

<p>IN THE MATTER OF THE CLAIM</p> <p>OF ALFREDA HIGH,</p> <p>CLAIMANT</p> <p>AGAINST THE MARYLAND HOME</p> <p>IMPROVEMENT GUARANTY FUND</p> <p>FOR THE ALLEGED ACTS OR</p> <p>OMISSIONS OF TYLER GALLO,</p> <p>T/A TMG CAPITOL</p> <p>CONSTRUCTION, LLC,</p> <p>RESPONDENT</p>	<p>* BEFORE DEBORAH S. RICHARDSON,</p> <p>* AN ADMINISTRATIVE LAW JUDGE</p> <p>* OF THE MARYLAND OFFICE</p> <p>* OF ADMINISTRATIVE HEARINGS</p> <p>*</p> <p>*</p> <p>*</p> <p>* OAH No.: LABOR-HIC-02-23-32177</p> <p>* MHIC No.: 23 (75) 1393</p> <p>*</p>
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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 August 2, 2023, Alfreda High (Claimant) filed a claim (Claim) with the Maryland Home Improvement Commission (MHIC)<sup>1</sup> Guaranty Fund (Fund) for reimbursement of \$30,145.40 for actual losses allegedly suffered as a result of a home improvement contract with Tyler Gallo, trading as TMG Capital Construction, LLC (Respondent). Md. Code Ann., Bus. Reg. §§ 8-401 to -411 (2015 & Supp. 2023).<sup>2</sup>

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<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 December 15, 2023, the MHIC issued a Hearing Order on the Claim. That same day, the MHIC forwarded the matter to the Office of Administrative Hearings (OAH) for a hearing.

On March 28, 2024, I held a hearing via the Webex videoconferencing platform. Bus. Reg. §§ 8-407(a), 8-312; Code of Maryland Regulations (COMAR) 28.02.01.20B(1)(b). The Appellant represented herself. Sean Day, Esq. represented the Respondent. Jonathan Phillips, 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. 2023); 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 exhibits offered by the Claimant:

- Clmt. Ex. 1 - Contract, November 23, 2021, with handwritten notations, with attached property and construction drawings; checks from the Claimant to the Respondent, November 22, 2021, March 23, 2022, April 1, 2022, April 18, 2022, November 3, 2022
- Clmt. Ex. 2 - Permit and application, March 21, 2022; inspection certificates, various dates; certificate of use and occupancy, March 21, 2022; Email from Lauren Osborne to the Claimant, November 22, 2022
- Clmt. Ex. 3 - Typed notes, undated; photocopy of blueprint, undated; letter from Charles County to the Claimant, January 24, 2024; approved drawings, March 16, 2022; application for zoning, November 8, 2023; email from Charles County to the Claimant, November 14, 2023

- Clmt. Ex. 4 - Typed notes, September 7, 2022; email from the Claimant to the Respondent, October 30, 2022; email from the Claimant to the Respondent, October 16, 2022; text messages, undated
- Clmt. Ex. 5 - Email from the Claimant to the Respondent, December 28, 2022 with attachments
- Clmt. Ex. 6 - Documents re: Stagecoach Drive renovation, various dates
- Clmt. Ex. 7 - Contract, November 3, 2022; contract with handwritten notations, November 3, 2022; emails and texts between the Claimant and Respondent, various dates
- Clmt. Ex. 8 - Financial Report Costs and Estimates, undated
- Clmt. Ex. 9 - Financial Report on Appliances and Purchases Table of Contents, undated
- Clmt. Ex. 10 - Contracted 2<sup>nd</sup> Floor Estimates, undated, with attachments
- Clmt. Ex. 11 - Purchases to Complete 1<sup>st</sup> Floor, undated, with attachments
- Clmt. Ex. 12 - Purchases to Complete 1<sup>st</sup> Floor, undated, with attachments
- Clmt. Ex. 13 - Not Included in Repairs for 2<sup>nd</sup> Level Completion, with attachments
- Clmt. Ex. 14 - Financial Adjustments Estimates for Awning and Sprinkler System, undated, with attachments
- Clmt. Ex. 15 - Kitchen and Water Heater Problems No Hot Water Repairs, undated, with attachments
- Clmt. Ex. 16 - Circuit Breaker Problems Receipts for Repairs After Walk-Offs, undated, with attachments
- Clmt. Ex. 17 - Repairs, undated, with attachments
- Clmt. Ex. 18 - Text messages between the Claimant and the Respondent, various dates
- Clmt. Ex. 19 - Photographs, undated
- Clmt. Ex. 20 - Home Improvement Claim Form, March 17, 2024

