IN THE MATTER OF THE CLAIM	*	**BEFORE MICHAEL J. JACKO,**
OF BRANDON AND LYNDSI	*	**AN ADMINISTRATIVE LAW JUDGE**
BRZUCHALSKI,	*	**OF THE MARYLAND OFFICE**
CLAIMANTS	*	**OF ADMINISTRATIVE HEARINGS**
AGAINST THE MARYLAND HOME	*	
IMPROVEMENT GUARANTY FUND	*	
FOR THE ALLEGED ACTS OR	*	
OMISSIONS OF STEPHEN BENSON,	*	
T/A ALL READY FINISHED	*	
CONCRETE, INC.,	*	**OAH No.: LABOR-HIC-02-24-11946**
RESPONDENT	*	**MHIC No.: 23 (75) 162**

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PROPOSED DECISION

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STATEMENT OF THE CASE

On May 3, 2023, Lyndsi and Brandon Brzuchalski (Claimants)[1] filed a claim (Claim) with the Maryland Home Improvement Commission (MHIC)[2] Guaranty Fund (Fund) for reimbursement of $30,734.08 for actual losses allegedly suffered as a result of a home improvement contract with Steven Benson, trading as All Ready Finished Concrete, Inc.

[1] Only Lyndsi Brzuchalski signed the claim form, but at the hearing, she acknowledged that she did so on behalf of herself and her husband, Brandon. Given the opportunity to do so, no other party to the case objected to considering both Brzuchalskis as claimants.
[2] The MHIC is under the jurisdiction of the Department of Labor (Department).

(Respondent).[3] On May 1, 2024, the MHIC issued a Hearing Order on the Claim. On the same date, the MHIC forwarded the matter to the Office of Administrative Hearings (OAH) for a hearing.

On August 8, 2024, I held a hearing via the Webex videoconferencing platform.[4] Chris King, Assistant Attorney General, Department, represented the Fund. The Claimants and the Respondent were self-represented.[5]

The contested case provisions of the Administrative Procedure Act, the Department's hearing regulations, and the Rules of Procedure of the OAH govern procedure.[6]

ISSUES

1. Did the Claimants 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

Claimant Brandon Brzuchalski testified and did not present other witnesses.

The Respondent testified and did not present other witnesses.

The Fund did not present any testimony.

[3] Md. Code Ann., Bus. Reg. §§ 8-401 to -411 (2015 & Supp. 2024). Unless otherwise noted, all references to the Business Regulation Article are to the 2015 Volume of the Maryland Annotated Code.
[4] Bus. Reg. §§ 8-407(a), 8-312; Code of Maryland Regulations (COMAR) 28.02.01.20B(1)(b).
[5] Also present was the Respondent's sister and office manager, Pamela Wolf.
[6] Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021 & Supp. 2024); COMAR 09.01.03; COMAR 28.02.01.

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 numbers 01-104215 (personally) and 05-129868 (for All Ready Finished, Inc.).

2. In September and October 2021, the Claimants and Respondent engaged in communications concerning a proposed project at the Claimants' new residence, located on the water in Pasadena, Maryland. The site plan for the project entailed poured concrete in numerous areas: a front porch, a two-tiered back deck, a fireplace patio, a pool deck, a driveway, a crab shack, and sidewalks connecting all of the above.

3. On December 27, 2021, the Claimants paid the Respondent $40,000.00 as a deposit for a contract that had yet to be reduced to writing.

4. On January 14, 2022, the Claimants and the Respondent signed a contract in which the Respondent agreed to install approximately 7,444 sq ft[7] of colored, stamped, and sealed concrete, poured at a minimum of 4000 psi, with fiber and rebar reinforcement, and cut control joints (Contract). The Contract included minor excavation and/or grading as required.

5. The Contract provided a total price of $120,000.00. It described the following draw schedule: a $40,000.00 deposit; $37,500.00 due at the commencement of "Phase 2"; $37,500.00 due at the commencement of "Phase 3"; and a final $5,000.00 due upon completion of the project.[8]

6. The Contract did not define how the work would be divided among the three phases specified in the draw schedule.

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[7] All area measurements in this Proposed Decision represent approximations.

