

**BEFORE THE STATE OF ALABAMA
BOARD OF HEATING, AIR CONDITIONING AND REFRIGERATION CONTRACTORS**

IN THE MATTER OF COMPLAINT OF THE BOARD AGAINST:

ELIJAH BLANCHARD
920 TRINITY COURT
BIRMINGHAM, AL 35242

Certification Number 11162

Complaint File: CC-2021-052

ORDER

This cause comes before the State of Alabama Board of Heating, Air Conditioning and Refrigeration Contractors ("the Board"), pursuant to the attached Hearing Officer's Recommendation and the entire administrative record. For good cause shown, it is hereby ORDERED:

THAT the attached Hearing Officer's Recommendation is hereby adopted in its entirety, as if fully set out herein;

THAT the Respondent Elijah Blanchard, is guilty of violating Section 34-31-21, *Code of Alabama 1975*;

THAT the certification to engage in the heating and air conditioning and refrigeration services in the State of Alabama to be **REVOKED**;

THAT this action has been taken and this Order issued by the Board, effective November 16, 2022; and

THAT a copy of this Order shall be served upon the Respondent Elijah Blanchard. by certified mail, return receipt requested or personal service;

Board voting in favor of said action at the November 16, 2022 meeting were Susan Bolt, Dr. Heshmat Aglan, Misty Forbus, Brett Hall, Joel Owen, Barrett Richard, and Brett Warren. Eddie Harper, Wilbur Webb, Albert Davis, and Tim Jordan abstained the vote.

DONE this 17th day of November 2022.


Jeffrey M. Becraft, Executive Director

**BEFORE THE STATE OF ALABAMA
BOARD OF HEATING, AIR CONDITIONING
AND REFRIGERATION CONTRACTORS**

**ALABAMA BOARD OF HEATING,)
AIR CONDITIONING AND)
REFRIGERATION CONTRACTORS,)**

Complainant,)

Complaint File No. CC-2021-052

v.)

**ELIJAH BLANCHARD,)
A&E SERVICE COMPANY,)**

Respondents.)

**ORDER ON FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

Procedural Posture

The Complainant, the Alabama Board of Heating, Air Conditioning and Refrigeration Contractors (hereinafter "Board"), is a State of Alabama governmental agency charged with the responsibility and authority to carry out the purposes of ALA. CODE § 34-31-18, *et seq.* (1975).

The Respondent, Elijah Blanchard (hereinafter "Blanchard"), is licensed by the Board as Alabama Contractor Number 11162. Blanchard is subject to the jurisdiction of the Board.

On or about June 2, 2021, the Board received a complaint against Blanchard and his company, A&E Service Company, by S. Rena Oden on behalf of Naomi

Oden (hereinafter “Oden”) who lives at 46094 Highway 280, Sylacauga, Alabama, 35150. Oden’s complaint detailed a number of problems and concerns in the provision, installation, and modification of heating and air conditioning systems.¹ On June 8, 2021, the Board hand-delivered a 20-day notice to Blanchard regarding the consumer complaint.²

On or about July 20, 2021, Greg Nuby (hereinafter “Nuby”), an investigator for the Board, inspected the work done by Blanchard on the Oden house. On January 26, 2022, Nuby submitted his HACR Board Investigation Report on the inspection of the Oden house.³

On October 29, 2021, the Board notified Blanchard of the investigative findings.⁴ The notification listed three minimum standard violations; 1) The flexible supply duct run is not supported with the proper strapping; 2) The added flexible duct run boot to the bedroom is not completely insulated; and 3) The metal splash guard plates on the evaporator coil do not appear to be installed properly. On September 22, 2022, the Board issued a Summons and Administrative Complaint

¹ Board Exhibit 1.

² Board Exhibit 1, last page.

³ Board Exhibit 2.

⁴ Board Exhibit 4.

outlining the deficiencies in the Oden installation.⁵ Blanchard was properly served notice of the Board's Summons and Administrative Complaint.

