

**BEFORE THE STATE FIRE MARSHAL'S OFFICE,  
A DIVISION OF THE MISSISSIPPI INSURANCE DEPARTMENT  
STATE OF MISSISSIPPI**

**IN RE:           CHESTER McNAIRY D/B/A McNAIRY MOBILE HOME SERVICE  
                  INSTALLER/TRANSPORTER LICENSE # 9905749**

**FINAL ADMINISTRATIVE ORDER**

**THIS MATTER** came on for hearing before the Commissioner of Insurance of the State of Mississippi (hereinafter "Commissioner"), by and through his specially designated appointee, the Hon. Phillips Strickland (hereinafter "Hearing Officer"), via teleconference on Wednesday, December 1, 2021, at 10:00 a.m., relating to the Notice of Hearing and Statement of Charges brought against Chester McNairy d/b/a McNairy Mobile Home Movers ("Respondent") dated October 20, 2021. Respondent received notice of the hearing, as evidenced by proof of delivery via United States Mail, Certified Mail, to his address of record (Ex. S-8), as well as by personal delivery (Ex. S-9). The Respondent attended and participated in the hearing, expressed that he understood the charges against him and that he had a right to an attorney, although he chose not to obtain one. Respondent further expressed that he was prepared to proceed with the hearing.

The following witnesses testified during the hearing: State Fire Marshal Deputy (SFMD) Eddie Greene; SFM Factory Built Home Division Director Timothy Fagerburg; Chester McNairy; and Dwayne McNairy. The following documentary evidence was admitted into the record: The Notice of Hearing and Statement of Charges dated October 20, 2021; S-1: Sircon Licensing Report for Respondent; S-2: Investigation Report from Deputy Greene; S-3: Email from Daniel Livingston dated 21 Sept 21; S-4: Letter and Affidavit / Correction Statement mailed 27 Sept 21; S-5: Summary of outstanding inspection fees as of 20 Oct 21; S-6: Consent to Civil Penalty,

effective 16 Aug 21; S-7: Summary of outstanding inspection fees as of 30 Nov 21; S-8: Certified Mail Receipt for service on Respondent; S-9: Proof of Service for Hand Delivery to Respondent.

The Commissioner, based on the evidence presented at the hearing, makes the following findings of fact and conclusions of law by clear and convincing evidence:

#### FINDINGS OF FACT

1. Respondent, Chester McNairy d/b/a McNairy Mobile Home Service, did transport and install six (6) separate factory built homes to a location on 961 Sand Road, Columbus, Mississippi, in Lowndes County, Mississippi. With regard to three (3) of those homes, Respondent did fail to submit the required Property Locator / Certificate of Installation forms to the Factory-Built Home Division of the State Fire Marshal's Office (SFMO) within the time allowed for said installed home(s). The other three homes were installed in approximately July or August 2021. Respondent presented testimony that, due to the placement of the homes in a flood zone, they were almost certainly going to have to be moved again, and consequently, they were confused whether they were required to send in notification of the installation of these homes. This is an insufficient excuse for not providing the required notification of installation within the 72 hours required by law.

2. On or about September 27, 2021, an Affidavit / Correction Statement was mailed to Respondent, Chester McNairy d/b/a McNairy Mobile Home Service, with regard to one of the factory built homes installed at or around 961 Sand Road, Columbus, MS, which described several defects in the installation discovered during the State Fire Marshal Deputies Inspection. Respondent did fail to correct the defects found during the inspection and return the signed and notarized affidavit to the State Fire Marshal's Office, within 20 days, indicating that all the listed defects have been corrected.

3. The Respondent, Chester McNairy d/b/a McNairy Mobile Home Service, has failed to pay to the State Fire Marshal's Office the inspection fees that are due from Respondent, pursuant to *Miss. Code Ann. §75-49-9(11) and 19 Miss. Admin Code Part 7, Chapter 5, Rule 5.02.3-2 (Inspection Fees)*. The Respondent has failed to pay the inspection fees due within the 45 days as allowed by the regulation, and Respondent was, at the time of the hearing, delinquent in the payment of 15 separate \$160 inspection fee assessments, and is presently delinquent in the total sum of at least \$2,300.