[8] The Contract contained two inconsistent draw schedules. At the hearing, the Respondent acknowledged that the second draw schedule was part of his boilerplate contract and was superseded at the Claimants' request by the one described above, which both parties understand to have been operative.

7. The Contract stated that the project would begin once welders had completed prerequisite work on a porch. It did not specify a completion date.

8. The Respondent began work at the Claimants' property in late January 2022.

9. On February 6, 2022, the Respondent poured concrete for the upper deck.

10. The upper deck, accessible off the main floor of the home, also serves as a roof for a lower deck, located directly below. The upper deck's structure consists of steel beams and corrugated steel, on top of which the Respondent poured the concrete surface.

11. On February 7, 2022, agents of the Respondent made relief cuts in the upper deck.[9] Some of these cuts were not straight and/or were out-of-square with the lines in the stamped concrete. In other places, there were "double cuts" that resulted in gaps of inconsistent width.

12. The Claimants immediately alerted the Respondent to the problems with the relief cuts on the upper deck.

13. The parties discussed and the Respondent attempted potential remedies to the unsightly relief cuts, including filling the cuts and cutting out the concrete at the edge of the deck to replace some offensive areas of the slab with a decorative border.

14. While attempting to remove concrete from the border of the deck, agents of the Respondent punctured the steel pan decking underneath the concrete surface.

15. Holes in the steel would allow water to drip through to the lower deck, and for corrosion to form in the area surrounding the holes.

16. The Respondent worked on other elements of the project while he and the Claimants continued to discuss possible remedies for the relief cuts on the upper deck.

[9] The relief cuts are designed to guide where the concrete will crack as it expands and contracts over time so that cracking will be limited to designated straight lines rather than occurring chaotically throughout the concrete pad.

17. On March 7, 2022, the Claimants paid the Respondent $40,000.00, an overpayment for the $37,500.00 due at the commencement of "Phase 2" of the project according to the Contract.

18. The Respondent's last day on site was on or about April 21, 2022.

19. During the time that they were in dialogue with the Respondent about remedies for the problems with the Respondent's work on the upper deck, the Claimants requested that the Respondent begin work on "Phase 2."

20. By June 2022, the parties had reached an impasse as to potential remedies for the issues with the upper deck. Throughout that summer, the Claimants continued to request that the Respondent complete his work on Phase 2, ultimately providing a deadline of August 22, 2022, for the Respondent to return to the site.

21. On August 12, 2022, the Claimants offered as an alternative that if the Respondent opted not to complete Phase 2, that he might instead refund them the money they paid him for Phase 2 and the incomplete work still remaining from Phase 1.

22. The Respondent did not return to the project nor did he refund the money paid by the Claimants, opting instead to proceed to arbitration.

23. On August 30, 2022, the Claimants formally terminated the Respondent from performing further work on the project.

24. There was never a mutual understanding between the Claimants and the Respondent concerning how the work of the project was to be divided among the three phases mentioned in the Contract.[10]

[10] Attached to an email sent July 26, 2022, requesting that the Respondent proceed with work on Phase 2, or, in the alternative, that he issue the Claimants a refund, Claimant Lyndsi Brzuchalski included a site plan that was color-coded to show the areas that the Claimants view as belonging to Phases 1, 2, and 3, respectively. The Respondent did not share this understanding. This document marks the earliest evidence from either side as to the definition of the three project phases. Cl. Ex. 10.

25. Over the course of the project, the Respondent poured concrete on the front porch, the lower deck, the upper deck, and the crab shack area with its connected walkways. These areas totaled approximately 3,100 sq ft in area.

26. With the exception of the upper deck, which was discussed above, the remainder of the concrete poured by the Respondent was installed acceptably.

27. In addition to the concrete he poured, the Respondent completed tasks under the Contract that constituted necessary preparation for pouring concrete in various other areas, including: setting drains and building curbs; grading the driveway; and for the fireplace patio, grading, backfilling, compacting fill, and setting forms.