Clmt. Ex. 21 – NOT ADMITTED

Clmt. Ex. 22 - Letter from the MHIC to the Respondent, May 16, 2023,  
with attached complaint, with attachments

I admitted the following exhibit offered by the Respondent:

Resp. Ex. 1 - SDAT printout of Measure Up Construction, undated

I admitted the following exhibits offered by the Fund:

Fund Ex. 1 - Notice of Remote Hearing, January 25, 2024

Fund Ex. 2 - MHIC Transmittal; Hearing Order, December 15, 2023

Fund Ex. 3 - Home Improvement Claim Form, August 2, 2023

Fund Ex. 4 - MHIC licensing information, printed March 6, 2024

### Testimony

The Claimant testified and presented testimony from Leonard High, her son.

The Respondent testified and presented testimony from Michael Gallo, his father.

The Fund did not present 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 141369 (individual) and 142353 (business).
2. The Claimant is the owner of a single-family home located on Creek Court in White Plains, Maryland (Property).
3. The Claimant met with the Respondent and his father, Michael Gallo, about a construction project at the Property. Michael Gallo provided the Claimant with a business card containing an MHIC number that was not valid.

4. On November 23, 2021, the Claimant and the Respondent entered into a contract to convert the Property's already existing detached garage into an accessory apartment (Contract).

5. The scope of the Contract was to build a livable apartment on the first floor of the existing garage, and to build a second floor storage area. The Contract included the following:

Apply and obtain Charles County building permit

Install 5" thick foam insulation around foundation

Remove existing garage door and close in using 2x6 framing

Frame interior walls, staircase and second floor deck

HVAC, plumbing and electric to be performed by licensed individuals

Install a total of 1 bay window in place of old garage door and 12

additional windows for a total of 13

Install insulation and drywall on first and second floor

Install interior doors and trim

Paint 2 coats white paint

Install flooring chosen by owner

Install new hot water heater

Install new quarter glass entry door

Install bathroom tub, toilet and vanity

Install kitchen cabinets and sink

Seed and straw all disturbed soil

Build and install awning over main entrance with shingles to match

Install appliances provided by owner

6. The agreed-upon Contract price was \$67,600.00.

7. The Contract provided the following payment schedule:

Down payment	\$5,000.00
Second payment upon issuance of Charles County Permit	\$21,000.00
Third payment upon completion of interior framing	\$21,000.00
Final payment of remaining balance due at total completion	\$20,600.00

8. The Contract stated that work would begin on March 23, 2022 and would be completed within sixty working days, not including delays caused by the owner, inclement weather, accidents, shortage of labor or materials, or additional time required for change orders.

9. The Claimant paid the Respondent the following amounts by check, totaling \$57,000.00:

November 22, 2021	\$5,000.00
March 23, 2022	\$15,000.00
April 1, 2022	\$6,000.00
April 18, 2022	\$21,000.00
November 3, 2022	\$10,000.00

10. In February 2022, the Respondent applied for a construction permit from Charles County. The plan submitted by the Respondent did not reflect the accurate square footage of the accessory building.

11. On March 21, 2022, the Respondent obtained a construction permit from Charles County. The permit did not allow construction of the second floor of the garage because Charles County does not allow an apartment in an accessory building to exceed more than 50% of the accessory structure and the plan submitted by the Respondent would have exceeded that amount.

12. The parties did not renegotiate the contract after learning the Respondent could not construct the second floor.

13. In March 2022, the Respondent began working on the Contract.

14. The Respondent was extremely uncommunicative with the Claimant throughout the entire time he worked on the Property. The Respondent regularly failed to respond to phone calls, emails, and texts. The Respondent regularly left the Property and stopped working on the Contract for weeks and months at a time.

15. The Claimant on several occasions contacted employees at the Charles County government, who contacted the Respondent, who would then reappear and do some work on the Contract, before again leaving.

16. On November 3, 2022, the Claimant and Respondent entered into an agreement under which the Respondent agreed to complete the remaining items under the Contract, which were outlined in the agreement, in exchange for the Claimant paying the Respondent the next payment of \$10,000.00. The Claimant paid the Respondent the \$10,000.00 that day.

