

AVOIDING HOME  
REPAIR FRAUD:  
  
LESSONS FROM  
HURRICANE KATRINA



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# AVOIDING HOME REPAIR FRAUD: LESSONS FROM HURRICANE KATRINA

By Rick Jurgens

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Cover photo: houses under construction in Biloxi, Miss., in February 2008.

*Copies of this report are available by downloading from NCLC's web site at [www.nclc.org](http://www.nclc.org).*

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# Avoiding Home Repair Fraud: Lessons from Hurricane Katrina

## In Brief

Hurricane Katrina killed thousands of people, disrupted the lives of millions and destroyed property and critical infrastructure throughout an entire region. This report seeks to extract, from that painful episode, useful lessons about how consumers rebuilding their homes can avoid abuses and rip-offs. It also provides information about how those victimized by predators or unscrupulous contractors can find help and seek restitution.

After Katrina millions of people returned to New Orleans and the Gulf Coast of Mississippi in order to rebuild and resume their lives, and many succeeded. But almost all struggled, and some were thwarted or endured unfair treatment along the way. Predators and abusive home repair contractors pocketed millions of dollars from thousands of victims.

By compiling some of their stories, as well as information gathered from government officials, advocates and other sources, this report seeks to distill usable guidance for these consumers and others in similar circumstances.

Those interviewed for this report described abuses by contractors who had advertisements posted on utility polls and by others who were neighbors, relatives or long-time friends. Some abusers came from out of state. Some were recommended by a victim's co-workers. Consumers complained about difficulty gaining access to public records, a general lack of information, confusion about contracting practices and problems distinguishing honest contractors from predators and those with histories of violations.

The record shows that in Louisiana after Katrina:

- Complaints to the Better Business Bureau of Greater New Orleans quadrupled.
- The state Attorney General saw an even sharper increase in complaints, from about 150 a year prior to the storm to more than 6,000 in a two-year

period. Those complaints led to more than 700 criminal investigations, 145 arrests and the issuance of an additional 56 arrest warrants.

- The State Licensing Board for Contractors held more than 700 hearings on alleged contractor violations, including more than 600 on charges that home repairs were done by individuals or firms without the required registration. More than nine of 10 registration violation cases ended in guilty findings or pleas, and total fines levied annually by the board rose from less than \$180,000 before the storm to more than \$4 million after. (And despite warnings of predators “descending upon the state,” more than nine of 10 registration or licensing violations involved contractors with Louisiana addresses.)

In Mississippi after Katrina:

- The state Attorney General received more than 800 complaints from consumers, initiated about 100 criminal prosecutions and secured 11 guilty pleas or verdicts.
- The State Board of Contractors saw a ten-fold increase in consumer complaints and disciplinary actions.
- Nearly two and a half years after the storm, dozens of homeowners with problems with contractors showed up and waited for hours for legal help at a special clinic.

Now, three years after Katrina, homeowners and communities continue the struggle to rebuild. Although laws, licensing requirements and enforcement efforts have been tweaked in Louisiana and Mississippi with the aim of better protecting consumers, many pitfalls remain.

The need for guidance and protections for consumers extends beyond the disaster zones. Katrina brought to the surface widespread dangers that can threaten consumers throughout the nation’s quarter-trillion-dollar-a-year home repair industry.

Despite its immensity, the home repair industry consists mainly of thousands of tiny firms that engage in millions of small transactions annually. Whatever consumer protections exist mostly come from varied state laws and regulations.

By focusing upon the post-storm experiences in Louisiana and Mississippi, this report aims to raise consumers' awareness of the safeguards afforded by current laws, regulations and enforcement efforts, as well as their limitations.

In addition, this report seeks to identify some steps that consumers who lack business skills and craft knowledge can take to protect themselves as they face the daunting task of initiating and overseeing home repair projects. Although not a comprehensive or foolproof guide to consumers' self-help measures, these guidelines summarize key lessons from more than 20 consumer guides developed by advocates, government agencies and trade associations. For consumers who would like to use the lessons taught by others in order to develop their own approach, we provide links to some of those guides.

## I. Introduction

After riding out Hurricane Katrina in New Orleans and a harrowing escape from the floods caused by broken levees, Alma Dixon saw rebuilding her damaged house more as a healing process than a business proposition.



Alma Dixon

So when a long-time family friend, in whose Georgia home Dixon had found refuge after the storm, offered to rebuild Dixon's house, that seemed like a natural choice.

And, on Dec. 17, exactly 110 days after the storm, at her brother's wedding reception, Dixon handed that long-time family friend at least \$2,000 in cash – she can't remember the exact amount. "I asked him about a contract," Dixon says. "He said, 'Oh, we don't need a contract. We're friends.'"

That sounded all right to Dixon. "Good!" she recalls telling her new contractor. "I've known you for 25 years and I need people to take care of me."

