

**MARYLAND HOME
IMPROVEMENT COMMISSION**

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IMPROVEMENT COMMISSION**

*

v.

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**FRANK E. CHAMBERLAIN
t/a CUSTOM EXTERIORS
& REMODELING, LLC**

* **CASE NO. 2011 -DEN-101**

* **(MHIC License No. 01-16480)**

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STATEMENT OF THE CASE

The above captioned matter was heard on September 1, 2011, by the Maryland Home Improvement Commission ("Commission"). This matter was scheduled for a hearing as a result of a Notice Of Hearing issued by the Commission on August 12, 2011. The Commission was represented by Assistant Attorney General Kris King. The Commission presented the testimony of Holly Isaacs, Administrative Officer, State of Maryland Uninsured Employers' Fund Board. The Respondent, Frank. E. Chamberlain, t/a Custom Exteriors & Remodeling, LLC, failed to appear for the hearing.¹

As set forth in the Notice of Hearing, the specific charge against Respondent Chamberlain was as follows:

- "It is alleged that you have violated Labor and Employment Article, §9-1012. Annotated Code of Maryland. Specifically, it is alleged that, on or about January 26, 2010, you were ordered to pay an assessment to the State of Maryland Uninsured Employers' Fund. It is alleged that you have failed to pay the full amount of the assessment against you. You are advised that, pursuant to

¹ Notice of the hearing was sent to Respondent Chamberlain by both certified and first class mail addressed to his address of record: 1913 Mackiebeth Court, Annapolis, MD 21401.

Labor and Employment Article, §9-1012, Annotated Code of Maryland, the Maryland Home Improvement Commission is required to suspend your home improvement contractor license, if it finds that you failed to pay an assessment made against you by the Uninsured Employers' Fund. Under the law, such a suspension must remain in effect, until you have paid the full assessment due, or have made payment arrangements which are approved by the Uninsured Employers' Fund."

FINDINGS OF FACT

After examining all of the evidence and testimony, the Commission makes the following findings:

1) The Respondent Frank E. Chamberlain, t/a Custom Exteriors & Remodeling, LLC, holds a home improvement contractor license from the Maryland Home Improvement Commission (License no. 01-16480).

2) On or about January 26, 2010, the State of Maryland Uninsured Employers' Fund Board ordered Respondent Chamberlain to pay an assessment of \$61,067.11.

3) The Uninsured Employers' Fund Board assessment against Respondent Chamberlain arose as a result of an award by the Workers' Compensation Commission to a former employee of Respondent Chamberlain. The Workers' Compensation Commission found that Ronald Rodriguez sustained a serious hand injury from a power saw while working for Respondent Chamberlain. The Workers' Compensation Commission further found that Respondent Chamberlain had failed to carry workers' compensation insurance for his employees, as required by law. As a result of Respondent Chamberlain's failure to maintain workers' compensation

insurance, the award to Respondent Chamberlain's employee was paid by the Uninsured Employers' Fund Board. The Uninsured Employers' Fund Board then issued the assessment order requiring Respondent Chamberlain to reimburse the Board for the payment which it was required to make as a result of Respondent Chamberlain's failure to have workers' compensation insurance.

4) The Uninsured Employers Fund Board wrote to Respondent Chamberlain on at least three dates: March 9, 2010; April 21, 2010; and June 16, 2010, notifying him of the assessment against him, and his legal obligation to pay the assessment. The Board's letter of March 9, 2010 informed Respondent Chamberlain that failure to pay the assessment would subject him to suspension of all licenses and permits to do business in the State. The Board's letter of April 21, 2010 offered Respondent Chamberlain a monthly repayment plan over a period of 36 months. Respondent Chamberlain made one payment to the Board of \$500.00, on or about May 2010, leaving a balance of \$60,567.11 currently owed on the assessment.

5) By letter dated July 19, 2011, the Uninsured Employers' Fund Board requested that, pursuant to Labor and Employment Article, §9-1012, Annotated Code of Maryland, the Maryland Home Improvement Commission suspend Respondent Chamberlain's home improvement contractor license, due to his failure to pay the assessment ordered by the Board.

CONCLUSIONS OF LAW

The Commission concludes, as a matter of law, that it is required under Labor and Employment Article, §9-1012, Annotated Code of Maryland, to impose a suspension upon the license of Respondent Chamberlain. §9-1012 provides that State licensing agencies, including the Home Improvement Commission, must suspend a license, if it is found that the licensee has failed to pay an assessment ordered by the Uninsured Employers' Fund Board. The legal jurisdiction of the Home Improvement Commission in this proceeding is limited only to the issue of whether there is an unpaid assessment against the licensee. The Home Improvement Commission has no legal jurisdiction to review or amend the assessment order issued by the Uninsured Employers' Fund Board. In this case, the evidence clearly shows that Respondent Chamberlain has failed to pay the assessment ordered against him by the Uninsured Employers' Fund Board. Therefore, the Home Improvement Commission concludes that it is required, under Labor and Employment Article, §9-1012, to suspend any licenses held by Respondent Chamberlain, until such time as he pays the assessment due to the Uninsured Employers' Fund Board, or reaches a payment agreement approved by the Board.

FINAL ORDER

On the basis of the foregoing Findings of Fact and Conclusions of Law, it is this
6th day of September, 2011, hereby ORDERED by the Maryland Home Improvement
Commission that:

1) Pursuant to Labor and Employment Article, §9-1012, Annotated Code of Maryland, any licenses held by the Respondent, Frank E. Chamberlain, t/a Custom Exteriors & Remodeling, LLC, are **SUSPENDED**, until such time as the pays the assessment due to the Uninsured Employers' Fund Board, or reaches a payment agreement approved by the Board.

2) The Respondent may file an appeal of this decision to Circuit Court, within thirty (30) days of this date.

John Borz _____

Chairman