**Maryland Home Improvement Commission**

**Public Business Meeting Minutes**

DATE: June 3, 2021

TIME: 10:00 a.m.

PLACE: Teleconference through Google Meet

MEMBERS PRESENT: James Berndt

 Lawrence Helminiak

 Lauren Lake

 Michael A. Newton

 Wm. Bruce Quackenbush

 Michael Shilling

 Joseph Tunney, Chair

I Jean White

MEMBERS ABSENT: Robert Altieri

DEPARTMENT OF LABOR OFFICIALS AND

STAFF PRESENT: David Finneran, Executive Director

Deborah Irvin-Cromwell, Assistant Executive Director

Lance Franklin, License Supervisor

Maureen Mitchell, 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 April 1, 2021 Minutes**

Ms. White made a motion to approve the minutes of the April 1, 2021 Commission meeting. Mr. Shilling seconded the motion and all approved the minutes.

 **Guaranty Fund Activity Report**

The MHIC Guaranty Fund Activity Report dated May 20. 2021 is as follows:

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

Receipts $ 1,319,021.86

Interest -0-

Disbursements

 Claims ($923,040.51)

 Refunds ($200.00)

Balance as of April 30, 2021 $4,134,519.50

Reserve

Anticipated Large Claims $ 800,000.00

FMIS Balance $4,022,069.50

Difference $ 112,450.00

Please note that the “Receipts” amount of $1,319,021.86 include electronic licensing receipts of $91,475.00 and Lockbox receipts of $20,975.00 for the month of April that was not posted into FMIS until the month of May, 2021.

**Prorated Claims Report - MHIC Business Meeting**

**June 3, 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 January 1, 2019

**Contractor E June 29, 2017 (Emergency Suspension)**

24 – Complaints Latest complaint opened May, 2018

Claims date closed as of **January 1, 2019**

**Contractor F December 21, 2017**

**Payout completed on September 3, 2019**

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

9 – Complaints Latest one opened May 20, 2019

Claims date to close November 20, 2020

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

 7– Complaints Claims date closed on April 7, 2021

 1-Criminal Complaint Criminal Charges filed in one case

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

6 – Complaints Latest one opened Sept. 16, 2020

**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

1-Criminal Complaint Criminal Charges filed in 1 case

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

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

**Contractor N Researching Suspension Options**

13-Complaints April 19, 2021 (Emergency Suspension)

 Latest complaint opened May 13, 2021

Mr. Finneran informed the Commission of the following:

Contractor G: Anticipated claims will be fully adjudicated and payout may be late Summer 2021.

Contractor H: Claims date closed on April 7, 2021 and may be paid out in late 2021.

Contractor N: The License was suspended on an emergency basis April 19, 2021. There are currently 13 complaints. The latest complaint opened on May 13, 2021.

Mr. Tunney asked if Contractor N had a specific nature of complaints? Mr. Finneran said no there isn’t a specific nature of the complaints. Howard County and the Better Business Bureau put out a notice about this Contractor which led to a flurry of complaints coming in. Mr. Finneran spoke to the contractor and he has no answer for all the complaints. Mr. Tunney asked if the claims were because of deposits being taken and no work being done because of poor workmanship or abandonment. Mr. Finneran said there are a few abandonment cases but that there are three complaints that MHIC is waiting for a response and he has not read those complaints to tell what type of complaint it is. Possible criminal action may be taken on the complaints

Mr. Quackenbush asked Mr. Finneran in relation to criminal charges what is the nature of the criminal charges against Contractor L? Mr. Finneran said that Contractor L entered into a contract after the suspension date. The Contractor was Emergency suspended on March 12, 2020 and in April of the same year entered into a contract which lead to the Criminal Charge filing.

**Review of Exam Results**

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| Below is the examination statistics summary for the month of April 2021 and May 2021April 2021 |
| **Home Improvement** | **Candidates Tested** | **Passed** | **Failed** | **Pass %** |
| Contractor | 172 | 131 | 41 | 76% |
| Contractor Spanish | 123 | 60 | 63 | 49% |
| Salesperson | 88 | 57 | 31 | 65% |
| Salesperson Spanish | 0 | 0 | 0 |  |
| **TOTAL** | **383** | **248** | **135** | **65%** |
| May 2021 |
| Contractor | 176 | 116 | 60 | 66% |
| Contractor Spanish | 155 | 73 | 82 | 47% |
| Salesperson | 82 | 53 | 29 | 65% |
| Salesperson Spanish | 0 | 0 | 0 | 0 |
| **TOTAL** | **413** | **242** | **171** | **59%** |

The Commissioners had no comments.

**Maryland Home Improvement Stats**

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| **MARCH 2021**  |
| **LICENSING ACTIVITY** |  |
| **Current Licenses Total** | 36,556 |
|  *Contractor/Salesperson* | 19,049 |
|  *Salesperson* | 3,188 |
|  *Contractor/Salesperson (Corp/Part)*  | 13,215 |
|  *Applications Approved* | 205 |
|  |  |
| **COMPLAINTS RECEIVED** |
| **Complaints Received**  | **109** |
|  *Licensed* | 63 |
|  *Unlicensed* | 46 |
| PendingShow Cause Hearings | **30** |
| Waiting to be sent to OAH | **25** |
| Pending Hearing/Decision at OAH | **201** |
| Mediation | 38 |
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| **Claims** |
| Total Open Claims | **457** |
| New Claims Received | **8** |

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| **APRIL 2021**  |
| **LICENSING ACTIVITY** |  |
| **Current Licenses Total** | 37,097 |
|  *Contractor/Salesperson* | 19,295 |
|  *Salesperson* | 3,227 |
|  *Contractor/Salesperson (Corp/Part)*  | 13,447 |
|  *Applications Approved* | 218 |
|  |  |
| **COMPLAINTS RECEIVED** |
| **Complaints Received**  | **86** |
|  *Licensed* | 56 |
|  *Unlicensed* | 30 |
| PendingShow Cause Hearings | **24** |
| Waiting to be sent to OAH | **96** |
| Pending Hearing/Decision at OAH | **146** |
| Mediation | 42 |
|  |
| **Claims** |
| Total Open Claims | **466** |
| New Claims Received | **14** |

The Commissioners had no comments.