Eventually, Dixon, a postal clerk, paid the contractor a total of \$19,500 to rebuild her house in the Gentilly neighborhood, according to her breach of contract lawsuit. But when she returned to New Orleans to resume work at the Postal Service, she found her house uninhabitable. Her "friend" had left Dixon's two-unit house without completed sheet rock, floors, electrical wiring, baseboards, plumbing, doors, door frames, tile, insulation, closets, kitchen cabinets and bathrooms, and only partially painted, according to the lawsuit.

When Dixon complained to the contractor, he refused to do any more work, stopped returning her telephone calls and kept her money, according to the lawsuit.

But the mail must go through, and postal workers like Dixon must move it. So she remained in New Orleans, living for 18 months in a trailer with her personal possessions stored nearby in a shipping container.

Dixon filed a complaint about her former friend with the Louisiana State Licensing Board for Contractors, which oversees the home repair industry. In October, that panel found the contractor guilty of doing home repair work without registering with the state, and fined him, assessed him costs and issued a cease and desist order.

But that didn't help Dixon, who had to come up with another \$17,500 to pay legitimate contractors to complete the work, according to the lawsuit.

More than two years after her trauma, Dixon has returned to her house. Although her lawsuit is still pending, she despairs of ever recovering her money.

And being victimized made the healing process even more difficult, she says: "This was an old family friend of 25 years who just took me."

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Hurricane Katrina hit New Orleans and coastal Mississippi in August 2005, causing widespread suffering. That storm, along with Hurricane Rita which hit western Louisiana later that month, also exposed overlooked social problems in that region and in the United States.

This report focuses on one such problem: the situation of owners who struggled to rebuild and repair their homes in a market with only limited consumer protections and oversight by regulators and law enforcement.

After the storm, thousands of low and moderate income homeowners were victimized by contractors and predators posing as contractors. Millions of dollars were stolen from families who had already been displaced and had their lives disrupted. Abuses and market excesses made the road home longer for many and impassable for some.

In order to rebuild, many victims of Katrina first had to persuade insurance companies to pay claims, or the federal government to provide aid, or both. Despite setbacks and injustices, billions of dollars eventually flowed into the post-Katrina reconstruction effort. Much of that money ended up in the hands of individual homeowners.

However, even with that money in hand, homeowners – desperate to resume their lives in their homes and communities – faced the challenge of acquiring scarce services and materials. Lacking knowledge or experience in the building trades, many

homeowners found themselves taking on the unfamiliar and difficult tasks of negotiating contracts and monitoring complex projects involving skilled and unskilled workers.

Even in normal times, the home repair market – a quarter-trillion-dollar-a-year industry made up mainly of hundreds of thousands of tiny firms – is full of perils for consumers. Wide open and fragmented, the market generally lacks a central clearinghouse for services. State inspectors and law enforcement officials have no way to oversee and monitor thousands of deals done in trailer offices, over kitchen tables or under the blue sky. Records of licenses and rules violations are spotty and often difficult for consumers to find and review.

After Katrina, traumatized and desperate homeowners were even more vulnerable. They had to resist the schemes of predators who surfaced in New Orleans and the Gulf Coast, lured by billions of dollars of insurance money and government aid and willing to exploit storm victims.

“It’s a terrible thing we went through down here,” says Calvin Legrone, a homeowner who paid \$30,000 to a “contractor” who failed to repair the damage done to Legrone’s house by Katrina. “You don’t know who to trust. You don’t know who not to trust. It’s hard.”

Since Katrina, much reporting, analysis and scholarship has examined how the forces of nature, poor engineering and breakdowns in government combined to wreak massive physical destruction and social upheaval. Other studies have shown how inadequate resources, neglect and bad policy choices slowed post-storm recovery.

This report seeks to add to the effort to learn from the traumas of Katrina by focusing upon what happened to millions of homeowners as they attempted to take what most hoped would be a final, simple step back toward normal lives: rebuilding a house damaged or destroyed by the storm.

## **II. Katrina the Destroyer**

The winds died down. The water subsided. And numbers only partially convey what was left in the wake of the terrors and tragedies of Katrina.

The storm killed nearly 1,700 people in the two hardest-hit states, including 1,464 in Louisiana, according to the state Department of Health and Hospitals,<sup>1</sup> and at least 217 in Mississippi, according to that state's Department of Health.<sup>2</sup> Katrina was the third or fourth deadliest storm to hit the continental United States since 1851, according to the National Hurricane Center.<sup>3</sup>

Katrina was also the most destructive United States hurricane, responsible for an estimated \$81 billion in property damage – more than triple that of any other storm.<sup>4</sup>

Housing took much of the brunt. Katrina's winds and waters damaged three of every five housing units in Mississippi's three coastal counties.<sup>5</sup> Throughout Mississippi nearly 90,000 housing units suffered major or severe damage from floods or wind, according to the Federal Emergency Management Agency (FEMA).<sup>6</sup> In Louisiana, about 106,000 units sustained severe damage and another 98,000 sustained major damage.<sup>7</sup>

Behind most of those housing units stood owners seeking to rebuild and repair so that they could return to their homes and communities and resume lives disrupted by the storm. For many, that required arranging, managing and overseeing difficult and unfamiliar construction and renovation tasks while coping with devastating losses and lingering grief and anger – the shadows cast by deaths of loved ones and friends, separation from family, lost jobs or businesses and dispersed communities.