On October 12, 2022, the undersigned hearing officer, on behalf of the Board, held an administrative hearing for the purpose of hearing the Board's evidence and allowing Blanchard to present such evidence and any response that he had concerning the complaints. Ellen Leonard, Esq. represented the Board. Scott M. Speagle, Esq. represented Blanchard.

The Board offered nine exhibits, which were admitted into the record. Blanchard offered two exhibits which were entered into the record.

Findings of Fact

Having reviewed the documentary evidence, having heard the witnesses' testimony, having observed the witnesses' demeanor and assessed their credibility, the undersigned finds the preponderance of the evidence establishes that Blanchard provided, installed, modified, and/or repaired heating and air conditioning systems for Oden with numerous violations as outlined below.

Pursuant to the HACR Board Investigation Report completed by Nuby, the Oden installation had the following violations pursuant to the Board's rules:

...

⁵ Board Exhibit 5.

Findings: Minimum Standard Violations:

1. The flexible supply duct run is not supported with the proper strapping, in violation of the the 2015 International Residential Code Section M1601.4.4.⁶
2. The added flexible duct run boot to the bedroom is not completely insulated, in violation of the 2015 International Residential Code Section N1103.3.1.⁷
3. The metal splash guard plates on the evaporator coil do not appear to be installed properly, in violation of the 2015 International Residential Code Section M1401.1.⁸

Nuby testified about his inspection and discussed the HACR violations he found by referencing the photographs included as exhibits. Nuby conducted two inspections, one on July 20, 2021, and another on October 7, 2021. Nuby indicated in his Investigative Report under “Resolution,” “Homeowner let A&E come out several times to make repairs. Homeowner decided to go with another company after failing to make repairs.”⁹ Nuby testified the three infractions listed in the Administrative Complaint were not remedied by Blanchard. Based upon the

⁶ Board Exhibit 2, page 5.

⁷ Board Exhibit 2, page 6.

⁸ Board Exhibit 2, pages 6 and 7.

⁹ Board Exhibit 2, page 2.

Investigative Report, it appears the lack of insulation around the flex duct run boot and the improperly installed metal splash guard plate were found on Nuby's second inspection. Nuby testified that the unit was not functioning during his initial inspection, however it was working during his second inspection.

Blanchard testified on his own behalf. Blanchard has 30 years of experience and believes he has installed approximately 15,000 units during his career. Blanchard acknowledged he was served with the Summons and Administrative Complaint pertaining to the work on the Oden installation. Blanchard testified he was unable to remedy the duct work issue because Oden would not allow him to go back under her house to address the issue. Blanchard believed he was responsive to Oden's repeated requests for him to come to her house and work on her unit. Blanchard indicated that at times he was unable to immediately go to her house, but other times, she had a conflict and could not meet him when he was available. Blanchard testified he dealt more with Oden's sister, Rena, through text messages. Many of the text messages exchanged were included in Oden's complaint to the Board.¹⁰ Blanchard testified there were other messages, excluded by Oden that helped to clarify some of the issues they had finding a mutual time to meet. Blanchard acknowledged Oden filed against his bond and insurance.

¹⁰ Board Exhibit 1.

Blanchard has been previously disciplined by the Board. On November 20, 2017, Blanchard entered into a Settlement Agreement with the Board based upon violations of the Board's rules and regulations. Blanchard paid an administrative fine and took a mandatory class pertaining to the violations he committed.¹¹

On March 11, 2020, the Board revoked Blanchard's certification for heating and air conditioning and refrigeration services based upon multiple violations of the Board's rules and regulations on two separate jobs.¹² Blanchard appealed the decision of the Board, and it is currently being adjudicated in the Jefferson County Circuit Court.

Conclusions of Law

The undersigned finds Blanchard is guilty of committing three minimum standard violations as outlined in the Administrative Complaint and supported by the testimony of Nuby and photographs taken during the investigation. These standards are set forth in the Board's Administrative Rules and Regulations. Based upon his multiple rule violations, Blanchard is subject to discipline by the Board pursuant to ALA. CODE § 34-31-32(b) (1975).