28. The Respondent did not clean or seal any of the poured concrete.[11]

29. The Respondent did not pour concrete for the driveway, the pool deck, the fireplace patio, or the walkways extending from the driveway around the house or connecting the pool deck to the crab shack. According to the initial site plan, the proposed driveway would have measured approximately 2,418 sq ft, and the other unpoured areas totaled approximately 2,777 sq ft.[12]

30. During the time that the Respondent was working at the Claimants' property, there was at least one change order. All parties agree that the Respondent's work under the change order was completed satisfactorily, was paid for separately, and does not affect the issues in this matter.

31. The Respondent's insurance company paid to replace the steel pan decking underneath the upper deck that was damaged by the Respondent's agents. This action first

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[11] The Respondent had intended to clean and seal all concrete at the conclusion of the project, after everything had been poured.

[12] Adding the areas poured by the Respondent to those he did not pour yields a total area of approximately 8,276 sq ft, which is greater than the 7,444 sq ft contemplated by the Contract. The difference appears to primarily be accounted for by more concrete having been poured in the crab shack area than was included in the original site plan. *Compare* Cl. Ex. 2 *with* Cl. Ex. 10.

required the removal of the concrete that had been poured for the upper deck, with that removal being covered by the insurance claim. The insurance claim did not, however, pay to have the concrete for the upper deck re-poured.[13]

32. Ultimately, the Claimants paid another contractor, Eco Worx, $38,000.00 to pour concrete for the pool deck, the fireplace patio, and the walkways in the front of the house and connecting the pool deck to the crab shack—all work comparable to that contemplated by the Contract with the Respondent. These areas totaled 2,777 sq ft.

33. The Claimants did not have concrete poured for the home's driveway. Instead, they hired another contractor, Cooper Paving, to install an asphalt driveway for $7,200.00. This driveway differed from the one contemplated in the Contract with the Respondent, primarily because asphalt is a different and a significantly less expensive material than concrete.

34. Ultimately, the Claimants and Respondent submitted their dispute to arbitration, which resulted in an award in the Claimants' favor. However, because the MHIC found that the arbitration award did not conform with the applicable regulations,[14] it was unable to use the arbitration award as a basis to direct payment from the Fund.[15]

DISCUSSION

The Claimant has the burden of proving the validity of the Claim by a preponderance of the evidence.[16] 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.[17]

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[13] A policy exclusion prevented the insurer from paying for work that the Respondent was originally hired to perform. Cl. Ex. 23.
[14] Bus. Reg. §§ 8-401, 8-405
[15] Fund Ex. 6.
[16] Bus. Reg. § 8-407(e)(1); State Gov't § 10-217 (2021); COMAR 09.08.03.03A(3).
[17] *Coleman v. Anne Arundel Cnty. Police Dep't*, 369 Md. 108, 125 n.16 (2002).

Whether the Claimants Sustained an Actual Loss

An owner may recover compensation from the Fund "for an actual loss that results from an act or omission by a licensed contractor."[18] "'[A]ctual loss' means the costs of restoration, repair, replacement, or completion that arise from an unworkmanlike, inadequate, or incomplete home improvement."[19] For the following reasons, I find that the Claimant has proven eligibility for compensation.

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.[20] The Claimant resides in the home that is the subject of the claim.[21] 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.[22] The Contract included a valid agreement to submit disputes to arbitration, with which the parties complied. However, the arbiter's order did not include a calculation of "actual loss" as defined under Bus. Reg. section 8-401 and therefore, the MHIC found that it could not use the arbitration award as a basis to direct funds pursuant to Bus. Reg. section 8-405.[23] Accordingly, the existence of an arbitration agreement does not preclude adjudication of the dispute by way of a contested administrative hearing.

