

93A

6/20

COMMONWEALTH OF MASSACHUSETTS

WORCESTER COUNTY, ss.

SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO.: 23cv692C

UNITED MEDICAL WASTE
MANAGEMENT, INC.
Plaintiff,

v.

SPECTRUM BUILDERS, LLC
and MICHAEL HODGMAN
Defendants,

FILED

JUN 20 2023

ATTEST

[Signature] CLERK

1

93A Complaint

COMPLAINT AND JURY DEMAND

NATURE OF THE CASE

Plaintiff, United Medial Waste Management, brings this action against Spectrum Builders, LLC and Michael Hodgman, as Principal, for breach of contract, fraud, conversation and violation of M.G.L. c. 93A.

THE PARTIES

1. The Plaintiff, United Medical Waste Management, Inc. ("UMW") is a Massachusetts Corporation with a principal place of business at 20 Oakhurst Road Sutton, Massachusetts.
2. The Defendant Spectrum Builders, LLC ("Spectrum") is a New Hampshire corporation with a principal place of business at 6D Dobson Way, Suite 222, Merrimack, New

Hampshire 03054 and a registered agent c/o David G. Strum, Esq. 15 Union Street S3, Milford, New Hampshire 03055.

3. The Defendant Michael Hodgman is the sole member, manager, and principal of Spectrum, who upon information and belief is a Massachusetts domiciliary and resides at 6 Paul Street Auburn, Massachusetts.

FACTS

4. On or about July 2021, UMW accepted a proposal from Spectrum, where Spectrum agreed to provide labor and materials, including building and engineering services for construction of pre-engineered metal building on UMW's property located at 64 Worcester Road, Webster, Massachusetts. UMW accepted the proposal in reliance on representations made by Spectrum and its principal, Mr. Hodgman, that Spectrum would place an order for the pre-engineered building with the manufacturer upon receipt of a deposit of \$32,500 and then conduct the specified engineering and construction work. Proposal attached hereto as Exhibit A.
5. On or about August 19, 2021, Spectrum sent an invoice for the deposit which UMW duly paid. Spectrum acknowledged receipt of the deposit. Invoice attached hereto as Exhibit B.
6. On or about October 27, 2021, UMW and Spectrum entered into a contract (the "Contract"), in which Spectrum agreed to provide labor and materials, including building and engineering services for the construction of a pre-engineered metal building (the "Work") on land owned by UMW and located at 64 Worcester Road, Webster, Massachusetts (the "Project"). Contract attached hereto as Exhibit C.
7. UMW entered into the Contract based upon representations by Hodgman and Spectrum that Hodgman and Spectrum would place an order with the building manufacturer as soon as a UMW made a deposit payment, and that construction would begin within eight (8) weeks after receipt of the deposit payment.

8. To date, Spectrum has not placed an order for the pre-engineered steel building nor has it performed any Work on the Project.
9. Since the time the contract was signed, UMW's representative made multiple attempts to contact Hodgman and requested that Spectrum begin Work on the Project or, alternatively, that Hodgman return the Deposit.
10. Hodgman failed to timely respond and has been non-responsive.
11. On March 13, 2023, UMW, through its attorneys, sent a letter pursuant to M.G.L. Chapter 93A, to Hodgman and Spectrum demanding that the return of the Deposit as a result of the failure to perform the required Work.
12. Hodgman and Spectrum failed and refused to respond to the letter.

COUNT I - BREACH OF CONTRACT
(Spectrum)

13. UMW incorporates Paragraphs 1 through 12 of this Complaint as if fully set forth herein.
14. Spectrum has without excuse or justification, failed and refused to perform the Work it was contractually obligated to perform.
15. By failing to perform the Work, Spectrum materially breached the contract with UMW.
16. UMW has complied with its Contract obligation.
17. UMW has sustained damages as a result of Spectrum's conduct.

WHEREFORE, the Plaintiff, UMW, demands judgment against the Defendant, Spectrum, in the amount of all damages UMW incurred for Spectrum's breaches of contract, together with interest, costs, and attorneys' fees.

COUNT II - FRAUD
(Hodgman)

18. UMW incorporates Paragraphs 1 through 17 of this Complaint as if fully set forth herein.

19. Hodgman falsely represented and warranted that Spectrum would provide Work on the Project, in exchange for the Project Deposit, consistent with the parties' Contract.
20. Hodgman falsely represented that he would place an order with the building manufacturer as soon as UMW made a deposit payment.
21. Hodgman knew, or should have known, that each of these representations was falsely made.
22. Hodgman made these false representations to induce UMW into entering into the Contract and paying the Deposit.
23. UMW reasonably relied upon these representations in making the deposit payment Of \$32,500.
24. UMW has sustained damages because of Hodgman's fraudulent conduct.

