**Maryland Home Improvement Commission**

**Public Business Meeting Minutes**

DATE: August 5, 2021

TIME: 10:00 a.m.

PLACE: Teleconference through Google Meet

MEMBERS PRESENT: Robert Altieri

Heather Connellee

 Lauren Lake

 Michael A. Newton

 Wm. Bruce Quackenbush

 Michael Shilling

 Joseph Tunney, Chair

I. Jean White

MEMBERS ABSENT:

DEPARTMENT OF LABOR OFFICIALS AND

STAFF PRESENT: David Finneran, Executive Director

Deborah Irvin-Cromwell, Assistant Executive Director

Lance Franklin, License Supervisor

Teresa Edmonds Grant, Secretary

Gregory Morgan, Commissioner

 Kimberly Rosenthal, Administrative Officer

 Kenneth Sigman, Assistant Attorney General

 Tenaea A.Thomas, Panel Secretary

**Call to Order**

Chair Tunney called the meeting to order at 10:00 a.m.

 **Approval of the June 4, 2021, Minutes**

Ms. White made a motion to approve the minutes of the June 4, 2021, Commission meeting. Mr. Shilling seconded the motion, and all approved the minutes.

 **Commissioner Lawrence Helminiak & Commissioner James Berndt**

The terms of Commissioners Lawrence Helminiak and James Berndt have expired, and they are no longer on the Commission. Mr. Tunney thanked both Commissioner Lawrence Helminiak and Commissioner James Berndt for their service with the Maryland Home Improvement Commission.

**Welcome Commissioner Heather Connellee**

Mr. Tunney welcomed Heather Connellee as a new Consumer member of the Maryland Home Improvement Commission. Heather Connellee is President/Owner of Alpine Team, Inc., a full-service advertising agency creating and executing media and advertising campaigns for clients utilizing a mix of radio, television, outdoor, digital, print/collateral, streaming etc. as well as graphic design services. Heather has twenty-plus years of experience in advertising, marketing, and public relations and opened Alpine Team Advertising in 2017. Alpine Team Inc. works with clients in a wide variety of industries including trade, financial, entertainment, sports/athletics, non-profit, and education.  Heather is a board member for the Office on Mental Health. Born and raised in Baltimore, she currently resides in Fallston with her husband, along with her daughter and son. She graduated from Florida Southern College in Lakeland, Florida, where she received her bachelor’s degree in advertising and public relations. Her passion is travel, hiking, and backpacking. She is the former editor of *American Hiker* magazine and has authored two Baltimore hiking guidebooks, *Best Easy Day Hikes Baltimore* and *Best HikesBaltimore*.   The Commissioners look forward to working with Ms. Connellee.

Mr. Finneran informed the Commissioners that by the next Commission meeting there should be another new Commissioner.

 **Guaranty Fund Activity Report**

The MHIC Guaranty Fund Activity Report dated July 26. 2021 is as follows:

Balance as of July 1, 2020 $ 3,738,738.15

Receipts $ 1,664,272.44

Interest -0-

Disbursements

 Claims ($1,131,870.28)

 Refunds ($700.00)

Balance as of June 30, 2021 $4,270,440.31

Reserve

Anticipated Large Claims $ 800,000.00

FMIS Balance $4,270,440.31

Difference $ 0

**Prorated Claims Report - MHIC Business Meeting**

**August 5, 2021**

 **Contractor Suspended date**

**Contractor A June 9, 2015**

Payout completed on March 27, 2018

**Contractor B June 16, 2016**

Payout completed on December 6, 2018

**Contractor C February 1, 2017**

Payout completed on October 4, 2018

**Contractor D June 29, 2017**

Payout completed on October 24, 2019

**Contractor E June 29, 2017**

Payout completed on November 2, 2020

**Contractor F December 21, 2017**

Payout completed on September 3, 2019

**Contractor G May 8, 2019 (voluntary termination)**

8 – Complaints Expected Payout late Summer/Early Fall 2021

**Contractor H June 24, 2019 (Emergency Suspension)**

7– Complaints Expected Payout late Summer/Early Fall

 1-Criminal Complaint Criminal Charges filed in one case

**Contractor I March 8, 2019 (license expired)**

6 – Complaints Latest one opened Sept. 16, 2020

 Claim date to close March 16, 2022

**Contractor J** **Dec. 16, 2019 (Emergency Suspension)**

19 – Complaints Latest complaint opened January 7, 2021

**Contractor K Jan. 16, 2020 (show cause suspension)**

8 – Complaints Latest complaint opened Nov 13 2020

**Contractor L March 12, 2020 (Emergency Suspension)**

10--Complaints Latest Licensed Complaint opened

 March 24, 2021

2-Criminal Complaints Criminal Charges filed in 2 cases

**Contractor M December 5, 2019 (Show Cause**

12-Complaints **Suspension)** Latest complaint opened March 3, 2021

**Contractor N**

13-Complaints April 19, 2021 (Emergency Suspension)

