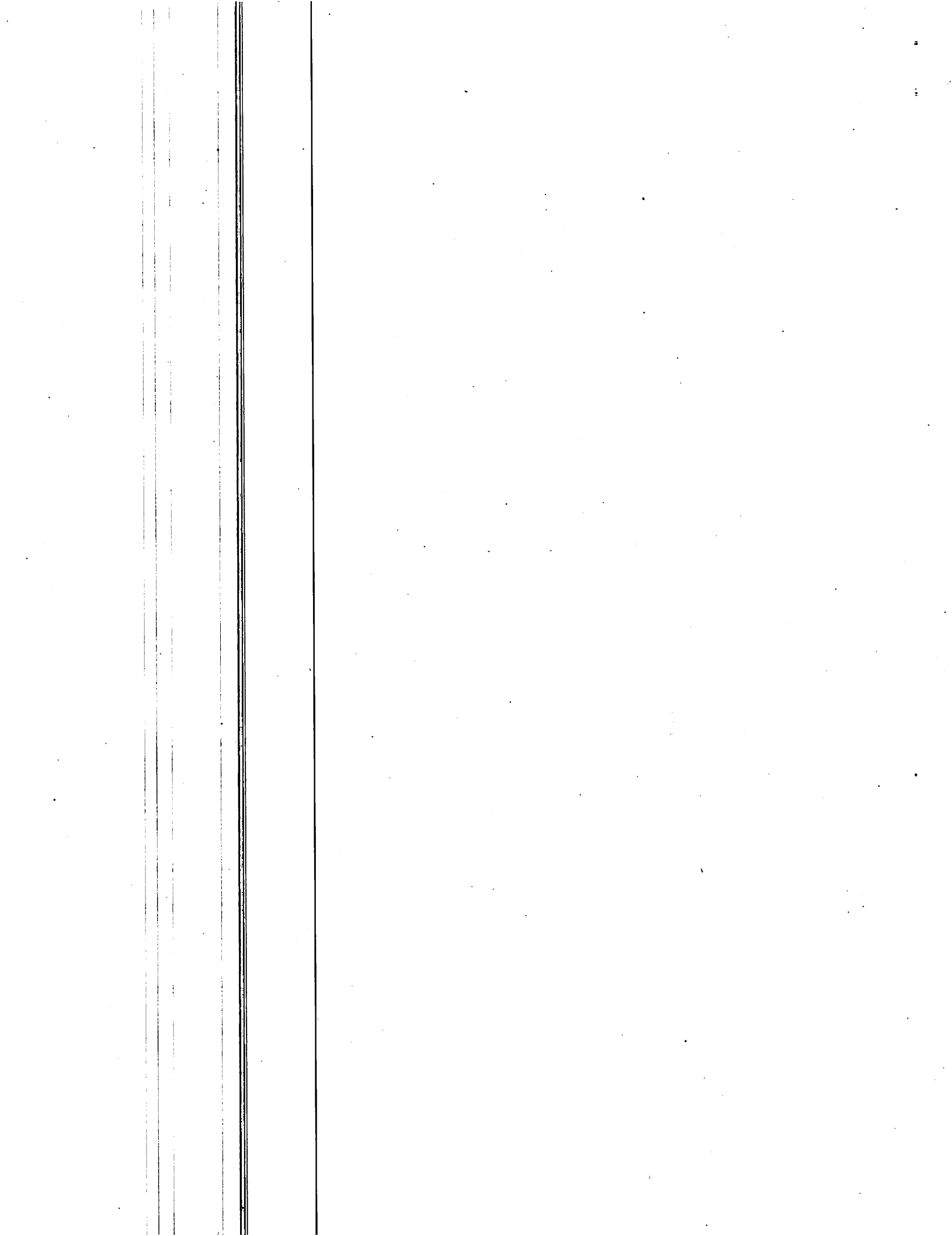
6. The Respondent subcontracted the installation of the heat pumps and related HVAC work to A & A HVAC Mechanical, LLC, an entity not licensed by the MHIC.

7. On June 8, 2021, the Claimant informed the Respondent by text message that “some to all of the condensation isn’t getting into the pipe that goes to the pump and is seeping through the bottom of the unit onto the black tray.” The Respondent indicated he would look at the issue the following day (Cl. Ex 12).

8. On July 25, 2021, the Claimant informed the Respondent by text message that water was on the basement floor because the condensate pump was not working properly (Cl. Ex. 12).

---

<sup>8</sup> A term of the contract was that the Claimant provide all materials (Cl. Exs. 3 & 7).



9. The Respondent hired GAC Services to address the issues complained of in the Claimant's July 25, 2021 text message, and a GAC Services employee addressed issues with the basement heat pump and with the attic heat pump on July 30, 2021.

10. The Claimant communicated with the Respondent via text message regarding the heat pump installations on August 5 and 6, 2021.

11. On August 7, 2021, at the request of the Claimant, the Respondent contacted Ron Air, Inc., and a technician from Ron Air, Inc. inspected all the HVAC equipment on the same date. Ron Air, Inc. authored an inspection report, dated August 10, 2021.

12. The Respondent ceased communication with the Claimant after August 10, 2021.

13. The Claimant contacted three HVAC contractors to obtain estimates for repairing replacing the HVAC equipment.

14. On August 19, 2021, the Claimant contracted with Greenfox Services to fully replace the attic/outdoor unit for \$8,917.00. The work was completed on August 19, 2021.