The Claimants did not unreasonably reject good faith efforts by the Respondent to resolve the claim.[24] The Claimants demonstrated a willingness to consider several suggestions

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[18] 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.").
[19] Bus. Reg. § 8-401.
[20] *Id.* §§ 8-405(g), 8-408(b)(1) (2015 & Supp. 2024).
[21] *Id.* § 8-405(f)(2) (Supp. 2024).
[22] *Id.* § 8-405(f)(1) (Supp. 2024).
[23] Fund Ex. 6.
[24] Bus. Reg. § 8-405(d) (Supp. 2024).

by the Respondent to address the offending relief cuts on the upper deck. The Claimants allowed the Respondent to pursue at least two such remedies. One of these remedies involved removing a portion of the concrete slab, which unfortunately caused damage to the Claimants' property and resulted in damages (covered by insurance) exceeding the total cost of the Contract. Despite the problems with the upper deck, the Claimants continued for months to request that the Respondent return to the jobsite and continue work on other aspects of the project. He did not do so.

The Respondent performed unworkmanlike, inadequate, or incomplete home improvements. The parties agree that the Respondent worked on site at the Claimants' residence for approximately three weeks and during that time, the Claimant poured and stamped 3,100 sq ft of concrete as well as performing preparatory sitework for other areas of the project. The parties also agree that the concrete poured on the upper deck suffered from poor quality relief cuts and that when attempting to remedy those cuts, the Respondent's employees further damaged the steel pan. If those unsightly cuts and the damaged steel remained, or if they were repaired at the Claimants expense, then I would find that the concrete on the upper deck was unworkmanlike and inadequate. However, when the Respondent's insurance policy paid for all the concrete from the upper deck to be removed and for the underlying structure to be repaired, it erased all of the Respondent's defective work. Afterward, I find no unworkmanlike or inadequate home improvement remained.

The parties agree that the Respondent left the job without completing the Contract's entire scope of work. The Respondent did not stain or seal any of the concrete that he poured, nor did he pour concrete for the driveway, the pool deck, the fireplace area, or numerous other walkways. He also did not re-pour the concrete that was removed to enable the upper deck

repairs. I therefore conclude that the Respondent abandoned the project before it was complete, and for that reason, I find that the Claimant is eligible for compensation from the Fund.

The Amount of the Claimants' Actual Loss

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.[25] MHIC's regulations provide three formulas to measure a claimant's actual loss, depending on the status of the contract work. However, none of the following three regulatory formulas is appropriate in this case:

> (a) 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.
> (b) If the contractor did work according to the contract and the claimant is not soliciting another contractor to complete the contract, the claimant's actual loss shall be the amount which the claimant paid to the original contractor less the value of any materials or services provided by the contractor.
> (c) 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.[26]

In this case, the Respondent performed work under the Contract, and the Claimants solicited another contractor, Eco Worx, to complete some but not all of the work under the Contract. Accordingly, formulas (a) and (b) do not apply. If the combined result of the work performed by the Respondent and Eco Worx was equal to the scope of work described by the

[25] Bus. Reg. § 8-405(e)(3) (Supp. 2024); COMAR 09.08.03.03B(1).
[26] COMAR 09.08.03.03B(3).

Contract, then formula (c) would be appropriate. However, the Claimants opted to modify the scale of the project by hiring a third contractor, Cooper Paving, to install an asphalt driveway rather than the concrete one that was envisioned by the original Contract. Thus, none of the three formulas described by regulation are applicable. Instead, I shall apply a unique formula to measure the Claimant's actual loss.[27]

The Positions of the Parties

Pursuant to the Contract, the Respondent was to install 7,444 sq ft of concrete for a total price of $120,000.00. It is uncontested that the Claimants paid the Respondent a total of $80,000.00 toward that contract price. However, the parties disagree as to the value of the work performed by the Respondent.

The Claimants indicate that the Respondent poured 3,100 sq ft of concrete, and of that, 1,050 sq ft was removed to remedy errors caused by the Respondent. They argue that without the inclusion of the upper deck, the Respondent did not pour all of the concrete for Phase 1 and none of that for Phase 2. Accordingly, they claim they should be refunded the $40,000.00 they paid for Phase 2 and some portion of the $40,000.00 they paid for Phase 1. The Claimants specify this amount by deducing from the Contract an average cost of $16.12 per square foot of finished concrete ($120,000.00 ÷ 7,444 sq ft). They then argue that 2,050 sq ft was acceptably poured (even if not stained and sealed), for a total value of $33,046.00 for the completed work (2,050 sq ft x $16.12). Accordingly, they compute that they overpaid the Respondent by as much as $46,954.00 ($80,000.00 - $33,046.00),[28] which would represent their actual loss.[29]

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[27] *Id.*

[28] Cl. Ex. 22.

