

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

**IN RE: MANUEL MORGAN
 D/B/A MORGAN TRUCKING EXPRESS
 INSTALLER/TRANSPORTER LICENSE # 15038247**

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. Kim Causey (hereinafter "Hearing Officer"), via teleconference on Wednesday, March 23, 2022, at 10:00 a.m., relating to the Notice of Hearing and Statement of Charges brought against Manuel Morgan d/b/a Morgan Trucking Express ("Respondent") dated February 14, 2022. Respondent received notice of the hearing, as evidenced by proof of delivery via United States Mail, Certified Mail, to his address of record (Exhibit S-8). The Respondent attended and participated in the hearing, expressed that he understood 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; SFMD Shannon Gunter; SFM Factory Built Home Division Director Timothy Fagerburg; Manuel Morgan; and Wanda Morgan. Furthermore, with the express consent of Respondent, a telephone conversation was had after the hearing with Constable Jeremy Kilgore on March 25, 2022 relative to his knowledge surrounding Respondent's attempts to make repairs at the Hollis Smith Residence. The following documentary evidence was admitted into the record: The Notice of Hearing and Statement of Charges dated February 14, 2022; S-1: Sircon Licensing Report; S-2: Affidavit / Correction Statement notarized Sept. 29, 2021; S-3: Affidavit / Correction

Statement from inspection on November 18, 2021; S-4: Statement of Facts from Deputy Gunter; S-5: Field Inspection and Violation Report; S-5(a) – Affidavit / Correction Statement – Rantreavis Gibson home; S-5(b): Affidavit / Correction Statement – Raynon Finley, Sr. home; S-5(c): Affidavit / Correction Statement – Cordell Walker home; S-6: Final Administrative Order, dated August 18, 2021; S-7: Summary of Outstanding Inspection Fees as of February 14, 2022; S-8: Proof of Certified Mail Service on Respondent.

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

FINDINGS OF FACT

1. Charge 1, as alleged in the Statement of Charges, is substantiated after a finding of sufficient proof to establish clearly and convincingly that, with regard to an installation completed by Respondent for homeowner Hollis Smith, at 6170 Hwy 9 North, Walthall, MS 39771, which was installed by Respondent in or around September 2021, Respondent was provided the inspector's written explanation with reasons why the inspector could not approve the installation, and Respondent then failed to correct the defects found during the inspection. Furthermore, on or about September 29, 2021, Respondent, acting by and through its authorized agent, Wanda Morgan, did return a signed and notarized affidavit(s) to the State Fire Marshal's Office that falsely indicated that all the listed defects had been corrected within the twenty (20) calendar day period as required by law and regulation (Exhibit S-2). This finding is supported by the testimony of State Fire Marshal Deputy Shannon Gunter that he re-inspected the home on November 18, 2021, and verified that the asserted corrections had in fact not been made. Furthermore, Wanda Morgan testified at the hearing that she knew the information in the affidavit was false at the time she

submitted it, but she attempted to mitigate the false affidavit by asserting that some unnamed female at the State Fire Marshal's Office told her to file a false affidavit, asserting that the inspectors wouldn't discover that the repairs had in fact not been made. Although Wanda Morgan asserts that this somehow makes the submission of the false affidavit acceptable, it is specifically found herein that Wanda Morgan's testimony in this regard is not persuasive, as any such bad advice would not constitute a reasonable excuse for her own willful misconduct in submitting a falsified affidavit.

2. Charge 2, as alleged in the Statement of Charges, was supported by the evidence, however, Charge 2 should be unsubstantiated due to the potential for confusion by the Respondent and the possibility of interference by the homeowner which may have impeded his compliance with legal requirements. With respect to the home of Hollis Smith, at 6170 Hwy 9 North, Walthall, MS, following the inspector's re-inspection of the installation on November 18, 2021, Respondent was provided a second inspector's written explanation (Exhibit S-3) with reasons why the inspector could not approve the installation, and Respondent then failed to correct the defects found during the inspection, and also failed to return a signed and notarized affidavit(s) to the State Fire Marshal's Office indicating that all the listed defects had been corrected within the twenty (20) calendar day period as required by law and regulation. These facts are supported by the testimony of State Fire Marshal Deputy Shannon Gunter and were admitted to by the Respondent. However, the Respondent further asserted that the homeowner interfered with his ability to access the property which prevented his ability to make the necessary repairs. There was testimony of arguments and controversy with the homeowner and at some point the homeowner reportedly had a visible gun in his possession. Deputy State Fire Marshal Shannon Gunter testified that an agreement had been reached between the Respondent, the homeowner, and the State Fire