WHEREFORE, UMW demands judgment against the Defendant, Hodgman, in the amount of its damages together with interest, costs, and attorneys' fees.

COUNT III - CONVERSION

(Hodgman)

25. UMW incorporates Paragraphs 1 through 25 of this Complaint as if fully set forth herein.
26. UMW entrusted Hodgman with the \$32,500 Deposit.
27. Hodgman has intentionally and wrongfully exercised acts of ownership, control, and dominion over the \$32,500 Deposit, which he was obligated to return upon his failure to perform the Work.
28. Hodgman has deprived UMW of the 32,500 Deposit by failing to return it to UMW.
29. Hodgman's conduct as described above constitutes conversion of such \$32,500 Deposit.
30. UMW has sustained damages as a result of such conversion.

COUNT IV - FRAUD
(Spectrum)

31. UMW incorporates Paragraphs 1 through 30 of this Complaint as if fully set forth herein.
32. Spectrum falsely represented and warranted that it would provide Work on the Project, in exchange for the Project Deposit, consistent with the parties' Contract.
33. Spectrum falsely represented that it would place an order with the building manufacturer as soon as a UMW made a deposit payment.
34. Spectrum made these false representations to induce UMW into entering into the Contract and paying the Deposit.
35. UMW reasonably relied upon these representations in making the deposit payment of \$32,500.
36. UMW has sustained damages because of Spectrum's fraudulent conduct.

WHEREFORE, UMW demands judgment against the Defendant, Spectrum, in the amount of its damages together with interest, costs, and attorneys' fees.

COUNT V - CONVERSION
(Spectrum)

37. UMW incorporates Paragraphs 1 through 36 of this Complaint as if fully set forth herein.
38. UMW entrusted Spectrum with the \$32,500 Deposit.
39. Spectrum has intentionally and wrongfully exercised acts of ownership, control, and dominion over the \$32,500 Deposit, which he was obligated to return upon his failure to perform the Work.
40. Spectrum has deprived UMW of the \$32,500 Deposit by failing to return it to UMW.
41. Spectrum's conduct as described above constitutes conversion of such \$32,500 Deposit.
42. UMW has sustained damages as a result of such conversion.

WHEREFORE, the Plaintiff, UMW, demands judgment against the Defendant, Spectrum, in the amount of its damages together with interest, costs, and attorneys' fees.

COUNT VI - VIOLATION OF M.G.L. c. 93A § 11
(Spectrum & Hodgman)

43. UMW incorporates Paragraphs 1 through 44 of this Complaint as if fully set forth herein.
44. Spectrum violated M.G.L. c. 93A by knowingly breaching a clearly owed contractual obligation with the intent being to obtain ill-gotten gains.
45. Spectrum deliberately failed and refused to fulfil its contractual obligations in an effort to achieve a wrongful economic benefit. This conduct violates M.G.L. c. 93A.
46. Spectrum also violated M.G.L. c. 93A, by making misrepresentations, through Hodgman, to induce UMW's payment of the Deposit knowing it was not going to perform the Work, failing to return the Deposit, and lying about its failure to perform.
47. Spectrum's conduct in violating M.G.L. c.93A was done willfully.
48. UMW has sustained damages by Spectrum's violations of M.G.L. c. 93A.
49. At all material times Hodgman, as the principal and agent of Spectrum, personally directed and participated in the conduct described herein.

WHEREFORE, the Plaintiff, UMW, demands that the Court determine that the Defendants knowingly and willfully violated G.L. c. 93A s. 11, and enter judgment for damages to the maximum extent permitted by M.G.L. c. 93A, including multiple damages and attorneys' fees, against the Defendants, Spectrum and Hodgman, and enter such other relief as the Court deems fair and just to compensate UMW and punish Spectrum and Hodgman for their wrongful conduct.

JURY DEMAND

The Plaintiff demands a trial by jury on all claims so triable.

Respectfully Submitted,
United Medical Waste Management, Inc.
By their attorney,

George F. Hailer / OJM
George F. Hailer, BBO#554793
LAWSON & WEITZEN, LLP
88 Black Falcon Avenue, Suite 345
Boston, Massachusetts 02210
(617) 439-4990

Dated: June 13, 2023

EXHIBIT A

July 20, 2021

United Medical Waste

Webster, MA

RE: 1800sqft building

SPECTRUM

BUILDERS

Manchester, New Hampshire 03104
6 Paul Street

Auburn, Massachusetts 01501
508-208-0117

www.SpectrumBuildersNE.com

Dear Dave;

I would like to thank you for the opportunity to quote the above-mentioned project. Please review this quotation carefully and contact me with any questions, comments, etc.