### III. The Lure

Hurricane Katrina tapped a vein of compassion among the American people. Millions were shocked and saddened by images of stranded victims, horrific

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<sup>1</sup> Report of Missing and Deceased, Aug. 2, 2006, by Louisiana Department of Health and Hospitals, posted at [www.dhh.louisiana.gov/offices/page.asp?ID=192&Detail=5248](http://www.dhh.louisiana.gov/offices/page.asp?ID=192&Detail=5248), viewed July 9, 2008. An additional 135 people remained on the official list of those missing after hurricanes Katrina and Rita.

<sup>2</sup> Vital Statistics Mississippi, 2005, p. 205, posted at [www.msdh.state.ms.us/phs/stat2005.htm](http://www.msdh.state.ms.us/phs/stat2005.htm).

<sup>3</sup> "The Deadliest, Costliest, and Most Intense United States Tropical Cyclones from 1851 to 2006 (and other frequently requested hurricane facts)" by Eric S. Blake, Edward N. Rappaport and Christopher W. Landsea, National Hurricane Center, Miami, April 2007, p. 7. Katrina's human toll was exceeded only by a 1900 hurricane that killed from 8,000 to 12,000 in Galveston, Texas; a 1928 storm that killed 2,500 to 3,000 in Florida and – perhaps – an 1893 storm that killed 1,000 to 2,000 in South Carolina and Georgia.

<sup>4</sup> *Ibid.*, p. 8.

<sup>5</sup> "Post-Katrina Recovery of the Housing Market Along the Mississippi Gulf Coast" by Kevin F. McCarthy and Mark Hanson, Rand Gulf States Policy Institute, 2007, p. xiv, 92.

<sup>6</sup> Data from FEMA survey of storm damage released July 12, 2006 and posted on-line by Mississippi Steps Coalition at [www.stepscoalition.org/downloads/news/reports/HUD\\_MDA\\_FEMAdamage\\_estimates.pdf](http://www.stepscoalition.org/downloads/news/reports/HUD_MDA_FEMAdamage_estimates.pdf).

<sup>7</sup> "Hurricane Katrina Anniversary Data for Louisiana" by Louisiana Recovery Authority posted at [lra.louisiana.gov/assets/docs/searchable/LouisianaKatrinaAnniversaryData082206.pdf](http://lra.louisiana.gov/assets/docs/searchable/LouisianaKatrinaAnniversaryData082206.pdf), viewed July 8, 2008.

encampments at the New Orleans Superdome and Convention Center and houses and communities destroyed by wind and water.

But some looked at scenes of tragedy and large-scale human suffering and, in reactions that differed from most other Americans, thought, “What’s in it for me?”

Unfortunately, there was quite a lot there for predators willing to set aside their humanity– not least a shot at some of the \$45 billion that would be distributed to pay for damaged and destroyed housing.

There was insurance money. Storm victims in Louisiana and Mississippi collected more than \$16 billion in claims on homeowners’ policies, according to the Insurance Information Institute.<sup>8</sup> Victims in those two states collected another \$15 billion from policies issued through the National Flood Insurance Program.<sup>9</sup>

And there was aid from United States taxpayers – more than \$14 billion to rebuild housing in Louisiana and Mississippi.<sup>10</sup>

While even this massive flow of funds failed to meet all the needs of homeowners and communities seeking to rebuild from the unimaginable destruction of Katrina, it provided a strong lure to predators and others out to pocket a quick buck.

## V. The Business of Rebuilding – and Repairing

Shelter is necessary for life -- so much so that the term homeless, by itself, connotes a life in crisis.

Houses also serve as the cornerstone of America’s economic foundation. Nearly 80 million families, or two out of three families, own their own homes. An estimated \$9 trillion in home equity represents about 16 percent of the wealth held in American households.<sup>11</sup>

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<sup>8</sup> “Hurricane Katrina and Insurance: Two Years Later \$40.6 Billion in Insurance Claim Dollars Aid Recovery,” news release from Insurance Information Institute, Aug. 27, 2007.

<sup>9</sup> “National Flood Insurance Program: New Processes Aided Hurricane Katrina Claims Handling, but FEMA’s Oversight Should Be Improved,” U.S. Government Accountability Office, GAO-07-169, issued December 2006, p. 19.

<sup>10</sup> Written testimony to the U.S. House of Representatives Committee on Financial Services Subcommittee on Housing and Community Opportunity, May 8, 2008, from David J. Bowman, director, research and special projects for the Louisiana Recovery Authority, from Jack Norris, executive director of Mississippi Governor’s Office of Recovery and Renewal. and from Reilly Morse, senior attorney, Mississippi Center for Justice.