Marshal's Office to allow Respondent to retain a different licensed installer to perform the repairs in order to avoid conflict with the homeowner (although notably, the Respondent denied such an agreement had been reached). Additionally, Constable Jeremy Kilgore, in a telephone conversation on March 25, 2022, advised that he was present in Justice Court during a hearing held regarding to issues related to Respondent's installation at the Smith residence, and also that he attempted to escort Respondent to the property to make repairs. According to Constable Kilgore, the Respondent cancelled the first scheduled appointment to go to the property, however, on a second attempt, Mrs. Smith refused to allow them to come onto the property and expressed that she was upset that no one informed her of the cancellation of the first meeting. There remains sufficient unresolved confusion on the issue of Respondent's ability to access the property and perform the repairs that it is not appropriate to substantiate a willful failure to perform the repairs and submit forms relative to this particular incident at the Smith residence. Regardless, even with the lack of substantiation of Charge 2, it is noted that the Respondent remains responsible for the completion of necessary repairs at the Smith residence, and the un-substantiation of this charge should not be misconstrued to relieve him from that responsibility.

3. Charge 3, as alleged in the Statement of Charges, is substantiated. For three (3) installations completed by Respondent which occurred during the year of 2021, Respondent was provided the State Fire Marshal Inspector's written explanation with reasons why the inspector could not approve the installation, and Respondent then failed to correct the defects found during the inspection and did not return the signed and notarized affidavit(s) to the State Fire Marshal's Office indicating that all the listed defects had been corrected within the twenty (20) calendar day period as required by law and regulation. Specifically, the homes installed by Respondent as referenced in this paragraph include the following:

- a) Home Owner: Rantreavis Gibson, 53 Tim Lane, Starkville, MS 39759 (Exhibit S-5(a));
- b) Home Owner: Raynon Finley, Sr., 1226 CR 88, New Albany, MS 38652 (Exhibit S-5-(b));
- c) Home Owner: Cordell Walker, 201 RO Road 94, Houston, MS 38851 (Exhibit S-5(c)).

The findings in this paragraph are supported by the testimony of State Fire Marshal Deputy (SFMD) Shannon Gunter, SFMD Eddie Greene, and the admissions of Respondent, Manuel Morgan, during the hearing.

4. Charge 4 from the Statement of Charges is substantiated. The Respondent's license was placed on probation through that certain Final Administrative Order entered on August 18, 2021 (Exhibit S-6). Said Order included, but was not limited to, a probationary condition requiring Respondent to 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. As evidenced by the substantiation of both Charges 1 and 3 of the Statement of Charges, the Respondent has clearly violated this probationary requirement for his licensure.

5. Charge 5 from the Statement of Charges is substantiated. The Respondent has failed to timely pay installation inspection fee(s) within 45 days from the date issued by the State Fire Marshal's Office. Per MID Bulletin 2010-3, such fee is \$160.00 per installation inspection. Respondent is presently delinquent in the payment of seven (7) separate installation inspection fee assessments, and is currently delinquent in the amount of \$1,220. (Exhibit S-7).