17. The remaining items outlined in the agreement included:

Staircase and 2<sup>nd</sup> floor deck

Completion of plumbing and electricity performed by licensed individuals  
on both levels. HVAC is complete

Install drywall on second level

Install recessed lights second level

Installation of 4 – 36 x 48 windows, 2 – 24 x 48 windows, and

2 circular windows facing driveway

Install partial glass front door and garage fire door first level

Install new hot water heater

Concrete to be replaced in front of front door

Seed and straw all disturbed soil

All debris to be removed and property to be made clean, ready for use

All documentation of permits and inspection reports to be provided at completion

18. During the delays while the Respondent was occasionally appearing to work on the Contract, and after the Respondent again stopped work on the Contract, the Claimant began purchasing materials for the Property that the Respondent was responsible for under the Contract.

19. The Respondent last appeared to do any work on the Contract in February 2023.

20. The Respondent did not construct the entire second floor of the apartment or install the stairs leading up to the second floor as contemplated in the Contract.

21. The Claimant obtained an estimate from Measure Up Construction, LLC (MUC) to complete the second floor of the apartment for \$21,620.00.

22. Rachel Keyser, who does business as MUC, is licensed by the MHIC under # 01-102966.

23. The Respondent did not install a fire door as contemplated in the Contract. The Claimant purchased and had a fire door installed at a cost of \$1,105.92.

24. The Respondent did not install a front door. The Claimant purchased and had one installed at a cost of \$900.00.

25. The Respondent installed a hot water heater that was defective. The Claimant purchased and had installed a new hot water heater at a cost of \$757.55.

26. The Respondent did not install an awning, as provided for in the Contract.

27. The Claimant had to pay for plumbing and electrical work in the amount of \$458.00 to repair defective work done by the Respondent.

28. The Claimant will need to purchase circular windows at a cost of \$1,676.00 to complete the Contract.

29. The Claimant purchased or will need to purchase items in the amount of \$3,005.43 to complete the first floor of the apartment.

30. The Claimant will pay or has paid \$458.00 in plumbing and electrical repairs due to the Respondent's inadequate home improvement.

31. The Claimant will pay \$390.00 to have her lawn repaired, as was included in the Contract.

32. A sprinkler system was not included in the Contract. At some point during construction, the Respondent discovered that the new apartment required a sprinkler system and obtained an estimate. The Claimant approved the estimate and agreed to pay for the sprinkler system. When the final bill came in, it was over \$2,000.00 more expensive than the estimate. The Respondent agreed to pay for the excess cost despite the fact that the sprinkler system was not in the Contract.

33. The total amount for the Claimant to repair the inadequate work performed by the Respondent and to complete the Contract is \$27,149.43.

### **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. 2023); *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, 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) (2015 & Supp. 2023). The Claimant resides in the home that is the subject of the claim. *Id.* § 8-405(f)(2) (Supp. 2023). 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. 2023). 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. 2023). Moreover, the Claimant did not unreasonably reject good faith efforts by the Respondent to resolve the claim. *Id.* § 8-405(d) (Supp. 2023).

The Claimant testified that after February 2023, the Respondent stopped coming to the Property and did not perform any additional work on the Contract, leaving many items unfinished. The Respondent concedes that he performed an incomplete home improvement, in that he did not complete the second floor of the apartment.

The Claimant also provided credible, inadequately refuted testimony that some of the work performed by the Respondent was unworkmanlike. 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 Claimant argued that her actual loss was \$38,105.44,<sup>3</sup> which included: the estimate for MUC to complete the second floor of the apartment (\$21,620.00); estimates to complete the second floor not included in the MUC estimate (\$4,712.54); purchases she made that the Respondent was responsible for under the Contract (\$3,487.65 plus \$399.76); estimate to build awning and credit for the sprinkler (\$3,641.00); costs associated with faulty hot water heater (\$1,191.49); costs associated with faulty circuit breaker, garbage disposal, and motion detector (\$1,608.00); and costs for repairs required by the Respondent's inadequate workmanship (\$1,445.00). (Clmt. Ex. 8).