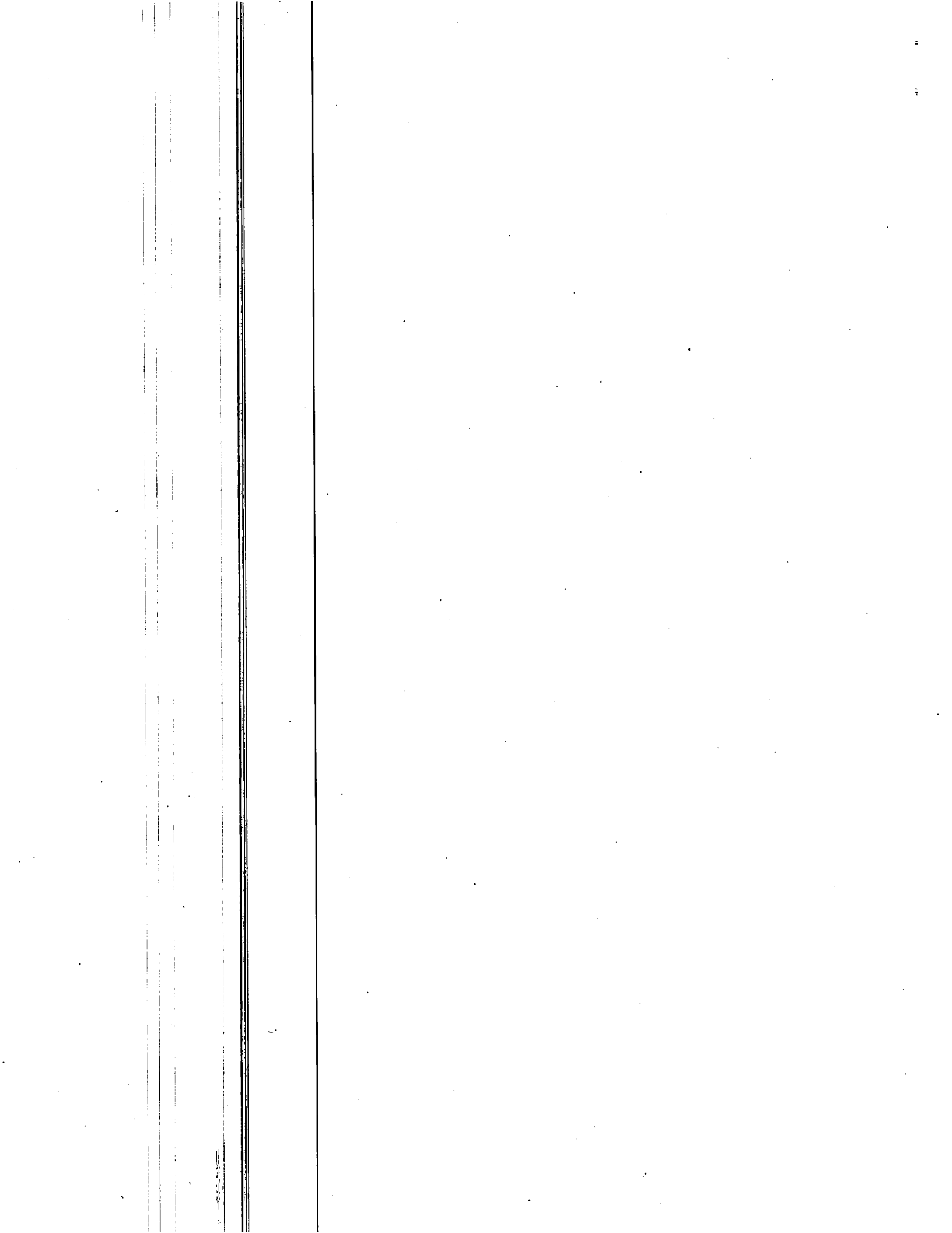
15. The heat pump installed by Greenfox Services was an upgrade to the heat pump installed by the Respondent.

16. On October 28, 2021, the Claimant contracted with Greenfox Services to repair the basement/outdoor HVAC for \$1,750.00. The work was completed on October 28, 2021.

17. The Claimant does not own any other residential properties or dwellings.

18. The Claimant is not related to the Respondent, is not an employee or business associate of the Respondent and is not related to an employee or business associate of the Respondent.

19. The Claimant has not filed any legal proceedings against the Respondent arising from the Contract and has not filed any insurance claim related to the Respondent's work.