 Latest complaint opened May 13, 2021

Mr. Finneran informed the Commission of the following:

Contractor G: There are two complaints that will be fully adjudicated soon. The Commission expects the homeowners to receive approximately 96% of their monetary awards.

Contractor H: It will likely be early fall before this will be fully adjudicated. There is one criminal complaint and seven Guaranty Fund complainants. There are a few homeowner claims that have not been fully adjudicated. A percentage of anticipated payout has not been determined.

Contractor I: The last complaint received was September 16, 2020, and in the past the Commissioners have decided that they would close the claims for any future claimants eighteen months after the last valid complaint came in. Since the last valid complaint came in September 16, 2020, that would give a closed date for all claims to be received by March 16, 2022. The Commissioners were all in agreement to make that the last date that claims can be accepted. Mr. Finneran will post this information on the website.

Contractor L: There is one new criminal complaint, and one additional complaint is being investigated to determine if it a criminal violation. There are ten possible Guaranty Fund payout complaints

There were no questions about the Guaranty Fund report or the Guaranty Fund payout chart.

**Review of Exam Results**

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| --- |
| Below is the examination statistics summary for the month of June 2021 and July 2021June 2021 |
| **Home Improvement** | **Candidates Tested** | **Passed** | **Failed** | **Pass %** |
| Contractor | 188 | 139 | 49 | 74% |
| Contractor Spanish | 106 | 39 | 67 | 37% |
| Salesperson | 89 | 58 | 31 | 65% |
| Salesperson Spanish | 0 | 0 | 0 |  |
| **TOTAL** | **383** | **236** | **147** | **62%** |
| July 2021 |
| Contractor | 156 | 93 | 63 | 60% |
| Contractor Spanish | 114 | 51 | 63 | 45% |
| Salesperson | 69 | 46 | 23 | 67% |
| Salesperson Spanish | 0 | 0 | 0 | 0 |
| **TOTAL** | **339** | **190** | **149** | **56%** |

There were no Questions about the Exam Results

**Maryland Home Improvement Stats**

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| --- |
| **MAY 2021**  |
| **LICENSING ACTIVITY** |  |
| **Current Licenses Total** | 36, 859 |
|  *Contractor/Salesperson* | 19,198 |
|  *Salesperson* | 3,204 |
|  *Contractor/Salesperson (Corp/Part)*  | 13,347 |
|  *Applications Approved* | 165 |
|  |  |
| **COMPLAINTS RECEIVED** |
| **Complaints Received**  | **86** |
|  *Licensed* | 57 |
|  *Unlicensed* | 31 |
| PendingShow Cause Hearings | **24** |
| Waiting to be sent to OAH | **96** |
| Pending Hearing/Decision at OAH | **146** |
| Mediation | 45 |
|  |
| **Claims** |
| Total Open Claims | **466** |
| New Claims Received | **14** |

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| **JUNE 2021**  |
| **LICENSING ACTIVITY** |  |
| **Current Licenses Total** | 33,199 |
|  *Contractor/Salesperson* | 17,554 |
|  *Salesperson* | 2,441 |
|  *Contractor/Salesperson (Corp/Part)*  | 12,329 |
|  *Applications Approved* | 198 |
|  |  |
| **COMPLAINTS RECEIVED** |
| **Complaints Received**  | **124** |
|  *Licensed* | 76 |
|  *Unlicensed* | 48 |
| PendingShow Cause Hearings | **6** |
| Waiting to be sent to OAH | **66** |
| Pending Hearing/Decision at OAH | **105** |
| Mediation | 48 |
|  |
| **Claims** |
| Total Open Claims | **483** |
| New Claims Received | **24** |

Ms. White asked what percentage of complaints become claims ? Mr. Finneran said that he will make a total claim to ratio report and present it at the next Commission meeting.

Ms. White asked if there was data concerning claims that are dismissed without award. Mr. Finneran will give a report at the next meeting of how many claims were denied or dismissed in a fiscal year. Mr. Finneran will add this as a Category in the stats report.