<sup>11</sup> Balance Sheet of Households and Nonprofit Organizations, by the Board of Governors of the Federal Reserve System, posted at [www.federalreserve.gov/releases/z1/Current/z1r-5.pdf](http://www.federalreserve.gov/releases/z1/Current/z1r-5.pdf), viewed July 9, 2008.

But few Americans live in houses they built themselves or possess the skills, strength, experience and tools necessary to rebuild or repair a house. Instead, when the need arises for such work they turn – with open checkbooks – to skilled craftsmen and craftswomen and small home repair firms.

The undertaking is huge. Total spending on improvements and repairs to residential properties was \$226 billion in 2007.<sup>12</sup> Total nationwide employment by residential remodeling firms reached an all-time record of 327,000 in September 2006 – a year after Katrina.<sup>13</sup>

Yet home repair remains a business of small transactions. In 2003, when more than 20 million homeowners undertook improvement projects, the average project cost about \$6,900.<sup>14</sup> Only one in 20 projects carried a price tag over \$10,000, and only 400,000 had a total value that reached \$25,000.<sup>15</sup>

It is also an industry of small businesses. “Despite decade-long growth in home improvement spending and rapid consolidation within related industries, the remodeling contractor base ... is still highly fragmented,” Harvard University’s Joint Center for Housing Studies said in a 2005 report.<sup>16</sup>

Many remodeling contractors are self-employed. Even among those firms with employees, only the largest 10 percent posted annual revenue of at least \$1 million. As a group, the 500 largest contractors had only a 4 percent share of the market.<sup>17</sup>

This industry is localized, specialized and cyclical, and has resisted innovation, according to the Harvard report, which describes an organizational structure “locked in the past” and an industry made up of contractors who “largely lack the efficiencies gained through consolidation.”<sup>18</sup>

The task of making laws, rules and licensing requirements for this vast but fragmented industry is left mostly to the states. That created historic challenges for the officials in Louisiana and Mississippi who were responsible for overseeing millions of

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<sup>12</sup> “Expenditures for Improvements and Repairs of Residential Properties Estimated at \$226.4 billion in 2007” from U.S. Census Bureau News, May 1, 2008.

<sup>13</sup> Data from U.S. Department of Labor Bureau of Labor Statistics Current Employment Statistics survey.

<sup>14</sup> “The Changing Structure of the Home Remodeling Industry: Improving America’s Housing 2005,” by the Joint Center for Housing Studies of Harvard University, Table A-1.

<sup>15</sup> Ibid, Table A-3.

<sup>16</sup> Ibid., p. 5.

<sup>17</sup> Ibid, p.5, 14.

<sup>18</sup> Ibid, p. 6.

home repair transactions after Katrina. Their performance, and the choices of thousands of consumers, had a big impact on the ability of families and communities to recover.

## VI. Louisiana

An estimated 1.2 million people fled from their homes in Southeast Louisiana during and after Hurricane Katrina.<sup>19</sup> Yet three years later, a walk around the compact area comprising the French Quarter and central business district in New Orleans, where most tourists and conventioners congregate, shows little evidence of Katrina's fury.

Over the past year, a series of high-profile events – the National Basketball Association All-Star game, a major college football championship game, a summit of North American heads of state and well-attended Mardi Gras and Jazz and Heritage festivities – sent the message that things are back to normal in New Orleans.<sup>20</sup> But high-profile sports, entertainment and political events say little about the city's progress toward rebuilding and – for better or worse – transforming itself after Katrina.

Prior to Katrina two out of three residents of New Orleans were black<sup>21</sup> Today, the city faces a fundamental question: will the homes, jobs and cultural space of tens of thousands of displaced poor people and people of color be restored? Or will billions of dollars of public and private money be directed mostly toward building a streamlined, homogenized city intent on welcoming developers and the middle and upper classes?

Substantial resources were committed to the effort to rebuild after Katrina's destruction, which included major or severe damage to about 200,000 housing units throughout Louisiana – mostly in and around New Orleans.<sup>22</sup> More than \$20 billion was

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<sup>19</sup> Louisiana and New Orleans Metro Housing Needs Assessment, Louisiana Housing Finance Agency, Feb. 15, 2008, p. 2.

<sup>20</sup> Total visitors to New Orleans rose to 7.1 million in 2007, up from 3.7 million in 2006 and about 84 percent of pre-Katrina levels of 8.5 million. See "New Orleans Convention and Visitors Bureau Hospitality Industry Report, 2<sup>nd</sup> Quarter 2008" viewed online at [www.neworleanscvb.com/docs/IndustryReportSpring1.pdf](http://www.neworleanscvb.com/docs/IndustryReportSpring1.pdf), on May 30, 2008.

<sup>21</sup> "In the Wake of the Storm: Environment, Disaster, and Race After Katrina" by Manuel Pastor, Robert D. Bullard, James K. Boyce, Alice Fothergill, Rachel Morello-Frosch and Beverly Wright, Russell Sage Foundation, 2006, p. 3.