## DISCUSSION

### *Burden of Proof and the Statutory Framework*

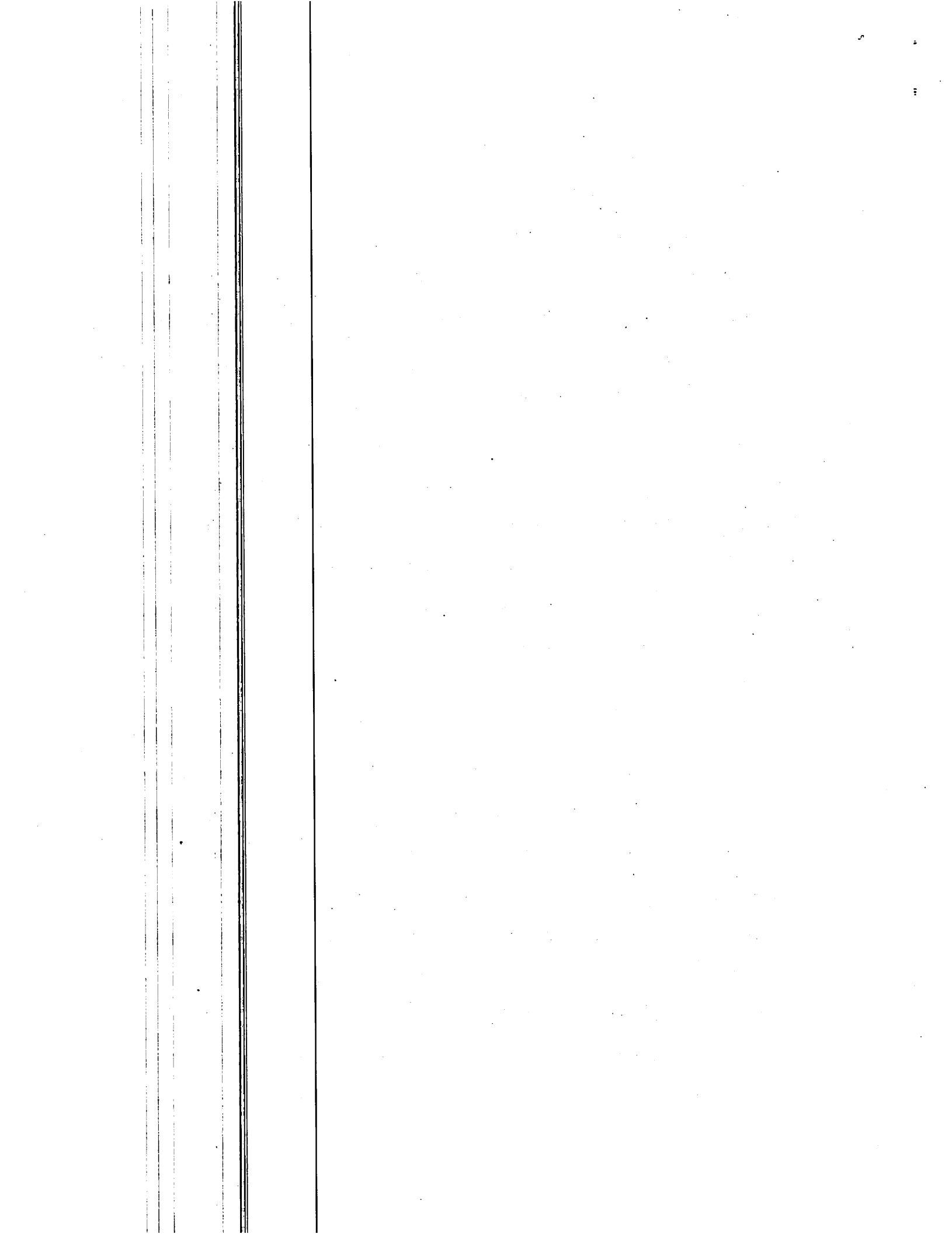
The Claimant has the burden of proving the validity of the Claim by a preponderance of the evidence. Bus. Reg. § 8-407(e)(1); Md. Code Ann., State Gov't § 10-217 (2021); COMAR 09.08.03.03A(3). To prove a claim by a preponderance of the evidence means to show that it is “more likely so than not so” when all the evidence is considered. *Coleman v. Anne Arundel Cty. Police Dep't*, 369 Md. 108, 125 n.16 (2002).

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.

### *The Parties’ Positions*

The Claimant argued that the Respondent performed an unworkmanlike, inadequate, or incomplete home improvement by improperly installing two heat pump units as part of a larger renovation project. As a result of the improper installation, condensation from the units did not properly drain; and condensation from the attic unit caused water damage to the Claimant’s ceiling. Having concerns about mold, the Claimant explained he paid for a home inspection. Additionally, the Claimant contracted to have the ceiling repaired and painted. The Claimant asserted he is entitled to recover all the additional costs of related to correcting the Respondent’s work and related damage to his home.

The Fund argued the Claimant demonstrated the Respondent performed the work in an unworkmanlike, inadequate, or incomplete manner regarding installation of the two heat pumps.



With respect to measuring the Claimant's loss, the Fund agreed the Claimant should be compensated for repairs and replacement of the heat pump units, but no sum should be paid related to water damage should be considered, as compensation is not available for consequential damages.