Spectrum Builders intends to:

STRUCTURAL DESIGN:

- Provide a complete structural design for the pre-engineered metal building system. Design to meet or exceed all federal, state, and local building code requirements. Design will be stamped by a MA licensed structural engineer
- Provide a complete structural concrete design based upon the loading requirements of the new metal building. Design will be stamped by a MA licensed structural engineer
- NO compaction testing included
- Provide engineer of record for the entire portion of the project completed by Spectrum Builders

EXCAVATION/WELL:

- Dig, backfill, and under slab prep for the entire building area as discussed
- A budgetary amount of \$15,000.00 has been included for a non-potable/gray water well

CONCRETE:

- Form and pour a steel reinforced concrete footing, designed to meet or exceed the loading requirements of the new building. Minimum 3000 PSI concrete strength at 28 days
- Form and pour an 8" thick 8'-0" tall steel reinforced concrete frost wall. Wall designed to meet or exceed the loading requirements of the new building. Minimum 3000 PSI concrete strength at 28 days
- Once building is erected form, pour, burn finish smooth, and saw cut a 6" fiber mesh reinforced concrete floor
- NO concrete sealing included at this time
- Price includes all required concrete testing
- Price includes all materials, concrete, forming labor, reinforcing steel, and anchor bolts

METAL BUILDING:

- Supply (1) Package Steel Systems, pre-engineered metal building. Building to be a clear span gable style building, 60' wide x 30' long x 20' eave
- Roof pitch to be 1:12 with a GALVALUME standing seam roof
- Wall panels to be **26ga KYNAR painted**. Color to be chosen from manufacturers standard colors
- All trims and flashings to be **26ga KYNAR painted**. Color to be chosen from manufacturers standard colors
- Roof insulation to be **R-38**, wall insulation to be **R-30**
- Building includes (3) 3070 solid pass-door kits, kit includes; door, insulated leaf, threshold, pneumatic closer, lever lockset, latch guard, and panic hardware
- Building includes (8) 8x9 framed and trimmed opening for over-head door, **NO DOOR INCLUDED**
- Building includes gutters and down-spouts on both eave walls
- Building includes (6) 4x3 insulated horizontal sliding windows
- Building includes ALL necessary nuts, bolts, screws, trim, and flashings
- Provide all labor, tools, and equipment to erect the above-mentioned building in a safe and legal

ELECTRICAL:

- Supply and install all basic components for 400amp single phase
- No fees from power company included
- Supply and install all necessary interior and exterior lighting to code
- Supply and install all necessary components to power HVAC unit and propane fire heaters
- NO fire alarm included

PLUMBING:

- Supply and install all necessary underground piping for (1) handi cap bathroom to be finished 100% at this time, including mob sink
- Supply and install all necessary piping for (1) unit heater, 110,000btu high efficiency heater
- Supply and install

INTERIOR SEPARATION WALL & BATHROOM:

- Supply and install all materials to frame a full height non-load bearing interior wall to separate office area from warehouse. Walls to be framed from light gauge metal studs, include batt insulation for thermal and sound deadening, 5/8" sheet rock on (1) side
- Supply and install all materials to frame (1) finished bathroom, 6x8 clear inside. This room will be framed with light gauge metal studs, include batt insulation for thermal and sound deadening, 5/8" sheetrock inside and out, include (1) 3070 knocked down solid core door with a privacy locking lever handle lockset. 2x4 cortega ACT included with 12"x12" VCT and vinyl cove baseboard. Flooring and ceiling for inside the bathroom only

OVER-HEAD DOORS:

- Supply and install (8) 8x9 insulated over-head doors
- Doors to be manually operated
- Doors to have (1) row of insulated glass per door
- Doors to have high lift and commercial track

CLEAN-UP:

- Load all debris generated by Spectrum Builders, into dumpster supplied by Spectrum Builders, and dispose of in a legal manner

TOTAL \$449,052.00

EXCLUSIONS:

ANYTHING NOT SPECIFICALLY LISTED

NO PERMITTING FEES

NO SITE PLAN APPROVAL FEES

Sincerely,

Mike Hodgman
Spectrum Builders

ALL WORK SHALL BE COMPLETED IN A WORKMANLIKE MANNER ACCORDING TO STANDARD PRACTICES. ANY ALTERATION OR DEVIATION FROM THE ABOVE SPECIFICATIONS SHALL BE EXECUTED ONLY UPON WRITTEN AND SIGNED CHANGE ORDERS. OUR WORKERS ARE FULLY COVERED BY WORKER'S COMPENSATION INSURANCE AND SPECTRUM BUILDERS, LLC IS FULLY COVERED BY GENERAL LIABILITY INSURANCE. PROOF OF INSURANCE FURNISHED UPON SIGNED CONTRACT.