**MHIC CITATION REPORT**

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| **APRIL 2021** |
| ***Citation #*** | ***Total $ Amount*** | ***Violations***  | ***Investigator*** | ***Due Date***  |  ***Citation Date***  |
| **749** | $250.00 | W-01 Failure to Comply with Order | N/A | 6/27/2021 | 4/28/2021 |

**There were no Citations in May 2021.** The Commissioners had no comments

 **Legislative Session/New Laws**

Mr. Finneran informed the Commissioners of the Following:

SB 106: This legislative bill would have required specified State entities that issue occupational or professional licenses to verify that specified applicants are in good standing with the State Department of Assessments and Taxation (SDAT) prior to renewing or, for some health related licenses or permits, issuing a specified license. This Bill did not pass.

HB 408 This bill would have authorized a person to receive a deposit of up to one-half (instead of one-third) of a home improvement contract price before or at the time of execution of the contract. However, the bill also would have prohibited a person from receiving the remaining amount of the contract price (i.e., the balance owed after the deposit) until the home improvement specified in the contract is complete. This bill was withdrawn by the Sponsor.

HB 395 This bill would have (1) limited the portion of a home improvement contract price that a person may receive before or after time of execution of the contract to one third of the contract price. (2) prohibited a person from accepting more than one-half of the contract price before work commences on the project or (3) generally, prohibited a person from collection the remaining portion of the contract price before the completion of the project. However, for a contract valued at $10,000 or more, payment may also be received in the manner specified under a draw schedule that the parties mutually agree to at the time the contract was signed. This bill did not pass.

The Commissioners had no questions.

**Improvements To The Information that the Commission gives to Claimants for the hearing, i.e bringing all necessary documents including Contracts, Photos and especially Estimates for jobs/ items that must be corrected or completed.**

Mr. Finneran sent the Commissioners two documents that are sent to the claimants about preparation for the Office of Administrative Hearings (OAH). He stated that OAH also sends claimants a cover letter that includes information on what to do to get their documents into evidence. He also showed a previously drafted document with information that could be sent to claimants that has more substantive information in it. The document was handed out at the Guaranty Fund workshops. Previous to the pandemic, the Guaranty Fund workshops were held by MHIC every other month in the second floor hearing room. The Guaranty Fund workshops were conducted by the Attorney General’s office. Both workshops were suspended due to the pandemic. The Attorney General’s office has not given any notice on when the workshops will resume. However, Mr. Finneran believes that the GF workshops helped the claimants and respondents tremendously.

 Ms. White said that the reason she wanted this item placed on the Agenda is because she and Mr. Shilling were on the last hearing panel and had two claimants who appeared to be totally unaware of what documentation was necessary to go to a hearing. She believes other Commissioners are running into the same problem. Claimants seem to think that when they file exceptions, they can retry their case. MHIC should make an effort to make clear that the parties to the claim have one shot at submitting evidence to prove their case at the OAH hearing There is a limit to what an exceptions hearing will allow. Ms. White believes the parties feel they have a second chance and sometimes they can prove there are issues within the Administrative Law Judge (ALJ) ruling. Ms. White said that most claimants do not have estimates for the correction or completion of their project. Ms. White feels that the Commissioners should review the paperwork that Mr. Finneran handed out and make the changes that are needed.

 Mr. Quackenbush asked Ms. White if the problem is the claimants attempting to make their claim with the ALJ or is the problem understanding what they are able to do when it comes to the Commissioners on exceptions? Ms. White stated that it is both.

 Mr. Tunney feels that it starts with the ALJ. If a Contractor comes in with an attorney, the attorney is well prepared and knows what to bring. The homeowner may come in without representation and they are not sure what they can bring to the hearing. Mr. Tunney asked Mr. Finneran if a claimant comes into the Guaranty Fund workshop are they told what they should bring to an ALJ hearing? Mr. Finneran said that litigation attorneys from the Office of the Attorney General prepare claimants and respondents for their hearings, not the MHIC. Mr. Finneran said that MHIC has to be careful at the workshops because the attendees want legal advice and MHIC cannot provide legal advice.

 Mr. Sigman said that the parties don’t know what to bring to an ALJ hearing and will then try to fall back on the exceptions hearing process. Mr. Sigman also said that because the claimant submits something to the investigators and it’s in the file, they feel that the ALJ will have access to it for the hearing. Mr. Sigman believes the instructions have to be done another way so that the claimants are better informed about the procedures. Mr. Sigman said he would review the exceptions hearing notice and see if he can provide better guidance.

 Mr. Sigman and Ms. White feel that the root of the problem is the claimants don’t make their case at the hearing. Ms. White noted that both sides need to have equal opportunity to present their case to the ALJ.

 **Comments from the Chairman**

 Mr. Tunney said that it was nice seeing everyone and he hopes that he will soon see everyone in person at a Commission meeting.

**Adjournment**

The meeting was adjourned at 10:35 a.m.

\_\_\_\_*Signature on File*\_\_\_\_\_\_\_\_\_ \_\_\_\_*Signature on File\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

Joseph Tunney Chairman David Finneran, Executive Director