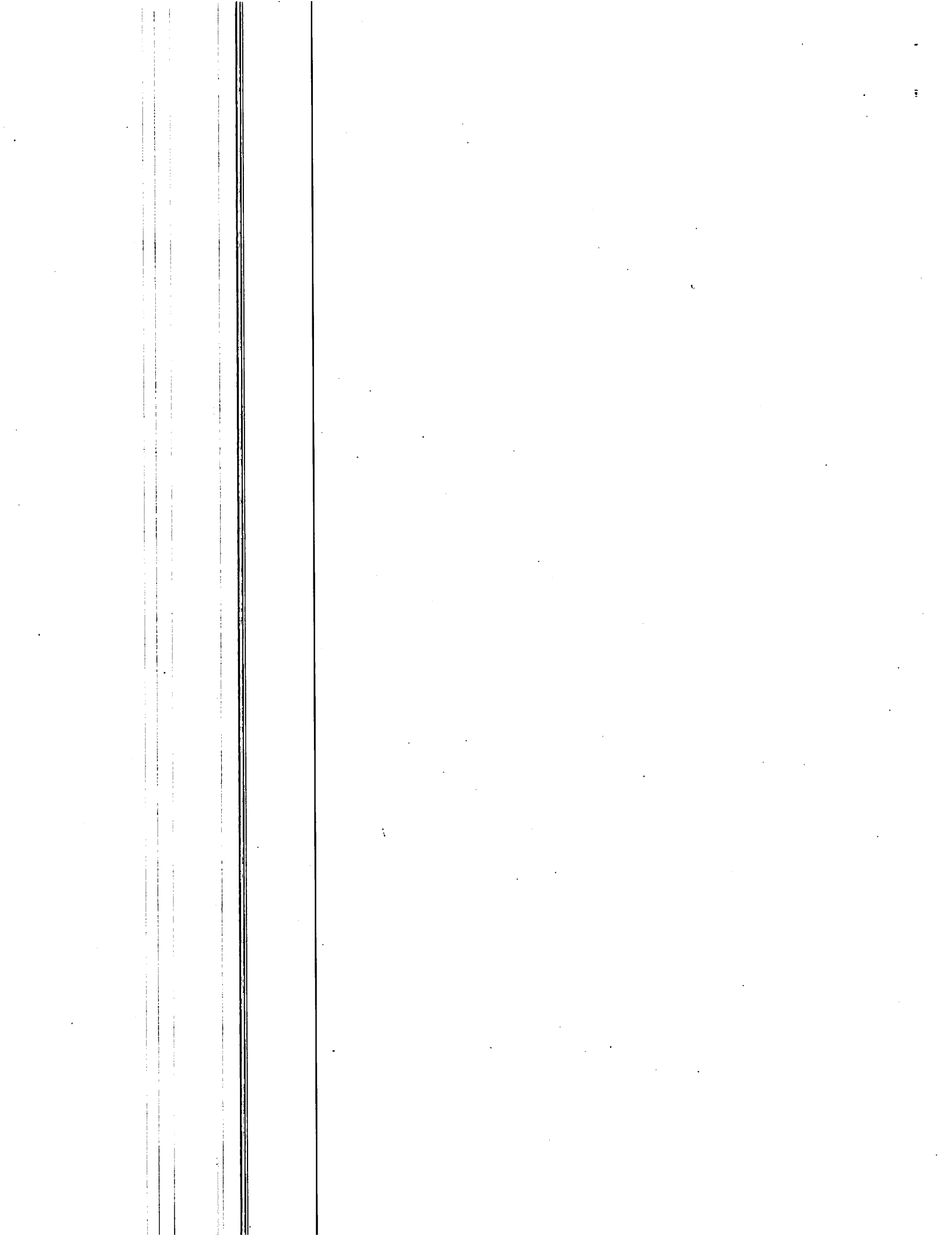
### *Analysis*

#### No Statutory Bar for Recovery

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, there is no pending court claim for the same loss, and the Claimant did not recover the alleged losses from any other source. Bus. Reg §§ 8-405(g), 8-408(b)(1) (Supp. 2022). The Claimant resides in the home that is the subject of the claim or does not own more than three dwellings. *Id.* § 8-405(f)(2) (Supp. 2022). The parties did not enter into a valid agreement to submit their disputes to arbitration. *Id.* §§ 8-405(c), 8-408(b)(3) (Supp. 2022). 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. 2022).

#### The Respondent Performed Unworkmanlike or Inadequate Home Improvements

The Claimant methodically demonstrated that the Respondent performed an unworkmanlike, inadequate, and incomplete home improvement. Under the revised Contract, and as part of larger renovation project, the Respondent installed two heat pumps in the Claimant's home, with parts associated with one heat pump installed in the attic of the home, and the other parts installed in the basement. The Claimant credibly testified that, in June 2021, he noticed condensation under the unit installed in the basement. On June 8, 2021, the Claimant sent a text message to the Respondent indicating that there was water in the basement. The Respondent agreed to visit the home on the following day to address the issue. On July 25, 2021,





the Claimant again texted the Respondent concerning problems with the heat pumps. To resolve the matter the Respondent had a technician from GAC Services visit Claimant's home on July 29, 2021, to inspect and address the issues in the Claimant's July 25, 2021 text message. In a description of the work performed, the technician noted that the first-floor system had a poorly pitched drain line, so water was not able to drain properly. Further, the inspector noted that the basement system had a poorly pitched PVC drain (Cl. Ex. 13).

