

**STATE OF TENNESSEE
BEFORE THE TENNESSEE BOARD FOR LICENSING CONTRACTORS**

IN THE MATTER OF:

**JAMES KENTON
(UNLICENSED)**

[REDACTED]

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CASE No. HIC-2020034281

CONSENT ORDER

JAMES KENTON voluntarily enters into this Consent Order to avoid formal charges and a contested case proceeding with respect to the matters described herein.

GENERAL STIPULATIONS

1. It is expressly understood that this Consent Order is subject to the acceptance of the Tennessee Board for Licensing Contractors (“Board”) and has no force and effect until such acceptance is evidenced by the entry of the Board.

2. This Consent Order is executed by **JAMES KENTON**(“Respondent”) for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Consent Order not be accepted by the Board, it is agreed that presentation to and consideration of this Consent Order shall not unfairly or illegally prejudice the Board from further participation or resolution of these proceedings.

3. Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Board against Respondents for acts or omissions not specifically addressed in this Consent Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. Respondent fully understands that this Consent Order will in no way preclude proceedings by state government representatives, other than the Board, for violations of the TENN. CODE ANN. § 62-6-101 et seq. the Contractors Licensing Act of 1994 (“Act”) addressed specifically in this Consent Order, against the Respondent for violations of law under statutes, rules, or regulations of the State of Tennessee, which may arise out of the facts, acts, or omissions contained in the Findings of Fact and Conclusions of Law stated herein, or which may arise as a result of the execution of this Consent Order by the Respondent.

5. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of this Consent Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Consent Order by the Board.

AUTHORITY AND JURISDICTION

TENN. CODE ANN. §§ 62-6-101 et seq. and 56-1-308 and TENN. COMP. R. & REGS. Chapter 0680-01 authorize the Board to take disciplinary action and/or assess civil penalties as consequences of any violation of TENN. CODE ANN. Title 62 and/or any rules promulgated thereunder.

PARTIES

1. The Board is the lawful agent through which TENN. CODE ANN. § 62-6-101 et seq. and the rules promulgated thereunder are administered and is authorized to bring this action.

2. Respondent did not hold a home improvement contractor’s license for any of the times relevant to the proceedings of this matter.

FINDINGS OF FACT

1. On or about May 5, 2020, the Board received a complaint from Marylynn

Norman (“Complainant”) that Respondent had been performing roof installation work without a license, Nashville, Tennessee.

2. The Complainant alleges they contracted with the Respondent in February 2020 to install a metal roof at their home in Nashville, Tennessee. The Complainant paid the Respondent Twenty-Four Thousand Nine Hundred Dollars (\$24,900.00) for this project.

3. Nashville, Tennessee is located in Davidson County.

4. The Respondent provided a home improvement license to the Board Investigator but it appears the license was not active until April 2020, two months after this project was completed. Additionally, the name on the license does not match the name the Respondent is doing business as.

5. Respondent admits to contracting without a license in an amount exceeding three thousand dollars (\$3,000.00) in Davidson County, Tennessee.

6. Respondent hereby admits to the foregoing findings of fact.

CONCLUSIONS OF LAW

1. Davidson County, has lawfully adopted TENN. CODE. ANN. Title 62, chapter 6, part 5, requiring a home improvement contractor’s license for home improvement contracting exceeding three thousand dollars (\$3,000.00) total cost for materials, labor, and profit, pursuant to TENN. CODE ANN. § 62-6-516(b).

2. Tenn. Code Ann. § 62-6-501(4)(A) states as follows:

(4)(A) “Home improvement” means the repair, replacement, remodeling, alteration, conversion, modernization, improvement or addition to any land or building, or that portion of the land or building, that is used or designed to be used as a residence or dwelling unit for one (1), two (2), three (3) or four (4) dwelling units, and includes the construction, replacement or improvement of driveways, swimming pools, porches, garages, landscaping, fences, fall-out shelters, roofing, painting and other improvements to structures or upon land that is adjacent to a dwelling house for one (1), two (2), three (3) or four (4) dwelling units. Without

regard to the extent of affixation, "home improvement" includes the installation of central heating or air conditioning systems, storm windows or awnings;

3. Respondent's acts and conduct constitute a violation of TENN. CODE ANN. § 62-6-502(a), which states as follows:

(a) No person may engage in or transact any home improvement business, represent to the public as doing home improvement business or offer to transact any home improvement business in this state, except in compliance with the applicable provisions of this part. No person, whether subject to licensing by any law or otherwise, may engage in this state in any trade practice or other act that is prohibited by this part. Every person who willfully participates in a prohibited act or violation with knowledge of the prohibited act or violation is subject to the criminal penalty for the prohibited act or violation. This part may not be waived by agreement.

ORDER

NOW, THEREFORE, on the basis of the foregoing, and Respondent's waiver of the right to a hearing and appeal under the Act and the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101 to 4-5-404, and Respondent's admission of jurisdiction of the Board, the Board finds that Respondent, for the purpose of settling this matter, admits the Findings of Fact and Conclusions of Law, agrees to the entry of this Order and agrees that this Order is in the public interest, necessary for the protection of the public and consistent with the purposes fairly intended by the policy and provisions TENN. CODE ANN. § 62-6-101 et seq. and the rules promulgated thereunder.

NOW, THEREFORE, the parties hereby consent and agree to the following:

1. Respondent consents to pay a civil penalty in the amount of **ONE THOUSAND DOLLARS (\$1, 000.00)**.
2. Payment shall be made upon return of this executed Order. The signed Order and payment shall be mailed to:

**Tennessee Department of Commerce and Insurance
Tennessee Board for Licensing Contractors
Attention: Kristen J. Downey
12th Floor, Davy Crockett Tower**

**500 James Robertson Parkway
Nashville, TN 37243**

3. In addition, it is further **ORDERED** that all persons in any way assisting, aiding, or helping Respondent in any of the aforementioned violations of the Act shall **CEASE AND DESIST** from all such activities.

IT IS ORDERED that this Consent Order represents the complete and final resolution of, and discharge with respect to, all administrative and civil, claims, demands, actions, and causes of action by the Board against Respondent for violations of TENN. CODE ANN. § 62-6-101 et seq. and the rules promulgated thereunder alleged to have occurred with respect to the facts contained herein.

This Consent Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signatures affixed below, Respondent affirmatively states they have freely agreed to the entry of this Consent Order, that they waive the right to a hearing on the matters underlying this Consent Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made to them by the Board, or any agent or representative thereof. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement as set forth in this Consent Order, are binding upon them.

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ENTERED this 20TH day of AUGUST, 2020.

APPROVED FOR ENTRY:

JAMES KENTON

James Kenton
Name

OWNER
Title

By: KJD
Kristen J. Downey,
Assistant General Counsel
500 James Robertson Parkway
Davy Crockett Tower
Nashville, TN 37243
(615) 741-3072
Kristen.Downey@tn.gov

BOARD APPROVAL DATE: JULY 28, 2020