The Respondent calculates the Claimant's actual loss as follows: There was \$10,600.00 left on the Contract to be paid by the Claimant to the Respondent. The Claimant is entitled to credits totaling \$11,207.85 for items the Respondent did not perform under the Contract – \$6,250.00 (estimate by Respondent to complete the second floor); \$1,105.92 (paid by the Claimant to install fire door); \$757.55 (paid by the Claimant for hot water heater); \$75.98 (paid by the Claimant for vanity light); \$900.00 (paid by the Claimant for front door); \$22.40 (paid by the Claimant for a dead bolt); and \$2,096.00 (amount exceeding estimate for sprinkler which the Respondent agreed to pay). The Respondent argued that the difference between the amount owed under the Contract and the credits due the Claimant is \$607.85, which he argues is a fair and reasonable amount to represent the Claimant's actual loss.

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<sup>3</sup> The Claimant's exhibits and testimony argued her actual loss was larger than the \$30,145.40 she included on her claim form.

In addition, the Respondent argued that the estimate from MUC to complete the second floor of the apartment is unreasonably high. As to the awning, the Respondent acknowledges that the awning was not completed, but that he installed a backsplash in the kitchen, which was not provided for in the Contract and that should offset the missing awning.

The Fund agreed that there had been both an incomplete and inadequate home improvement. However, the Fund argued that the Claimant had failed to prove by a preponderance of the evidence that the estimate to complete the second floor of the apartment was from a licensed home improvement contractor. The Fund therefore recommended disallowing the \$21,620.00 estimate from MUC, but allowed the remainder of the \$38,105.44 claimed by the Claimant to complete the Contract, which amounts to \$16,485.44. Utilizing \$16,485.44 in the regulatory formula detailed below, the Fund argued that the Claimant proved an actual and compensable loss of \$5,885.44 (Claimant paid \$57,000 + cost to complete \$16,485.44 = \$73,485.44 – contract amount \$67,600 = \$5,885.44).

I find that none of the three calculations proffered above are correct. 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. 2023); COMAR 09.08.03.03B(1). 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 both has retained and intends to retain 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 Claimant and the Respondent both failed to properly apply this regulatory formula. The Fund applied the correct formula, but disallowed appropriate items in the calculation and allowed items that should not have been allowed.

There is no question that the amount paid to the Respondent by the Claimant was \$57,000.00. Moreover, it is also clear that the Contract amount was \$67,600.00. What remains at issue is how much the Claimant has already paid and will be required to pay to repair inadequate work completed by the Respondent and to complete the Contract.

As to the MUC estimate for \$21,620.00 (Cl. Ex. 10) – the Fund argued that the Claimant had failed to prove that MUC, or David Divver, the MUC representative the Claimant dealt with, was a licensed home improvement contractor. However, the Claimant did establish that MUC is licensed by its principal, Rachel Keyser, under MHIC # 01-102966. The Respondent argued that \$6,250.00 was a more reasonable estimate of the amount to complete the second floor of the apartment than MUC's estimate. I did not find the Respondent's testimony at all credible or persuasive. The Respondent was unresponsive and unprofessional in dealing with the Claimant and in his performance under the Contract. It was obvious that he became frustrated with the Claimant and rather than attempt to work out any disagreements or misunderstandings, he avoided the Claimant altogether. His testimony at this point is entirely self-serving and lacks objectivity. Moreover, the Respondent knowingly allowed his father to present an expired MHIC license number to the Claimant during the time the Contract was being executed. For these reasons I find his testimony lacks weight. I find the MUC estimate reasonable and include that amount in the loss calculation.

The Claimant also included \$4,712.54 in her claimed loss for costs to complete the second floor that were not included in the MUC estimate. (Cl. Ex. 13). The two circular windows for \$1,676.00 are specifically contemplated in the Contract addendum signed by the parties on November 3, 2022 and shall be allowed in the loss calculation. The Claimant did not testify about the remaining items in Claimant's Exhibit 13, such as an estimate to replace molding on border walls, or the cost to replace a broken light fixture, and shall not be allowed. As to the two coats of paint for \$2,750.00, the Respondent testified that he painted the apartment and the Claimant did not establish by a preponderance of the evidence that she is entitled to that award. As such, it shall not be allowed.