[29] On their claim form with the MHIC, the Claimants only listed a claim of $30,734.08. Fund Ex. 4. The accompanying documentation behind that figure, which was prepared pursuant to arbitration, is not included in the record, nor did it form part of my decision.

The Respondent interprets the estimate for the insurance claim for the damage to the steel decking to mean that the Claimants were already reimbursed for the cost of re-pouring the concrete on the upper deck.[30] He thus argues that I should consider the 1,050 sq ft of concrete on the upper deck as complete. Furthermore, the Respondent points out that the project required excavation, grading, backfilling, compacting, and other preparatory work and that he performed some of this work in areas for which he did not ultimately pour concrete. The Respondent testified that for jobs of this scale, he does not compute a cost per square foot, but rather, he assesses a price for the whole job. He also professed a belief that the work he completed at the Claimants' residence was worth the $80,000.00 he was paid.

Analysis

The record lacks sufficient information to reliably calculate the Claimants' actual loss. However, I find that there is sufficient information to conclude, by a preponderance of the evidence, a likely range of the actual loss. For reasons to be discussed below, that will be sufficient to resolve the case. To find this range, I must first determine the minimum and maximum values of the goods and services the Respondent provided to the Complainants. By subtracting each of these values from the $80,000.00 that the Complainants paid the Respondent under the Contract, I can find the maximum and minimum actual loss that the Claimants have incurred.

As I begin my analysis, I must first dismiss several suggested approaches to the problem of computing the Claimants' actual loss. First, I find that I cannot consider any calculation that relies on the breakdown between the three phases of the project. Because the Contract did not define these phases and there is no evidence that there was ever a mutual agreement as to what work belonged to which phase, I find discussion of them to be unhelpful. Second, the

[30] R. Ex. 1, p. 2.

Respondent's suggestion that he priced the Contract by the job rather than by the square foot is similarly unhelpful to me. He may intuit the cost of a large concrete project, but his intuition is not something on which I can rely in my calculation of actual loss.

I am persuaded that I can extrapolate from the price of $120,000.00 and the total area of 7,444 sq ft, that the Contract provides for a rate of $16.12 per square foot of poured, stamped, stained, and sealed concrete, including the appropriate preparatory work.

I further find that the Claimants successfully refuted the Respondent's evidence concerning the scope of the reimbursement provided by the insurance claim. I do not fault the Respondent for interpreting his insurance provider's estimate to say that his policy was covering replacement for the concrete on the upper deck.[31] However, through their firsthand knowledge, corroborated by documentation,[32] the Claimants have demonstrated that the insurer did not pay for the cost of replacing the upper deck concrete after the steel decking was repaired. Accordingly, I am persuaded by the Claimants' calculation that they only received 2,050 sq ft of acceptably poured and stamped concrete from the Respondent.

By applying the rate of $16.12 per square foot to the 2,050 sq ft of acceptably poured concrete, I can conclude that the Respondent's work on the acceptably poured areas is valued at an amount approaching $33,046.00.[33] Thus, $33.046.00 is the minimum benefit conferred by the Respondent.

However, I am also persuaded that the concrete that was acceptably poured by the Respondent does not represent the total benefit that he conveyed to the Claimants. It is

[31] *See* R. Ex. 2 p 2 (listing a line for "concrete finisher" for a total of $48,474.80).
[32] Cl. Ex. 23.
[33] The Respondent did not tint or seal the areas that were acceptably poured, so the value of this work was something less than the calculated total. However, the record contains no information that would further facilitate approximating the value of the unstained and unsealed concrete that the Respondent poured, and the Claimants have applied the same calculation and reached the same figure as shown here. I will not attempt to further discount the minimum value of the work performed by the Respondent.

uncontested that the Respondent performed work under the Contract on other areas of the project: on the driveway, he set drains and performed grading, and in the fireplace patio area, he brought up the grade, backfilled a footing, and set the base and forms necessary to pour the concrete. I find that this additional site work conveyed benefits to the Claimants when they recruited subsequent concrete and paving contractors, who, I infer, charged less than they would have charged if this preparatory work had not already been accomplished.