<sup>22</sup> Written testimony of David J. Bowman, director, research and special projects for the Louisiana Recovery Authority before the U.S. House of Representatives Committee on Financial Services Subcommittee on Housing and Community Opportunity, May 8, 2008. Bowman put at 204,737 the total of housing units that suffered major or severe damage in hurricanes Katrina and Rita and said that "the vast majority of damages are from Katrina."

directed toward rebuilding housing, including \$10.8 billion paid by insurance companies to 688,000 homeowners<sup>23</sup> and \$11.6 billion in federal aid.<sup>24</sup>

The undertaking posed a serious challenge to the roughly 4,400 firms that had the licenses or registration required to legally perform house building and remodeling services in Louisiana. “Everyone in New Orleans was clamoring for a contractor,” says Jan Hinyub, a homeowner in the city’s Algiers section.

The resulting scramble also put unprecedented demands on officials responsible for enforcing the industry’s laws and rules. “The floods of hurricanes Katrina and Rita redefined the regulation of residential contractors in Louisiana,” Chuck Marceaux, executive director of the Louisiana State Licensing Board for Contractors, wrote in an agency newsletter.<sup>25</sup>

Meanwhile, predators seized the opportunity to enter the market. During the 12-month period that ended in August 2007, the Better Business Bureau of Greater New Orleans received 755 consumer complaints about contractors – more than four times the number of complaints filed during the 12 months prior to Katrina.<sup>26</sup>

| Contractor Complaints | Total | General | Home improvement | Roofing | Construction and remodeling |
|-----------------------|-------|---------|------------------|---------|-----------------------------|
| 9/04 to 8/05          | 184   | 34      | 24               | 60      | 66                          |
| 9/05 to 8/06          | 404   | 46      | 26               | 161     | 171                         |
| 9/06 to 8/07          | 755   | 117     | 59               | 213     | 366                         |

The experiences of home repair consumers in the wake of Katrina illustrated the reach and limitations of law enforcement, the importance and difficulty of checking records and the effectiveness and weaknesses of the state’s laws and licensing requirements for contractors.

**“Tell these people to get out of your house!”**

<sup>23</sup> Aug. 27, 2007 release from the Insurance Information Institute.

<sup>24</sup> Written testimony of David J. Bowman, director, research and special projects for the Louisiana Recovery Authority before the U.S. House of Representatives Committee on Financial Services Subcommittee on Housing and Community Opportunity, May 8, 2008.

<sup>25</sup> The Louisiana Director’s Contractor News Source, quarterly newsletter of the Louisiana Licensing Board for Contractors, Summer 2007, p. 1.

<sup>26</sup> Data provided by Cynthia Albert, director of operations/media, Better Business Bureau of Greater New Orleans.

Calvin Legrone is a 38-year-old homeowner in New Orleans East, an area of subdivisions, apartment buildings and strip malls that sprawls east of downtown alongside Lake Pontchartrain. Shot and seriously injured by a robber while a teenager, he now relies on a wheelchair to move around.



Legrone and his family sought refuge from Katrina in Texas. When they returned to Louisiana, they found that their house had flooded and the roof had blown off. “Everything was destroyed,” he says. “There wasn’t anything salvageable.” With payments from his flood and homeowner’s insurance policies and another \$50,000 from the federally funded and state administered Road Home program, Legrone and his family set out to rebuild.

First, the Legrones had to replace the roof. For that task, they turned to a Texas contractor who had been suggested by a co-worker of Legrone’s wife, an employee of a local bank.

Legrone recalls what happened after that. The sun was shining on the day that he and his wife returned from Texas to see their new roof, which the contractor had agreed to install without an advance payment. “He did a real decent job with the roof,” Legrone says.

Pleased, the couple wrote the contractor a check for \$7,000 for the roof, and accepted his offer to do the rest of the work on their house for \$60,000. But this time they handed over a substantial down payment: more than \$30,000. Then they headed back to Texas.

At first, things seemed to proceed well. The contractor sent the couple pictures of his crew hanging sheet rock and doing other work. But when, after a few months, Legrone and his family returned to the house to meet with the contractor, they found that the sheet rock had been hung but not taped or sealed. In addition, no hole had been dug for a load of cement that was due to be poured on the site.

Concerned, Legrone called a family friend who was a contractor and had just returned to New Orleans. That friend came right over, walked around the house, looked at the work already completed and called the couple into a room. “Tell these people to

get out of your house,” he told the Legrones. “He’s messing over you guys. Tell them to get out of your house.”

Legrone immediately told the contractor that he wanted to tear up their contract and that while he wouldn’t argue over the money that had already been spent he wanted the contractor to hand over any unused materials and any unspent money. The contractor agreed and asked Legrone to follow in his own car as they drove to a storage facility to get the materials. The contractor got in his car – a Mercedes – and Legrone, with his wife and two children, followed. But when the contractor got to the freeway, he sped up and fled. Unwilling to place his family at risk, Legrone didn’t attempt to follow: “My wife was crying. I was crying. We didn’t know what to do.”