The Claimant argued she was entitled to \$3,887.41 (Cl. Exs. 11 and 12) for purchases she made under the Contract to complete the first floor that were the Respondent's responsibility. The Claimant established that the following were part of the Contract and that she paid for the following items: fire door (\$1,105.92); five rectangular windows (\$1,146.96); and hot water heater (\$752.55). Therefore \$3,005.43 shall be allowed. As to the remaining items in these two exhibits, the relevant portion of the Contract requires the Respondent to install "bathroom tub, toilet and vanity" and install "kitchen cabinets and sink." (Clmt. Ex. 1). Therefore, the Claimant has not proven that she is entitled to recover her expenses for bathroom shower accessories (\$179.55); draw pulls for cabinets (\$12.09); medicine cabinet (\$132.05); vanity light (\$75.98); bathroom hardware (\$57.38); or light bulbs (\$25.17). Claimant's Exhibit 12 includes costs for a mini blind and smoke detector (\$399.76), neither of which are included in the Contract, and are not allowed in the loss calculation. And it also includes costs associated with filing this complaint, likewise not allowed.

The Claimant included a loss of \$3,641.00 with respect to the awning and sprinkler system. While both parties agreed that the awning was included in the Contract and not completed, I cannot allow the Claimant's claimed loss of \$1,345.00 to complete the awning as it is not based on a competent estimate from a reliable contractor, but only upon an internet search of the average cost to construct an awning. Regrettably, there is no way to account for the Claimant's loss on this issue as the value of the awning, like all other items in the Contract, was not provided for separately – the Contract only has one price for all of the line items included.

As to the sprinkler – on this item, the parties also agree – that the sprinkler system was not included in the Contract. At some point during the construction process, the Respondent discovered that this apartment required a sprinkler system. The Respondent obtained an estimate and provided it to the Claimant, which the Claimant approved at her own expense, as it was not included in the Contract. When the final bill came in for the sprinkler system, it was \$2,096.00 more than the Claimant had approved. The Claimant was very upset at this unanticipated cost, and in an attempt to salvage the relationship between the parties, the Respondent agreed to pay the overage. This was not a contractual obligation – it was an offer at settlement made by the Respondent that is not enforceable in this action. I cannot allow the costs for the awning or the sprinkler in the Claimant's loss.

Claimant's Exhibit 15 (\$1,191.49) includes costs to repair a garbage disposal. This was not included in the Contract and will not be allowed. The costs for \$458.00 (\$269.00 and \$189.00) for plumbing and electrical repairs due to the Respondent's inadequate work are supported and allowed.

Claimant's Exhibit 16 (\$1,608.00) includes costs to repair a light switch and wiring to the washer dryer, which the Claimant did not testify about at the hearing and cannot be allowed. The exhibit also includes costs related to a garbage disposal and motion detector, both of which were not included in the Contract. Also, this exhibit includes costs associated with preparing this Complaint, which are not allowed.

Finally, Claimant's Exhibit 17 (\$1,445.00) includes costs associated with lawn repair, which was included in the Contract, in the amount of \$390.00, which shall be allowed. It is not clear how the remaining alleged costs are not duplicative of other repairs already allowed, with respect to the plumbing and electrical, and shall not be allowed.

The items detailed above that are allowed in the Claimant's calculation of repairs and cost to complete are summarized as follows:

MUC estimate	\$21,620.00
Circular windows	\$1,676.00
Purchases to complete first floor	\$3,005.43
Plumbing and electrical repairs	\$458.00
Lawn repair	\$390.00
<b>Total to repair and complete:</b>	<b>\$27,149.43</b>

Next, applying the regulatory formula, COMAR 09.08.03.03B(3)(c), the Claimant has paid \$57,000 to the Respondent, which added to the \$27,149.43 cost to repair and complete, totals \$84,149.43. This amount minus \$67,600.00, the amount of the original contract, equals \$16,549.43.

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. 2023); 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 her actual loss of \$16,549.43.

### **PROPOSED CONCLUSIONS OF LAW**

I conclude that the Claimant has sustained an actual and compensable loss of \$16,549.43 as a result of the Respondent's acts or omissions. Md. Code Ann., Bus. Reg. §§ 8-401, 8-405 (2015 & Supp. 2023); COMAR 09.08.03.03B(3)(c). I further conclude that the Claimant is entitled to recover that amount from the Fund. Bus. Reg. § 8-405(e)(1), (5) (Supp. 2023); 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 \$16,549.43; 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.

June 25, 2024  
Date Decision Issued

DSR/sh  
#211842

*Deborah S. Richardson*  

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Deborah S. Richardson  
Administrative Law Judge

**PROPOSED ORDER**

***WHEREFORE, this 10<sup>th</sup> day of October, 2024, 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.***

***W. Bruce***

***Quackenbush***

***W. Bruce Quackenbush***

***Chairman***

***Panel B***

**MARYLAND HOME IMPROVEMENT  
COMMISSION**