4. The Respondent, Chester McNairy d/b/a McNairy Mobile Home Service, does have a good reputation for performing the installation work, however, Respondent does not have a good reputation for competency to transact the business in such a manner as to safeguard the interest of the public, as their track record for accomplishing the required administrative tasks, such as providing notification of installations required for a proper inspection to be performed, is terrible. Record keeping and document submission are a necessary part for an effective system of installation inspections, and the failure to engage in the inspections process is detrimental to the public interest. Furthermore, based upon prior violations, the Respondent entered into a "Consent to Civil Penalty" effective August 16, 2021, in which Respondent agreed, among other things, to "submit the required Property Locator / Certificate of Installation as required, within 72 hours (3 days) of the installation of any factory built home sold by Licensee." Respondent has failed to comply with the express terms of said agreement. Respondent's continued disregard for the laws and regulations of the State of Mississippi, as evidenced by the evidence presented, reflects that the Respondent does not have the competency necessary to qualify for a license as an installer / transporter of factory built homes in the State of Mississippi. The Respondent did provide testimony that they would actively take steps to correct their administrative deficiencies, although

such steps did not appear to be in place by the date of the hearing.

#### CONCLUSIONS OF LAW

5. The failure of Respondent to submit the required property locator / certificate of Installation forms, as described in the foregoing findings of fact, constitutes three (e) separate violations of *19 Miss. Admin Code Part 7, Chapter 5, Rule 5.02.1-18 and Rule 5.02.3-1 (Scheduling of the Inspection)*.

6. The failure of Respondent to correct the defects found during inspections and return the signed and notarized affidavit to the State Fire Marshal's Office, within 20 days, indicating that all the listed defects have been corrected, as described in the foregoing findings of fact, constitutes a violation of *19 Miss. Admin Code Part 7, Chapter 5, Rule 5.02.4-2 (Procedures for Re-inspection Upon Failure to Pass)*.

7. The failure of Respondent to pay the inspection fees due within the 45 days as allowed by the regulation, as described in the foregoing findings of fact, This conduct constitutes 13 separate violations of *Miss. Code Ann. §75-49-9(11) and 19 Miss. Admin Code Part 7, Chapter 5, Rule 5.02.3-2 (Inspection Fees)*. Although the evidence reflected 15 delinquent inspection fees, the Notice of Hearing and Statement of Charges only alleged 13 violations in this regard, and consequently, no violations are being adjudicated as to the 2 uncharged delinquent fees which are also due.

8. That during the period of time that Respondent held a Mississippi license to operate as a Manufactured Home Installer / Transporter, the Respondent has failed to act with the level of competency required by *Miss. Code Ann. §§ 75-49-9 and 75-49-13, as well as 19 Miss. Admin Code Part 7, Chapter 5, Rules 5.02.4-10 and Rule 5.03.5*. Regardless, Respondent's actual installation work is apparently good, and their administrative practices should be fixable provided

they place sufficient focus on this deficiency. It would be in the best interest of the public that Respondent be allowed to continue with the business, subject to a one (1) year term of probation. If the Respondent is unable to correct its administrative deficiencies before the licensing renewal date, then it may be necessary to move forward with a denial / revocation of its license at that time.

### ORDER

**IT IS, THEREFORE, ORDERED** as follows:

1. A civil penalty should be, and hereby is imposed against the Respondent, Chester McNairy d/b/a McNairy Mobile Home Service, in the amount of \$500.00, due and payable immediately to the State Fire Marshal's Office.