By comparing the Contract against the Claimants' agreement with Eco Worx, I can approximate the value of the services that the Respondent performed in the fireplace area. The Claimants paid Eco Worx a total of $38,000.00 for 2,777 sq ft of finished concrete. At the previously discussed rate of $16.12 per square foot, the Claimants would have paid the Respondent $44,765.24 to provide 2,777 sq ft of finished concrete under the Contract. The Claimants thus paid Eco Worx $6,762.24 less than they had agreed to pay the Respondent for the same 2,777 sq ft of concrete. I will consider this savings to be part of the benefit the Respondent conveyed to the Claimants.

Similarly, the Claimants paid Cooper Paving to install an asphalt driveway at a cost of $7,200.00. Even though an asphalt driveway is a less expensive product than the concrete driveway contemplated by the Contract, Cooper Paving still inherited a site that had been graded and compacted with drains installed by the Respondent. I infer that Cooper Paving charged the Claimants less than it would have charged without this preparatory work. The record does not contain the evidence necessary to approximate that difference, but I assume that Cooper Paving discounted its price by no more than 50% due to the site preparation. Therefore, I find it more likely the case than not that the value of the work that the Respondent performed on the driveway was no greater than $7,200.00.

In sum, I find by a preponderance of the evidence that under the Contract, the Respondent conveyed to the Complainants goods and services of no more than the following value:

Concrete acceptably poured and stamped for the front porch, lower deck, and crab shack area		$33,046.00
Preparatory work for the fireplace area		$6,762.24
Preparatory work for the driveway area	+	$7,200.00
Maximum benefit conferred by Respondent:		$47,008.24

Having found the maximum and minimum values for the benefits conferred under the Contract, I can calculate the range of the actual loss sustained by the Complainants by subtracting each of these values from by the total amount paid by the Claimants:

Amount paid by Complainants:		$80,000.00
Maximum benefit conferred by Respondent:	-	$47,008.24
Minimum actual loss:		$32,991.76
Amount paid by Complainants:		$80,000.00
Minimum benefit conferred by Respondent:	-	$33,046.00
Maximum actual loss:		$46,954.00

Thus, I find, by a preponderance of the evidence, that the Claimants suffered an actual loss between $32,991.76 and $46,954.00.

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.[34] In this case, I have found the Claimants' actual loss

[34] Bus. Reg. § 8-405(e)(1), (5) (Supp. 2024); COMAR 09.08.03.03B(4). 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").

to be at least $32,991.76, which exceeds $30,000.00 and is less than the $80,000.00 they paid to the Respondent. Therefore, the Claimant's recovery is limited to $30,000.00.

PROPOSED CONCLUSIONS OF LAW

I conclude that the Claimants have sustained an actual and compensable loss of $30,000.00 as a result of the Respondent's omissions.[35] I further conclude that the Claimants are entitled to recover that amount from the Fund.

RECOMMENDED ORDER

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

ORDER that the Maryland Home Improvement Guaranty Fund award the Claimants $30,000.00; 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;[36] and

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

October 30, 2024
Date Ruling Issued

Michael Jacko
Michael J. Jacko,
Administrative Law Judge

MJJ/ja
#214599

[35] Md. Code Ann., Bus. Reg. §§ 8-401, 8-405 (2015 & Supp. 2024); COMAR 09.08.03.03B(3).
[36] *See* Md. Code Ann., Bus. Reg. § 8-410(a)(1)(iii) (2015); COMAR 09.08.01.20.

PROPOSED ORDER

WHEREFORE, this 20th day of March, 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.

Michael Shilling

Michael Shilling
Panel B
MARYLAND HOME IMPROVEMENT COMMISSION