

**CITY OF NEW YORK  
DEPARTMENT OF CONSUMER AFFAIRS  
MUHAMMED IRTAZA**

**-and-**

**THE DEPARTMENT OF CONSUMER  
AFFAIRS,**

**Complainants,**

**-against-**

**PMR ENTERPRISE, LLC**

**-and-**

**HOWARD FALKOW, individually and as  
president**

**Respondents.**

**DECISION AND ORDER**

**Violation No(s):**

**CD500118714**

**DD500118714**

**License No(s):**

**1214331 (HIC)**

**1214330 (HIS)**

**Date: April 21, 2010**

An inquest was held on March 31, 2010.

Appearances: For the Complainants: Muhammed Irtaza, consumer complainant. Although duly notified of the time and place of the hearing, the respondent failed to appear.

The Notice of Hearing charged the Respondents with violating the following:

1. **Title 20 of the New York City Administrative Code (Administrative Code), Chapter 5, Subchapter 1, Section §20-700** by engaging in a deceptive or unconscionable trade practice.
2. **Administrative Code §20-393(8)** by conducting a home improvement business in any name other than the one in which the contractor is licensed
3. **Administrative Code §20-393(9)** by willfully failing to comply with an order, demand, rule, regulation or requirement made by

the Commissioner pursuant to provisions of this subchapter in that the Respondent allowed an unlicensed salesperson to solicit and sell a home improvement contract on its behalf, without a home improvement salesperson license.

4. **Administrative Code §20-113** willfully failing to notify the Department of Consumer Affairs of any change of trade name at least ten days before such change becomes effective – AND / OR by changing its trade name without prior written approval of the commissioner or the commissioner's designee.
5. **6 RCNY §2-221(a)(1)** by failing to include in the contract, the contractor's name, office address, telephone number and license number; and the salesperson's name and license number.
6. **6 RCNY §2-221(a)(2)** by failing to include in the contract the approximate dates, or estimated dates, when the work will begin and be substantially completed, including a statement of any contingencies that would materially change the approximate or estimated completion date, and a specification whether or not the contractor and the owner have determined a definite completion date to be of the essence.
7. **6 RCNY §2-221(a)(5)** by failing to include in the contract a notice to the owner purchasing the home improvement that the home improvement contractor is legally required to deposit all payments received prior to completion in accordance with subdivision four of §71-a of the New York State Lien Law and that, in lieu of such deposit, the home improvement contractor may post a bond or contract of indemnity with the owner guaranteeing the return or proper application of such payments to the purpose of the Contract.
8. **6 RCNY §2-221(a)(8)** by failing to include in the contract a clause wherein the contractor agrees to furnish the buyer with a Certificate of Workers' Compensation Insurance prior to commencement of work pursuant to the contract.
9. **6 RCNY §2-221(a)(9)** by failing to include in the contract a clause wherein the contractor agrees to procure all permits required by local law.
10. **6 RCNY §2-221(b)** by failing to furnish to the buyer at the time he or she signs the home improvement contract, a separate,

completed Notice of Cancellation form, in duplicate and attached to the contract, in form and substance as required by this rule.

11. **6 RCNY §1-05** by failing to clearly identify the Home Improvement Contractor and/or Salesperson license number as a New York City Department of Consumer Affairs license number on all advertising, letterhead, receipts or other printed matter of the licensee, and/or by failing to disclose or disseminate the license number in a lawful manner.
12. **Howard Falkow violated 6 RCNY 2-223(a)** by failing to secure or see to the securing of a permit – or –certificate of occupancy – OR – special exception necessary to the proper completion of such contract in accordance with applicable state or local building laws.
13. **Administrative Code §20-101** for failing to maintain the standards of integrity, honesty, and fair dealing required of licensees.

Based on the evidence in the record, I **RECOMMEND** the following:

### **Findings of Fact**

The respondent agreed to perform home improvement work for the consumer for a total price of \$50,000. The consumer paid the respondent a total of \$23,000.00. The work was not performed.

### **Opinion**

The credible evidence establishes that the consumer is entitled to restitution from the respondent in the amount of \$23,000.