Short of money, Legrone and his wife sent their children to stay with relatives in Georgia and moved into a trailer, where they lived for three months. In the meantime, the couple pulled together the money to pay their family friend to complete the work on the house.

But anger gnawed at Legrone. “I’ve been poor all my life,” he says. “The way I grew up, you don’t let nobody take a quarter from you, let alone \$30,000.” Eventually, drawing upon his religious faith, he resolved to let the law pursue the contractor and to get on with making a life for his family.

#### **Take the money and run – hundreds of times**

Like Legrone, thousands of Louisianans turned to the police or other law enforcement officials after being ripped off in home repair deals. The office of Louisiana’s Attorney General received more than 6,000 complaints of contractor fraud in the two years after the storm, according to communications director Tammi Arender Herring. Prior to Katrina, the office received about 150 contractor fraud complaints annually, she says. But enforcement of criminal laws offers relief in only a tiny fraction of contractor disputes. Louisiana’s Attorney General only handled as criminal matters cases in which money was received but no work was done. Such cases accounted for about 700 of the 6,000 complaints it received from consumers, Arender Herring says.

All told, 661 criminal investigations began by February 2008. At that time, according to Arender Herring, 231 investigations were continuing, 56 arrest warrants were outstanding and 145 arrests had been made.

One of those arrested was the contractor who victimized Legrone. The contractor was taken into custody in Texas in September 2006<sup>27</sup> and returned to Louisiana, where authorities accused him of stealing more than \$100,000 from three New Orleans homeowners seeking to rebuild after Katrina<sup>28</sup> and charged him with five counts of theft over \$500.<sup>29</sup>

There have been some efforts to tighten Louisiana's contractor laws. In June 2008, the state enacted a statute making it a fraud for a home improvement contractor or subcontractor to knowingly fail to perform any work within 45 days of receiving payment without a verifiable medical or other excuse. Most first offenses are punishable by a fine of \$1,000 and six months imprisonment, while second offenses or violations against disabled people or seniors are punishable by fines up to \$10,000 and five years in prison.<sup>30</sup> Two other new laws that could benefit home repair consumers make it a crime for contractors and others to make and present bogus insurance certificates.<sup>31</sup>

#### **Elusive Ascension**

Anna Mock is a school cafeteria worker who owns a house in a New Orleans neighborhood called Mid-City, which was flooded by Katrina. About four months after the storm, Mock paid \$57,000 to a Geismar, La. limited liability corporation called Ascension Home Improvement that agreed to repair her house.

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<sup>27</sup> "Phony minister charged with stealing \$109,000 from Katrina victims in New Orleans area" in New Orleans CityBusiness, Sept. 26, 2006.

<sup>28</sup> Ibid.

<sup>29</sup> Records posted on Orleans Parish Magistrate Court web site at [www.opcso.org/dcktmstr/dmdspdktdocase=467197](http://www.opcso.org/dcktmstr/dmdspdktdocase=467197).

<sup>30</sup> Louisiana Act 292, posted on-line at [www.legis.state.la.us/billdata/streamdocument.asp?did=499878](http://www.legis.state.la.us/billdata/streamdocument.asp?did=499878).

<sup>31</sup> Louisiana Act 15, posted on-line at [www.legis.state.la.us/billdata/streamdocument.asp?did=492943](http://www.legis.state.la.us/billdata/streamdocument.asp?did=492943), and Act 628, posted on-line at [www.legis.state.la.us/billdata/streamdocument.asp?did=503777](http://www.legis.state.la.us/billdata/streamdocument.asp?did=503777).



Anna Mock

Mock says that even though the owner of Ascension was her cousin, the firm did only a few shoddy repairs on her house. When she complained, he gave her back \$5,000 and kept the rest: \$52,000, according to Mock’s breach of contract lawsuit. In August 2007, the Louisiana State Licensing Board for Contractors found Ascension guilty of consistently failing to perform contracted

work, carrying out contracts in an “unworkmanlike” manner, failing to complete a contract, committing fraud or acting in bad faith. Ascension was fined and assessed costs.<sup>32</sup>

That did little for Mock, who in February 2008 – nearly 2 ½ years after Katrina – was still living in a FEMA trailer next to her house.

### Checking the Records

The state licensing board’s action against Ascension might have been expected to create a record that would alert other consumers to the perils of doing business with the firm. But while the board’s records are available to consumers at its web site ([www.lslbc.louisiana.gov](http://www.lslbc.louisiana.gov)) they don’t spotlight past problems with contractors.