2. That the Mississippi Installer / Transporter License No. 9905749 issued to Respondent, Chester McNairy d/b/a McNairy Mobile Home Service, should be, and hereby is placed into a probationary status for a term of one (1) year from the date of this Order, with the probationary conditions including:

- a. Pay the civil penalty of \$500.00 in full, due and payable to the State Fire Marshal's Office effective immediately;
- b. Turn in all outstanding and delinquent Property Locator / Certificate of Installation forms to the Office of the State Fire Marshal, identifying all factory-built homes that have been installed by Respondent within 72 hours of the completion of any installation. **This specifically includes the three (3) outstanding property locators for the 961 Sand Road installations which have yet to be turned in;**
- c. Pay all Installation / Inspection fees that are due from the Respondent to the State Fire Marshal's Office **at the time the Property Locator / Certificate of Installation forms are turned in;**
- d. Perform all necessary repairs or modifications reflected in an Affidavit / Correction Statement sent from the State Fire Marshal's Office, and return the completed Affidavit / Correction Statement to the State Fire Marshal's Office within 20 days of receipt. Furthermore, the following listed Affidavits of Correction, which are now delinquent, should be completed (repairs made), and signed forms returned to the Office of the State Fire Marshal immediately:


1. Homeowner: Reo Johnson; 719 Kidd Road, Caledonia, MS 39740;
2. Homeowner: Sureita Chambers; 199 Peachtree Street, Tehula, MS 39169;
3. Homeowner: Cherly Luctous; 1175 Hildreth Road, Columbus, MS 39702;
4. Homeowner: Scott Johnson; 7851 Prarie Point Road, Macon, MS 39341;
5. Homeowner: Tasha Ellis; 1500 Azalea Lane lot #8; Starkville, MS 39759;
6. Homeowner: Adria Slaughter; 865 Buckhalter Road, Brooksville, MS 39739;
7. Homeowner: Nekitia Smith; 188 Sand Rd, Starkville, MS 39759;
8. Homeowner: Dale Hall; 98 Wanda Lane, Columbus, MS 39705;
9. Homeowner: Bruce Bradley; 4758 Cal-Kobota Rd, Caledonia, MS 39740;
10. Homeowner: Pearlie Betts; 5633 Sandy Land Rd, Macon MS 39431;
11. Homeowner: Jimmy J. Morgan; 500 Railroad Rd, West Point, MS 39773;
12. Homeowner: Francisco Gonzalez; 105 Ethel House Dr., Houstaon, MS 38851;
13. Homeowner: Brittany Huer; 441 CR 84, Woodland, MS 39770;
14. Homeowner: Kinyada Pittman; 100 A Griffin St, Houstaon, MS 38852;
15. Homeowner: Carla Marion; 4407 Union Ave, Nettleton, MS 38858;
16. Homeowner: Gloria Harris; 961 Sand Road, Columbus, MS 39702;
17. Homeowner: Jake Winter; 30403 Little Coontail Road, Amory, MS 38821.

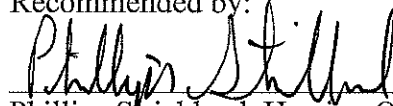
- e. Respondent shall not commit any other violations of the laws and regulations of the State of Mississippi as the same relate to the transportation and installation of factory built homes in this State;
- f. The license of Chester McNairy d/b/a McNairy Mobile Home Service shall not be renewed unless and until it has paid the full outstanding balance of inspection fees due to the State Fire Marshal's Office.

3. If the Respondent fails to comply with the probationary conditions detailed herein, a show cause hearing shall be scheduled, at which Respondent shall be allowed an opportunity to demonstrate why its license should not be fully revoked.

4. It is noted that if the Respondent chooses to appeal this decision, he may do so pursuant to the provisions of § 75-49-13(6) of the Mississippi Code of 1972, as Amended.

**SO ORDERED**, this the 29<sup>th</sup> day of December, 2021.

  
 MIKE CHANEY  
 COMMISSIONER OF INSURANCE

Recommended by:  
  
 Phillips Strickland, Hearing Officer