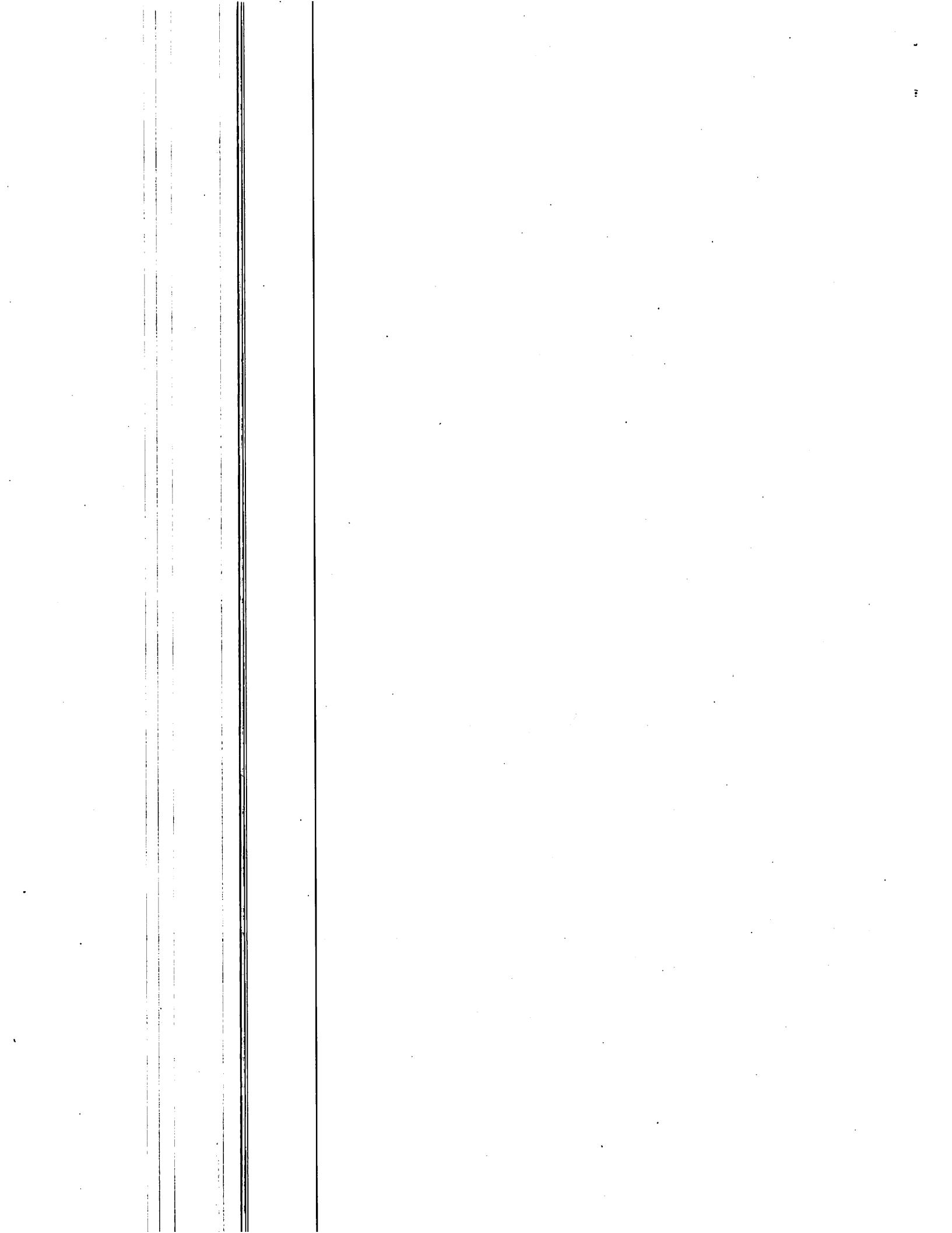
On July 30, 2021, the Claimant also informed the Respondent about water stains and mold on the ceilings under the location where the attic air handler was installed (Cl. Ex. 12). On August 6, 2021, the Claimant asked that the Respondent contact Ron Air, Inc., a Trane dealer, to inspect the issues with the heat pumps.<sup>9</sup> A technician from Ron Air, Inc. inspected the heat pumps on August 6, 2021, and noted the poor installation of the attic air handler/heap pump system in notes dated August 10, 2021 (Cl. Ex. 17). The technician indicated the indoor unit was leaking because it was not level and recommended full replacement of both heat pumps due to the problematic installation.

The Claimant testified that he wanted the matter resolved quickly due the high summer temperatures. The Respondent ceased communication with the Claimant after August 10, 2021.

To remedy the faulty installation of the heat pumps the Claimant obtained estimates from three contractors; Greenfox Services, Ron Air, Inc., and Carroll Home Services. The Claimant testified, and it is supported by the evidence; that all three contractors provided estimates that included replacing the attic heat pump unit. Two of three of the contractors, Ron Air, Inc., and Carroll Home Services, indicated they would replace, not repair, the basement heat pump (Cl. Exs. 19, 22, 25). Greenfox Services included repair of the basement heat pump in its estimate (Cl. Exs. 25, 45). The Claimant paid Greenfox Services \$8,917.00 to replace the attic heat pump

---

<sup>9</sup> Both heat pumps installed under the Contract were manufactured by Trane.



on August 19, 2021. On October 18, 2021, the Claimant paid Greenfox Services \$1,785.00 to repair the basement heat pump.

To address concerns regard mold, the Claimant paid \$95.00 to Highland Home Inspection, Inc. for the inspection of mold and water damage that resulted from the installation of the attic heat pump (Cl. Ex. 33). To redress the water damage caused by the attic heat pump, the Claimant paid Certa Pro Painters for \$750.00 to paint and repair the cosmetic damage.