In fact, a consumer who visited the board’s web site during the summer 2008 would have had to be very persistent – or lucky – to learn anything about Ascension, including disciplinary actions taken by state authorities. A search for Ascension in the “find a contractor” tab on the board’s web site generated no mention of the firm, let alone its disciplinary record. Neither did searches under the name of Ascension’s owner or under its license number. Only opening a 3.25 megabyte pdf file of violations – a process that itself sometimes took several minutes on-line – brought any mention of the contractor and its problems to the surface.

The obstacles to finding information about Ascension illustrate the challenges that faced consumers who set out to check the licenses and records of contractors. “There was just no information for people who had no idea what to do,” said Angela

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<sup>32</sup> List of violation hearings posted on Louisiana State Licensing Board for Contractors web site at [http://www.lslbc.louisiana.gov/pdf\\_files/violations.pdf](http://www.lslbc.louisiana.gov/pdf_files/violations.pdf).

Willis, a Gentilly resident who, frustrated in her efforts to find a reliable contractor, ended up hiring and being victimized by contractors whose fliers had been posted on neighborhood utility poles. “There was no place to go. I was terrified.”



Ads on utility poles

In fact, no central registry exists where Louisiana consumers can make a comprehensive check for past consumer complaints or disciplinary actions involving a contractor.

Marceaux acknowledged that the state licensing board’s web site could be more user friendly, and said that a board contractor was working to improve on-line access to the board’s

public files.

There are other places for consumers to look for signs of contractor abuses. (See appendix). Each, if checked, has the potential to provide a consumer with a warning about a prospective contractor, but all have a limited scope.

The Louisiana Recovery Authority and several non-profit organizations sponsor a web site ([www.louisianarebuilds.info/contractor](http://www.louisianarebuilds.info/contractor)) where consumers can give a thumbs up or thumbs down to a contractor and make comments. Those judgments and comments can be viewed by other consumers. This system has attracted some consumer interest and participation. For example, in June 2008 one registered home improvement contractor had 39 comments under its own name and four additional comments under another business name -- more than double any other firm. All but two of the comments gave the firm a “thumbs up,” and the contractor responded to each of the two negative comments.

However, the LRA web site has some key limitations. It doesn’t identify contractors by their license or registration numbers, making it difficult for consumers to verify who they are dealing with in an industry where small businesses may use multiple names. And during a June visit to the web site, only 287 of the state’s more than 4,000 licensed or registered contractors were listed. Fewer than 20 had more than two comments.

The Better Business Bureau also maintains a database (<http://neworleans.bbb.org/>) of complaints about contractors, which is easily searchable by consumers. However, while the bureau's web site lists companies that affirm their support for the organization's guidelines, only a handful of the state's contractors have done so.

### **Got a License? Registered?**

Consumers are sometimes surprised to discover that no one is there to watch over contracting transactions in which thousands of dollars change hands.

Willis, the Gentilly homeowner, was disappointed by the lack of oversight after she paid \$46,000 to a series of contractors who failed to make her storm-damaged house livable. "I had their license numbers and (knew their) places of business," Willis says of the contractors she relied on. "I had all the information that I thought was required, and I felt if they didn't do (the promised work) somebody could make them come back and do it. That's not true. Nobody was there to say ... you can't do this."



Louisiana's licensing board has only 24 field agents. "We need 25 more investigators," said Marceaux, adding that he expects widespread problems in the home repair market to continue for another five to 10 years.

State investigators mainly seek to ensure that contractors have met the state's licensing or registration requirements, which vary with the size and nature of a project.

Allegations that home repair contractors had failed to register with the state were the subject of more than 600 of the about 700 hearings held by the board from February 2006 through May 2008.<sup>33</sup>

A home builder must hold a license. To get that license, he or she must pass a written test on business, law and a trade area, pay \$225 in application and testing fees (plus a \$400 surcharge for those from out of state) and prove he or she has workers' compensation and liability insurance. Applicants must also provide a current financial

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<sup>33</sup> Analysis of Louisiana State Licensing Board for Contractors residential violations' data posted on-line at [www.lslbc.louisiana.gov/whatsnew.htm](http://www.lslbc.louisiana.gov/whatsnew.htm) .

statement showing a net worth of at least \$10,000 and fill out a 14-page application listing their work experience, criminal record, and any past civil judgments, complaints or disciplinary actions against them as contractors.<sup>34</sup>

The licensing law passed in 1996 and originally applied only to those who built houses worth more than \$50,000. After Katrina, the threshold size for building projects that require a license was raised to \$75,000.<sup>35</sup>

Home repair contractors weren't covered by the law until a 2003 law imposed a less-stringent registration requirement on repair projects valued at more than \$7,500. To register, applicants must only provide a Social Security number, the names and addresses of principals of the business and disclose previous registrations, suspensions, revocations, judgments and arbitration awards. Certificates of workers' compensation insurance and registration with the state's tax collectors are also required.<sup>36</sup> After Katrina, the more stringent licensing requirement was extended to contractors on repair projects valued above \$75,000.