¹¹ Board Exhibit 6.

¹² Board Exhibits 7 and 8.

Recommendation

Blanchard appeared at the hearing and testified. Substantial evidence proved Blanchard committed three minimum standard violations on the Oden installation.

HACR Administrative Code Section 440-X-3-.09 states, in pertinent part:

(1) The person in responsible charge must direct the projects involving the installation or service and repair of heating, air conditioning or refrigeration systems under Alabama law. The person in responsible charge must be a full-time employee, owner, partner, or corporate officer of the partnership, corporation, business trust, or other legal entity. This person in responsible charge must possess the requisite skill, knowledge, and experience and have the responsibility to supervise, direct, manage, and control the installation, service, or repair activities of the business entity with which he is affiliated. The Board shall examine the technical and personal qualifications of the person in responsible charge and may investigate and/or examine that person's qualifications.

...

(3) The certified contractor is responsible for all electrical and gas piping work related to HVAC equipment performed on residential property or HVAC and/or refrigeration equipment on commercial property, and is considered by the Board as the person in responsible charge for such work should the work fail to meet the minimum standards under these rules.

Blanchard was the person in responsible charge for the Oden job and he acknowledged that as the person in charge, he was liable for any violations found on work performed under his license.

Counsel for the Board recommended revocation of Blanchard's certification. Counsel for the Board argued that Blanchard's repeated conduct is grounds for such

discipline. Blanchard has had four consumer complaints filed against him since 2017 and in at least two cases he was not responsive or failed to show up when the complainants attempted to get him to come fix their problems.¹³ This most recent complaint came after the Board recommended Blanchard's certification be revoked.

Counsel for Blanchard argued the Board's March 11, 2020, Order to revoke Blanchard's certification, cannot be considered since it has been appealed to Circuit Court.¹⁴ Counsel for Blanchard also argued that Blanchard was charged with three minimum standard violations and by themselves would not warrant revocation of certification.

The purpose of the Board is outlined in Ala. Code §34-31-19, "...to certify qualified contractors on a state-wide basis in order to **protect the public...**" The penalties for violations are outlined in Ala. Code §34-31-32(b) and Administrative Rules and Regulations §440-X-6-.08. The Administrative rules state, in pertinent part:

(1) Based upon the evidence presented at the administrative hearing or pursuant to informal disposition, the Board may take one or more of the following actions:

...

(c) Find the respondent guilty of any or all the violations alleged in the

¹³ See Board Exhibit 1, text messages and Board Exhibit 9.

¹⁴ Counsel failed to cite any legal authority that would prohibit the Board from considering prior discipline as they exercise their discretion under Ala Code §34-31-32(b).

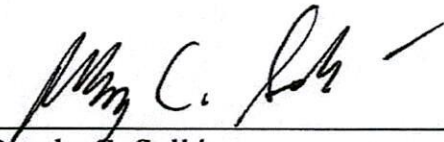
administrative complaint. If the Board finds the Respondent guilty of one or more of the violations alleged in the administrative complaint, the Board may take one or more of the following disciplinary actions against the respondent:

1. Reprimand the Respondent.
2. Require additional continuing education hours.
3. Suspend the respondent's certification.
4. Revoke the respondent's certification.
5. Levy a fine not to exceed \$2,000.00 per violation.

...

The undersigned has carefully considered all the evidence in this case. Blanchard has previously been subjected to discipline by the Board, including an administrative fine, mandatory classes, and revocation of his certification. Blanchard continues to engage in substandard work. Blanchard's violations in this matter, along with his prior discipline, support revocation of his license pursuant to ALA. CODE § 34-31-32(b) (1975). The undersigned recommends to the Board that Blanchard's certification be REVOKED.

Done, this 8th day of November 2022.



Randy C. Sallé
Administrative Law Judge
State Personnel Department
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VIA Email and First-Class Mail

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