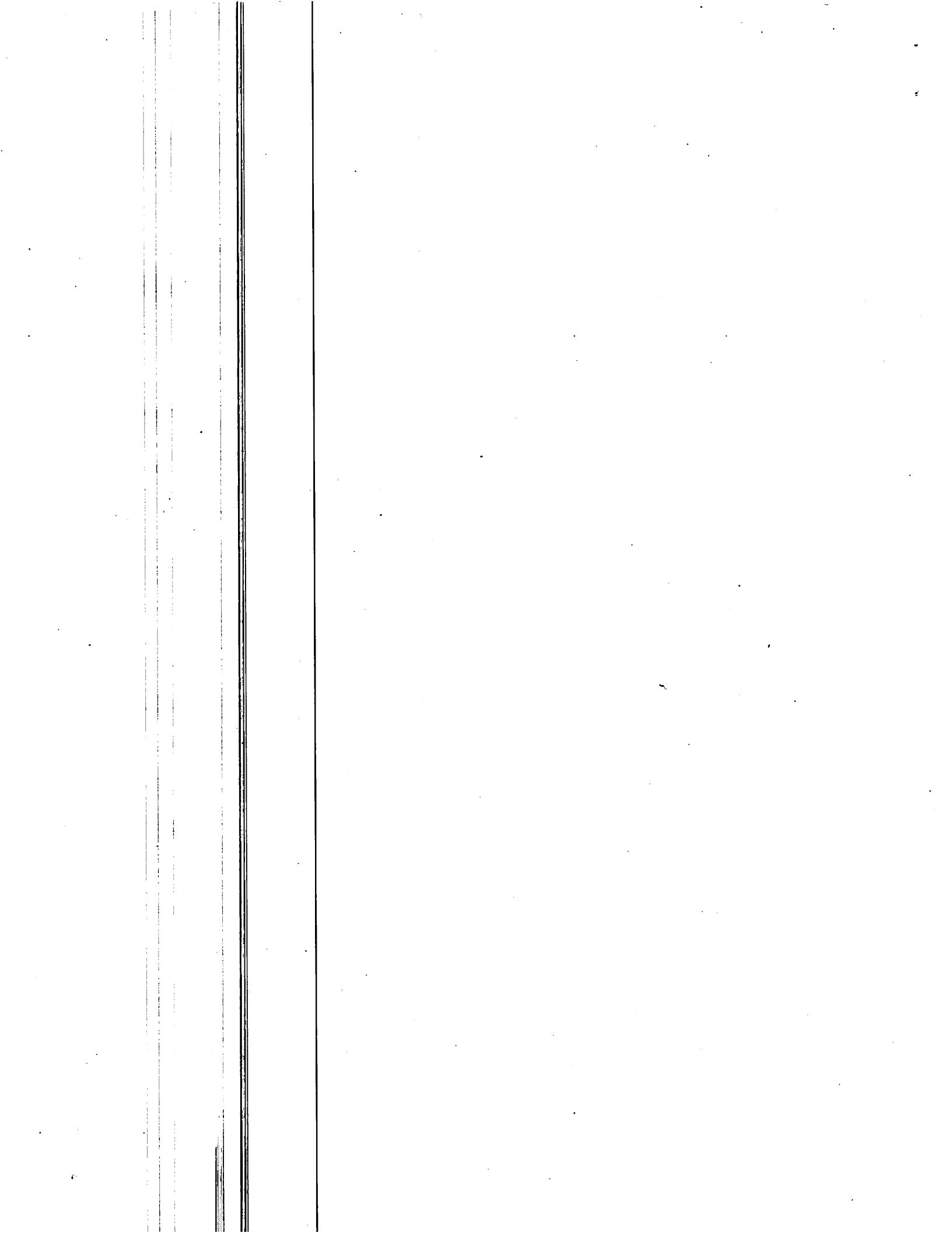
After considering the Claimant's uncontested and credible testimony, and after reviewing the Claimant's corroborating exhibits, I agree with both the Claimant and the Fund that the Respondent performed an unworkmanlike, inadequate, and incomplete home improvement. *See* Bus. Reg. § 8-401. Thus, the Claimant is eligible for compensation from the Fund. *See id.* § 8-405(a); *see also* COMAR 09.08.03.03B(2).

#### Amount of Actual Loss and 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) (Supp. 2022); 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 performed some work under the Contract, and the Claimant has retained 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 revised Contract price was \$49,000.00. Per the revised Contract, the Claimant was responsible for any additional supplies, which amounted to \$2,134.30 (Cl. Ex. 7). The total amount paid to the Respondent was \$51,134.30.

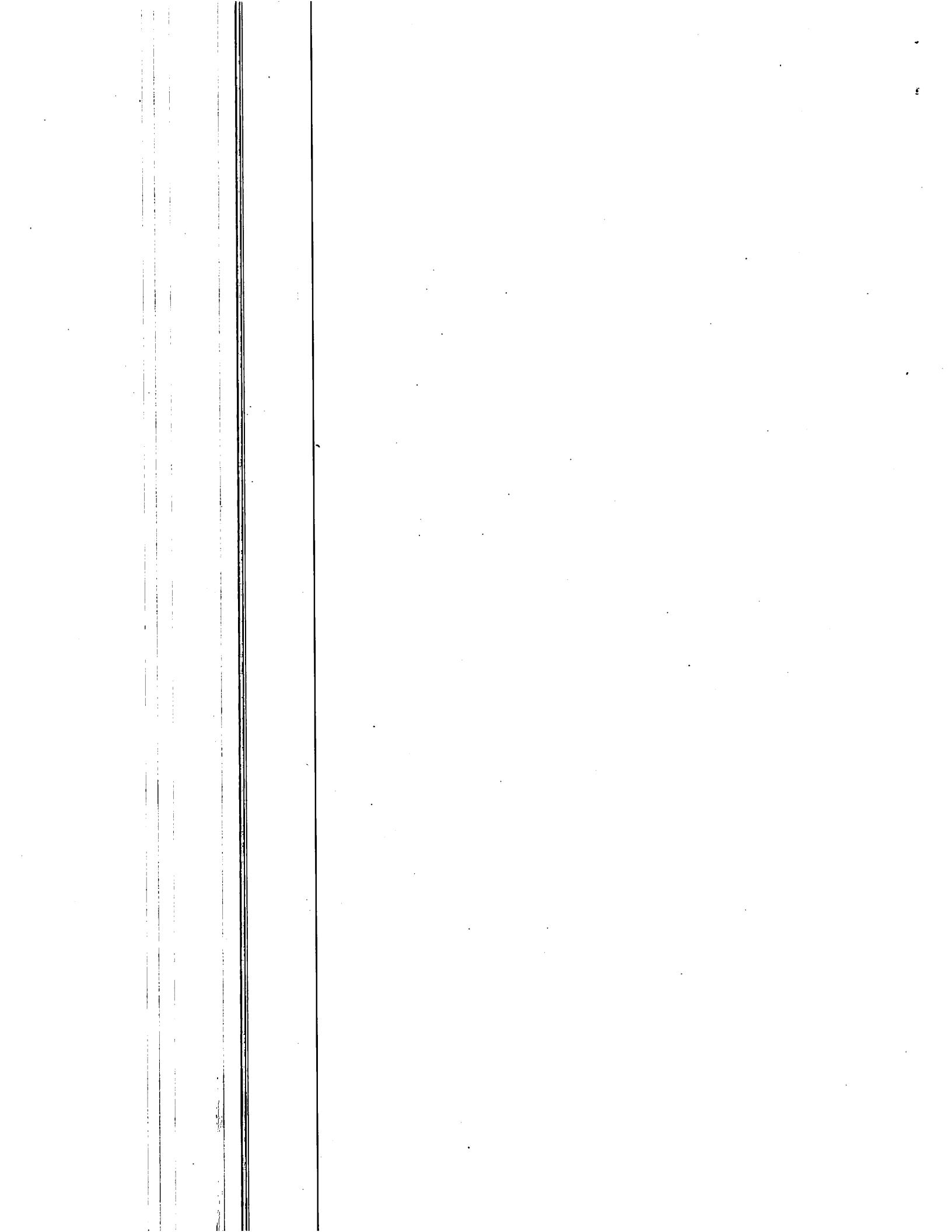
Here, although the Respondent performed work under the Contract and the Claimant retained another contractor to repair work performed under the Contract, the Claimant also replaced and upgraded one of the heat pumps. Itemized in the Contract was \$8,000.00 for a heat pump for the attic of the home. That heat pump installed by the Respondent was replaced with an upgraded version, costing \$8,917.00. A Claimant is only allowed to recover actual losses incurred as a result of misconduct of by a licensed contractor, COMAR 09.08.03.03B(2). The Claimant and the Fund agree that the Claimant is only entitled to the amount paid to the Respondent for the attic heat pump itemized in the revised Contract: \$8,000.00. I concur.