### **ORDER**

### **CD500118714**

**Respondent, PMR ENTERPRISE, LLC** is found **guilty upon default** of charges numbered 1 through 11, and 13 and of violating 6 RCNY Section 1-14, and is hereby

**Ordered to pay to the Department of Consumer Affairs a TOTAL FINE of \$3700, as follows:**

<u>Charge</u>	<u>Fine</u>
1. Administrative Code §20-700	\$ 350.00
2. Administrative Code §20-393(8)	\$ 350.00
3. Administrative Code §20-393(9)	\$ 600.00
4. Administrative Code §20-113	\$ 350.00
5.6 RCNY §2-221(a)(1)	\$ 200.00
6. 6 RCNY §2-221(a)(2)	\$ 200.00
7. 6 RCNY §2-221(a)(5)	\$ 200.00
8. 6 RCNY §2-221(a)(8)	\$ 200.00
9. 6 RCNY §2-221(a)(9)	\$ 200.00
10. 6 RCNY §2-221(b)	\$ 350.00
11. 6 RCNY §1-03	\$ 200.00
6 RCNY §1-14	\$ 500.00
TOTAL FINE	\$ 3700.00

**DD500118714**

**Respondent, HOWARD FALKOW, individually and as President** is found **guilty upon default** of charges numbered 1 through 13, and of violating 6 RCNY Section 1-14, and is hereby

**Ordered to pay to the Department of Consumer Affairs a TOTAL FINE of \$4200, as follows:**

<u>Charge</u>	<u>Fine</u>
1. Administrative Code §20-700	\$ 350.00
2. Administrative Code §20-393(8)	\$ 350.00
3. Administrative Code §20-393(9)	\$ 600.00
4. Administrative Code §20-113	\$ 350.00
5. 6 RCNY §2-221(a)(1)	\$ 200.00
6. 6 RCNY §2-221(a)(2)	\$ 200.00
7. 6 RCNY §2-221(a)(5)	\$ 200.00
8. 6 RCNY §2-221(a)(8)	\$ 200.00
9. 6 RCNY §2-221(a)(9)	\$ 200.00
10. 6 RCNY §2-221(b)	\$ 350.00
11. 6 RCNY §1-05	\$ 200.00
12. Howard Falkow 6RCNY §2-223(a)	\$ 500.00
6 RCNY §1-14	\$ 500.00
TOTAL FINE	\$4200.00

**Respondents, PMR ENTERPRISE, LLC and HOWARD FALKOW, individually and as president are hereby ORDERED to pay RESTITUTION to the Consumer in the amount of \$23,000 for which they are jointly and severally liable.**

In addition, **the Home Improvement Contractor License (“HIC”) and Home Improvement Salesperson license (“HIS”) are each REVOKED, EFFECTIVE IMMEDIATELY for violation of charge 13.** The respondents are directed to surrender the license documents to the Licensing Division immediately. If the respondents continue to operate with revoked licenses, the respondents are subject to CRIMINAL PROSECUTION and/or civil penalties of \$100 per day for each day of unlicensed activity, as well as the closing of the respondents’ business and/or the removal of items sold, offered for sale, or utilized in the operation of the respondents’ business, pursuant to the Administrative Code of the city of New York Sections 20-105 and 20-106 (the “Padlock Law”).

The respondents, **PMR ENTERPRISE, LLC and HOWARD FALKOW, individually and as president** are deemed unfit to hold any license issued by the Department of Consumer Affairs.

**This constitutes the recommendation of the Administrative Law Judge.**

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M. Mirro  
Administrative Law Judge

**DECISION AND ORDER**

The recommendation of the Administrative Law Judge is approved.

**This constitutes the Decision and Order of the Department of Consumer Affairs.**

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Bruce M. Dennis  
Deputy Director of Adjudication

**APPEALS**

**RESPONDENT(S)**: You may file a **MOTION TO VACATE** this decision **within 15 days** from the date you knew or should have known of this decision. Your motion must include: 1) the reason you did not appear at the hearing; AND 2) a sworn statement outlining your defense to the charges. You must include with your motion a check or money order for \$25 payable to DCA. Send the motion and the \$25 fee to: Director of Adjudication, Department of Consumer Affairs, 66 John Street, 11<sup>th</sup> Floor, New York, NY 10038. **Make sure to send copies of your motion TO THE CONSUMER** at the consumer's address, **AND to DCA'S LEGAL COMPLIANCE AND FITNESS DIVISION**, 42 Broadway, 9<sup>th</sup> Floor, New York, NY 10004.

**CONSUMER**: You may file an **APPEAL** of this decision **within 30 days from the date of the decision**. You must include with your appeal a check or money order for \$25 payable to DCA. Send your appeal and the \$25 fee to: Director of Adjudication, Department of Consumer Affairs, 66 John Street, 11<sup>th</sup> Floor, New York, NY 10038. **Make sure to send a copy of your appeal to each of the respondents.**

**IMPORTANT NOTICE TO BOTH PARTIES: YOUR MOTION OR APPEAL MAY BE DENIED IF YOU DO NOT INCLUDE SOME INDICATION THAT YOU HAVE SENT A COPY OF IT TO EACH OF THE OPPOSING PARTIES LISTED IN THE NOTICE OF HEARING.**

**Mail payment in the enclosed envelope addressed to:**

NYC Department of Consumer Affairs  
Collections Division  
42 Broadway, 9<sup>th</sup> Floor  
New York, NY 10004