**MHIC CITATION REPORT**

**There were no Citations in June or July 2021**

There are a few citations that Mr. Finneran will finalize and send out. Investigators will be working in the office at least one full day a week and as they are able to come in and work in the office which will allow for more citations to be issued.

There were no questions on the citation report.

 **Virtual Home Improvement Sales**

Mr. Tunney said that the notice of cancellation went from three to five days and if you were over 65 years old you got seven days to cancel a contract. At the time of this change, Mr. Tunney didn’t agree with it because he felt that the extra time would not be necessary because the consumer has the internet to conduct a thorough investigation of the contractor within the allotted three days. It was brought to his attention that all of this could be done on a cell phone in five minutes as opposed to five days or seven days. With Covid a lot of companies went to virtual sales. They would set up appointments with customers and they would solicit customers through email or other means. A contract could be initiated and ratified with DocuSign or some other method where the salesperson never goes to the home of the customer. Currently, if a customer come into the store and signs a contract, there would be no cancellation period. Mr. Tunney has seen contractors take deposits and disappear when there is no rescission period. How does the MHIC protect the consumers if there is no rescission period with virtual home improvement sales? Mr. Finneran was not aware that the homeowners were not entitled to a rescission period if they do not sign a contract in person. Mr. Tunney said that if a sale is not done in a home or retail establishment, there is no rescission period. Mr. Sigman will look into this and report at the next Commission meeting.

Mr. Sigman said that his understanding is there is a rescission period built into the home improvement law that would apply regardless of how a sale is made. Commissioner Morgan stated that his understanding was that if a sale was made virtually it was excluded in the right of rescission. Commissioner Morgan stated that this should be looked at to possibly include all contracts no matter where they are signed.

 Ms. White feels that the right of rescission should be applicable no matter where the contract is signed. Mr. Quackenbush agrees with Commissioner Morgan’s statement of the law as being correct. Mr. Quackenbush also feels that Ms. White’s suggestion would protect consumers and should be considered.

 **Raising the Monetary Cap on Small Claims**

Mr. Finneran informed the Commissioners that there is a small claims cap of $7,500.00. He said that MHIC history shows that the cap was $5,000.00 and before that it was $2,500.00. The purpose of the small claims process is to allow homeowners who had an actual loss receive their funds quicker without going through the Office of Administrative Hearing (OAH) process if the contractor does not dispute the claim. If the contractor disputes the claim, the claim would be referred to OAH and go through the full administrative hearing process. Mr. Sigman asked how often the MHIC pays claims via the small claims process without a hearing. Mr. Finneran said that at least four or five payouts are processed per month in the small claims category. The administrative hearing process is expensive to the Commission because of the cost of representation by the Attorney General’s Office and the cost of the OAH hearing. The homeowner also has a longer wait period when going through the hearing process. Mr. Finneran asked if the small claims cap should be increased. Mr. Altieri would like to know the amount of small claims paid out each year before a decision in raising the small claims cap is decided. The Commissioners discussed possibly raising the cap to $10,000.00. Mr. Sigman explained that first the statute would have to be amended because right now the cap is at $7,500.00. It was suggested that, if the small claims cap was raised to $10,000.00, maybe claims of $7,500.00 and below would be processed by the staff and claims between $7,500.00 and $10,000.00 would be reviewed by the Commissioners. If this was to be done then the Code may have to be changed to allow for the two different processes. The MHIC will review the issue before deciding. The Commissioner decided to table this subject until the next Commission meeting.

 **Comments from the Chairman**

 Mr. Tunney wished everyone a Happy Labor Day.

 **Comments from Mr. Finneran & Ms. White**

Mr. Finneran said that MHIC has a contractual position open for an Office Secretary II position that would be the secretary to the Investigators. There were fifty applications for the job. Candidates are being scheduled for interviews and hopefully a new staff member will be hired by the end of September.

Ms. White said, on behalf of the Commission, she would like to commend the staff of Tenaea, Kim, Ken, and all the background people who supported the Commissioners during the last year. They have done a wonderful job getting information out to the Commissioners so that hearings and Commission meetings can be held. They truly appreciate the amount of background work that was necessary. Additionally, Ms. White thanked everyone on staff whose names were not mentioned and who the Commissioners do not see and do not know who have helped to keep the process running smoothly for the last year. The Commissioners all agreed.

 **Adjournment**

The meeting was adjourned at 10:51 a.m.

**Signature on File Signature on File**

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Joseph Tunney Chairman David Finneran, Executive Director