Further, I agree with the Claimant and the Fund that the amount paid to repair the basement unit is compensable: \$1,785.00. I do find, however, that the amounts paid for the home inspection and painting are consequential damages and should not be included in an award.

COMAR 09.08.03.03B(1)(a).

Considering these factors, I find the Claimant's actual loss to be as follows: \$51,134.30 (revised Contract and payment for additional supplies) plus \$9,785.30 (reasonable amounts the Claimant has paid to another contractor to repair poor work done by the original contractor) less \$51,134.30 (the price of the original contract) equals \$9,785.30 (the Claimant's actual loss).

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>10</sup> Bus. Reg. § 8-405(e)(1), (5) (Supp. 2022); COMAR 09.08.03.03B(4). 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 their actual loss of \$9,785.30.

### **PROPOSED CONCLUSIONS OF LAW**

I conclude that the Claimant has sustained an actual and compensable loss of \$9,785.30 as a result of the Respondent's acts or omissions. Md. Code Ann., Bus. Reg. §§ 8-401, 8-405 (2015 & Supp. 2022); COMAR 09.08.03.03B(3)(c). I further conclude that the Claimant is entitled to recover that amount from the Fund. COMAR 09.08.03.03B(3)(c).

### **RECOMMENDED ORDER**

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

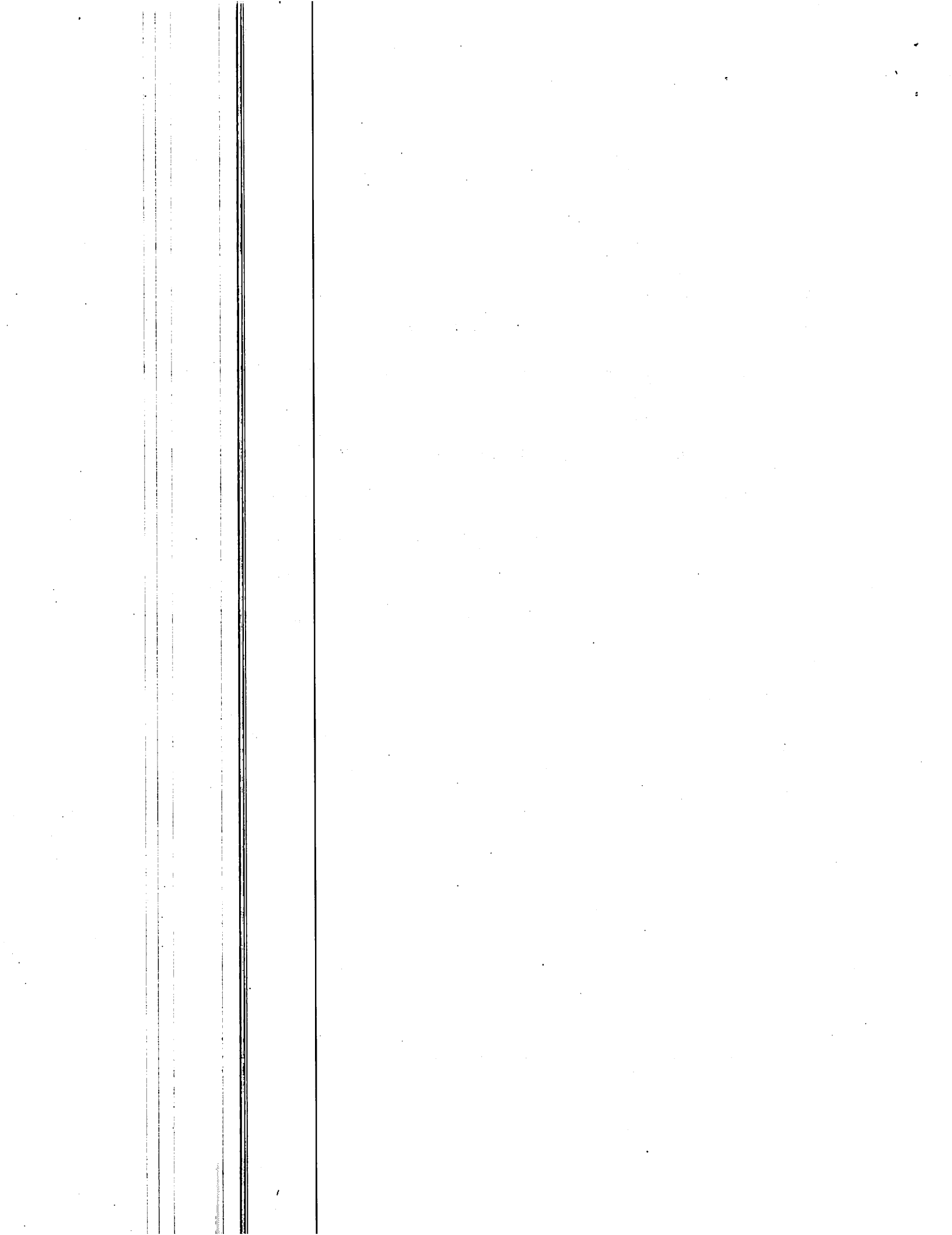
**ORDER** that the Maryland Home Improvement Guaranty Fund award the Claimant \$9,785.30; and