6. Charge 6 from the Statement of Charges is substantiated. Respondent's business practices evidence a lack of honesty, trustworthiness, integrity and competency necessary to transact business in a manner necessary to safeguard the interest of the public. A finding of failures in honesty, trustworthiness, and integrity is supported by evidence which clearly and convincingly

shows that Respondent submitted a notarized Affidavit / Correction statement back to the State Fire Marshal's Office which they knew was false, as described in more detail in paragraph 1 above. Furthermore, failures in trustworthiness, integrity, and competency are also clearly evidenced by Respondent's repeated failures to submit required forms to the State Fire Marshal's Office, and repeated failures to repair defects in installations. The Respondent has already been given placed on probation through an Administrative Order dated August 18, 2021, which set forth reasonable conditions for continued licensure, and Respondent has clearly failed to comply with those conditions. It is in the best interest of the public that Respondent's license to perform as a transporter / installer of factory built homes be revoked.

CONCLUSIONS OF LAW

7. Respondent, Manuel Morgan d/b/a Morgan Trucking Express, is in violation of *19 Miss. Admin Code Part 7, Chapter 5, Rule 5.02.4-2 (Procedures for Re-inspection Upon Failure to Pass)*, based upon the substantiated findings in connection to Charge 1 of the Statement of Charges.

8. Respondent has committed three (3) separate violations of *19 Miss. Admin Code Part 7, Chapter 5, Rule 5.02.4-2 (Procedures for Re-inspection Upon Failure to Pass)*, based upon the substantiated findings in connection to Charge 3 of the Statement of Charges.

9. Respondent has violated the terms of the probationary conditions placed upon his license as set forth in the Administrative Order dated August 18, 2021.

10. The Respondent has violated *Miss. Code Ann. §75-49-9(11) and 19 Miss. Admin Code Part 7, Chapter 5, Rule 5.02.3-2 (Inspection Fees)*, through a failure to timely pay installation inspection fee(s) within 45 days from the date issued by the State Fire Marshal's Office.

11. 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 honesty, trustworthiness, integrity and competency required for licensure by *Miss. Code § 75-49-9(7) (Supp. 2020)*, and it is in the best interest of the public that Respondent's license to perform as a transporter / installer of factory built homes be revoked. Pursuant to *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*, the Commissioner may deny, revoke or suspend the license of any person or entity which does not bear a good reputation for honesty, trustworthiness, integrity and competency to transact the business in such a manner as to safeguard the interest of the public.

ORDER

IT IS, THEREFORE, ORDERED as follows:

1. That the Mississippi Installer / Transporter License No. 15038247 issued to Respondent, Manuel Morgan d/b/a Morgan Trucking Express, should be, and hereby is **REVOKED** effective immediately.

2. That Respondent, Manuel Morgan d/b/a Morgan Trucking Express, is directed to cease and refrain from engaging in the transportation or installation of any factory-built home intended to be used for human habitation, until such time in the future as he may obtain a license from the Commissioner of Insurance for the State of Mississippi as required by *§ 75-49-9 of the Mississippi Code of 1972, as amended*. Respondent is directed to remove from display any signs or other advertisements which could mislead a consumer into believing it is still conducting business as an Installer/Transporter of Factory Built Homes.

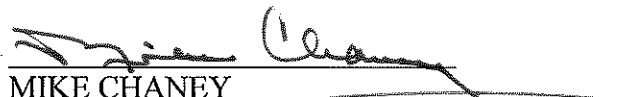
3. Respondent, Manuel Morgan d/b/a Morgan Trucking Express, is directed to perform all work necessary to correct installation defects noted in all outstanding Affidavits/Correction Statements which have been issued to Morgan Trucking Express prior to the

date of this Final Administrative Order, and to return the Affidavit/Correction Statements to the State Fire Marshal's Office fully executed in evidence that the necessary correction work has been completed. Respondent's activities with respect to the transportation and installation of factory built homes shall be limited to only such corrective work as is necessary to comply with the terms of this Order.

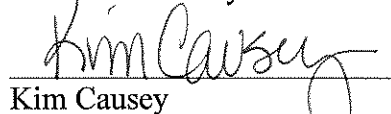
4. Respondent is hereby ordered to pay the full amount of outstanding and delinquent Field Inspection Fees due to the State Fire Marshal's Office, in the amount of \$1,220, due and payable immediately.

5. 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 25th day of March, 2022.


MIKE CHANEY
COMMISSIONER OF INSURANCE

Recommended by:


Kim Causey
Hearing Officer