

**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. Phillips Strickland (hereinafter "Hearing Officer"), via teleconference on Wednesday, August 11, 2021, at 11:00 a.m., relating to the Notice of Hearing and Statement of Charges brought against Manuel Morgan d/b/a Morgan Trucking Express ("Respondent") dated July 14, 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-6), as well as by email delivery (Ex. S-7). 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; SFMD Shannon Gunter; SFM Factory Built Home Division Director Timothy Fagerburg; Manuel Morgan; and Wanda Morgan. The following documentary evidence was admitted into the record: The Notice of Hearing and Statement of Charges dated July 14, 2021; S-1: Sircon Licensing Report; S-2: Investigation Report from SFMD Greene; S-3: Composite Exhibit from Lowndes County Building Inspection Department; S-4: Email from Daniel Livingston, dated June 21, 2021; S-5: Composite Exhibit of Affidavit / Correction Statement

forms; S-6: Certified Mail Delivery Receipt; S-7: Email to Respondent; S-8: Field Inspection Validation Report.

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. Charge 1, as alleged in the Statement of Charges, is substantiated after a finding of sufficient proof to establish clearly and convincingly that on divers occasions during the years 2020 and 2021, Respondent, Manuel Morgan d/b/a Morgan Trucking Express, did transport and install five (5) separate factory built homes to locations in Lowndes County, Mississippi, and that with respect to such factory built 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 72 hour period of time allowed for said installed home(s), pursuant to the provisions of *19 Miss. Admin Code Part 7, Chapter 5, Rule 5.02.1-18 and Rule 5.02.3-1 (Scheduling of the Inspection)*. Specifically, the homes installed by Respondent as referenced in this paragraph include the following:

- a) Home owned by Angie Williams Craddieth, at address of 8640 Highway 45 South, Artesia, Mississippi 39736;
- b) Home owned by Sonny Sanders, at address of 303 West Artesia Road;
- c) Home owned by Alaina Coleman, at address of 715 Old West Point Road;
- d) Home owned by Brandon Moore, at an address on Fernbank Road;
- e) Home owned by Johnny Beamon, at address of 5293 Nashville Ferry Road East.

This finding is supported by the testimony of State Fire Marshal Deputy Eddie Greene, Exhibit S-2, Exhibit S-3, and Exhibit S-4. Furthermore, both Manuel Morgan and Wanda Morgan testified and admitted that they failed to send the required property locator in as required, however,

they asserted that they were confused after a conversation with the Lowndes County Building Department Official, who they interpreted to say his was the only inspection required. Although it is likely that the Morgan's misunderstood what the Lowndes County Building Official said, they did convey a genuine confusion on the issue, despite having attended specific training from the State Fire Marshal's Office which included the requirement to send in the property locator.

2. Charge 2, as alleged in the Statement of Charges, is not substantiated. Although there was sufficient evidence to establish that Respondent did fail to turn in the Affidavit / Correction Statements and make required repairs in a timely manner, the evidence is somewhat conflicting between the witness testimony and the documentary evidence provided, and it was unclear which of the alleged homes were turned in late versus not turned in at all. Wanda Magee also testified that she was sending the Affidavit / Correction Statements in, but alleged that it was somehow being mishandled by the State Fire Marshal's Office. It is notable that there was no evidence produced by Respondent that any of these forms had been sent in timely to the State Fire Marshal's Office, and I do find that any error in the turn-in process is due to error, mishandling or omission by the Respondent. Regardless, the overall evidence regarding Charge 2 was simply confusing, and not sufficiently clear and convincing to substantiate the charge.

3. Charge 3, as alleged in the Statement of Charges, is substantiated. The Respondent is lacking in competency and still showing a great deal of confusion in his ability to properly conduct the technical and administrative requirements for engaging in the business of installing / transporting factory built homes. It is notable that Respondent was first issued a license to engage in this business on July 13, 2020. Respondent's level of competency appears to be improving gradually, and although it still needs to improve, Respondent appears to be sufficiently competent to continue engaging in the business, provided he is placed into a probationary status, during which

Respondent may be given the additional supervision necessary to ensure his business practices are conducted in a manner that is in the best interest of the public.

CONCLUSIONS OF LAW

4. Respondent, Manuel Morgan d/b/a Morgan Trucking Express, is guilty of five (5) 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)*.

5. 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 § 75-49-9(7) (Supp. 2020)*. Regardless, Respondent's business practices appear to be improving, and 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.

ORDER

IT IS, THEREFORE, ORDERED as follows:

1. A civil penalty should be, and hereby is imposed against the Respondent, Manuel Morgan d/b/a Morgan Trucking Express, in the amount of \$500.00, due and payable immediately.

2. That the Mississippi Installer / Transporter License No. 15038247 issued to Respondent, Manuel Morgan d/b/a Morgan Trucking Express, 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;
- 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;

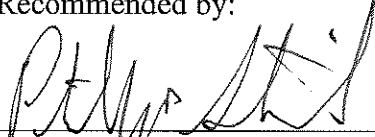
- c. Pay all Installation / Inspection fees that are due from the Respondent to the State Fire Marshal's Office at the time the Property Locator / Certificate of Installation forms are turned in;
- d. Perform all necessary repairs or modifications reflected in an Affidavit / Correction Statement sent 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;
- e. Commit no 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.

3. 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 18th day of August, 2021.


MIKE CHANEY
COMMISSIONER OF INSURANCE

Recommended by:


Phillips Stuckland
Hearing Officer