**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>11</sup> and

---

<sup>10</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>11</sup> See Md. Code Ann., Bus. Reg. § 8-410(a)(1)(iii) (2015); COMAR 09.08.01.20.





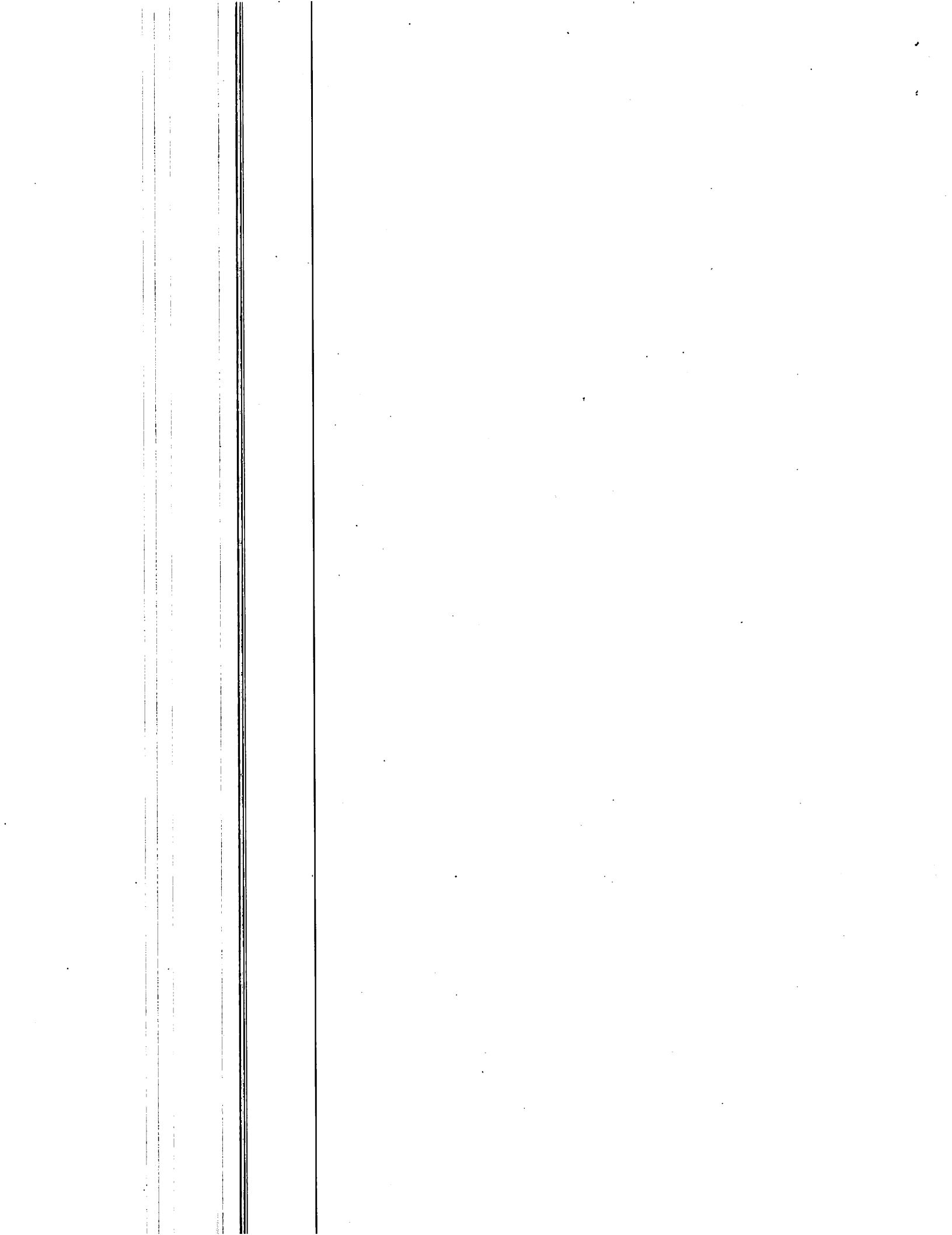
**ORDER** that the records and publications of the Maryland Home Improvement Commission reflect this decision.

December 21, 2022  
Date Decision Issued

CAC/at  
#202512

*Carlton A. Curry*

\_\_\_\_\_  
Carlton A. Curry  
Administrative Law Judge



**PROPOSED ORDER**

***WHEREFORE, this 14<sup>th</sup> day of February, 2023, 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.***

***Joseph Tunney***

***Joseph Tunney***

***Chairman***

***Panel B***

***MARYLAND HOME IMPROVEMENT  
COMMISSION***

PROPOSED CHANGES

any other changes that may be required to bring the

Proposed Changes  
to the  
Plan  
and  
to the  
Trust