PAYMENTS WILL BE MADE BY AGREED UPON TERMS AT TIME OF CONTRACT SIGNING. IF SPECTRUM BUILDERS, LLC FINDS IT NECESSARY TO INCUR ANY COSTS OF COLLECTION, FOR THE FILING OF ANY ACTION TO COLLECT ANY AMOUNT OWED TO IT, THE CUSTOMER SHALL PAY ALL COSTS OF COLLECTION, INCLUDING REASONABLE ATTORNEY'S FEES. A SERVICE CHARGE OF TWO PERCENT (2%) PER MONTH SHALL BE CHARGED AFTER THIRTY (30) DAYS (TWENTY-FOUR PERCENT, 24% PER ANNUM). ANY INTEREST WILL BE CHARGED DURING THE PENDENCY OF LEGAL ACTION TO COLLECT THE DEBT OWED TO SPECTRUM BUILDERS, LLC

CUSTOMER IS RESPONSIBLE FOR JOBSITE SECURITY

CUSTOMER IS RESPONSIBLE FOR TEMPORARY JOBSITE ELECTRICITY

NO WINTER CONSTRUCTION COSTS INCLUDED

SPECTRUM BUILDERS, LLC IS NOT HELD TO OR LIABLE FOR ANY PRICE INCREASES ON MATERIALS, LABOR, ETC.

QUOTE VALID FOR 10 DAYS

EXHIBIT B

PAID

SPECTRUM BUILDERS

Spectrum Builders
6 Paul Street 497 Hooksett Road
Auburn, MA 01501 Manchester, NH 03104
Visit us at: www.SpectrumBuildersNE.com

Invoice

Date: 08/19/2021
Invoice No.: 10528

Bill To:
United Medical Waste
20 Oakhurst Road
Sutton, MA 01590

Qty	Description	Unit Price	Total
1	DEPOSIT FOR METAL BUILDING AND CONCRETE DESIGN	\$32,500.00	\$32,500.00
		Subtotal	\$32,500.00
		Total Amt	\$32,500.00
		Paid	\$32,500.00

PLEASE SEND PAYMENT TO:
SPECTRUM BUILDERS
6 PAUL STREET
AUBURN, MA 01501

EXHIBIT C

CONTRACT

CUSTOMER

United Medical Waste
20 Oakhurst Road
Sutton, Massachusetts 01590

PROJECT:

United Medical Waste
64 Worcester Road
Webster, Massachusetts

SPECTRUM BUILDERS

Manchester, New Hampshire 03104

6 Paul Street

Auburn, Massachusetts 01501

508-208-0117

www.SpectrumBuildersNE.com

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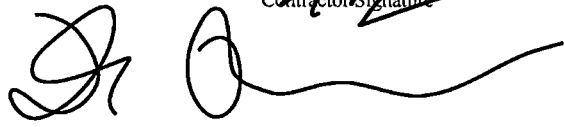
TOTAL \$449,052.00

EXCLUSIONS:

ANYTHING NOT SPECIFICALLY LISTED

By signing this document United Medical Waste/CUSTOMER agrees to the services and conditions outlined in this document.


 _____ date: 10 / 27 /2021
 Contractor Signature


 _____ date: 10/27/21
 Customer Signature

ALL WORK SHALL BE COMPLETED IN A WORKMANLIKE MANNER ACCORDING TO STANDARD PRACTICES. ANY ALTERATION OR DEVIATION FROM THE ABOVE SPECIFICATIONS SHALL BE EXECUTED ONLY UPON WRITTEN AND SIGNED CHANGE ORDERS. OUR WORKERS ARE FULLY COVERED BY WORKER'S COMPENSATION INSURANCE AND SPECTRUM BUILDERS; LLC IS FULLY COVERED BY GENERAL LIABILITY INSURANCE. PROOF OF INSURANCE FURNISHED UPON SIGNED CONTRACT.

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