As in some other states, Louisiana's frontline enforcer of rules for the home repair industry is a creature of the building business. The 15-member State Licensing Board for Contractors has only two "at-large" representatives from outside the industry. The board's five-member subcommittee responsible for administering and enforcing residential licensing and registration requirements is made up entirely of contractors.<sup>37</sup> The board oversees a statewide home repair and construction industry that, in the wake of Katrina, was composed of 3,500 licensed residential builders and 850 registered home improvement contractors. By the summer of 2007, the number of licensed home builders had risen to nearly 3,900 but the number of registered home improvement contractors

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<sup>34</sup> License application posted on-line at [www.lslbc.louisiana.gov/pdf\\_files/Residential\\_License\\_Application\\_04-07.pdf](http://www.lslbc.louisiana.gov/pdf_files/Residential_License_Application_04-07.pdf) .

<sup>35</sup> The Louisiana Director's Contractor News Source, Summer 2007, p. 1, posted on-line at [http://www.lslbc.louisiana.gov/pdf\\_files/2007-Summer\\_Newsletter.pdf](http://www.lslbc.louisiana.gov/pdf_files/2007-Summer_Newsletter.pdf)

<sup>36</sup> Registration form posted on-line at [http://www.lslbc.louisiana.gov/pdf\\_files/Home\\_Improvement\\_Registration\\_Application\\_9-6-05.pdf](http://www.lslbc.louisiana.gov/pdf_files/Home_Improvement_Registration_Application_9-6-05.pdf)

<sup>37</sup> Title 37 of Louisiana Revised Statutes Chapter 24 posted on-line at [http://www.lslbc.louisiana.gov/pdf\\_files/101105\\_ContractorsLicenseLaw.pdf](http://www.lslbc.louisiana.gov/pdf_files/101105_ContractorsLicenseLaw.pdf)

had fallen slightly, to 770. A year later, the number of licensed home builders had declined to 3,754 and the number of registered remodelers had fallen further, to 744.<sup>38</sup>

The board has kept busy since Katrina. It is currently levying fines at a rate of \$4 million to \$5 million annually, compared to about \$120,000 to \$180,000 prior to Katrina, according to Marceaux. However, fewer than 10 percent of the assessed fines are ever collected, he said, also noting that the board lacks the power to impose liens on real property owned by violators who refuse to pay.

### **Watch out for the alligators!**

Alma Dixon, the homeowner in the Gentilly neighborhood who was victimized by a contractor she had counted as a long-time family friend, had already had a hard time during Katrina. Dixon tried to ride out the storm with some friends in their house in New Orleans East.

At first, things went well. The storm passed, and the next day seemed pleasant: “the sun shining, quiet, still.” Even when they saw “a trickle” of water in the street, there seemed to be little reason for concern – not unusual after it rained, they noted.

But the water kept on coming, Dixon recalls. She and her friends thought about leaving. When water appeared on the sidewalk in front of their house, Dixon and her friends began moving furniture upstairs – mainly out of concern that the bottoms and legs might get soaked. “We still weren’t thinking it was going to flood.”



Levy at end of street in New Orleans East

Dixon and her friends didn’t know that rising water was on its way to covering 80 percent of the land surface of the city.<sup>39</sup> So after moving the furniture they sat back down in the ground floor living room. “And all of a sudden, boom.” Water had crashed through the garage door.

Dixon and her friends raced for safety

<sup>38</sup> See The Louisiana Director’s Contractor News Source, Summer 2006, p. 1, posted on-line at [http://www.lslbc.louisiana.gov/pdf\\_files/Newsletter\\_Summer\\_2006.pdf](http://www.lslbc.louisiana.gov/pdf_files/Newsletter_Summer_2006.pdf); *ibid*, Summer 2007, p.1; and board web site at <http://www.lslbc.louisiana.gov/aboutlslbc.asp> viewed Aug. 28, 2008.

<sup>39</sup> “Flood or Hurricane Protection?: The New Orleans Levee System and Hurricane Katrina” by Denise Wilson and Ella Kliger in *IEEE Spectrum Online* posted at [www.spectrum.ieee.org/print/5932](http://www.spectrum.ieee.org/print/5932) on May 30, 2008.

on the second floor. “Before we actually got up the stairs, the water came behind us just like that,” Dixon remembers. “We just barely made it upstairs.

After a few hours some neighbors came by in a boat, took Dixon and her friends out of the second story of the house and floated them over to the Interstate highway – which had also flooded. Dixon and her friends then waded through waist-deep water, past apartments and the sounds of residents yelling for help and, on one occasion, a warning: “Get out of the water, there’s alligators in the water.”

Dixon and her friends shifted over to the muddy median, and kept slogging toward the promise of shelter in the Superdome. But when an acquaintance passed by in a pickup truck and offered to give them a lift to a nursing home where there was food and water, they headed there instead.

Dixon remembers what followed as the worst night of her life. Told that it was unsafe to remain outside, she slept in a wet chair in the facility’s ground floor. When she went upstairs to use the toilet and brush her teeth, she found more than a hundred elderly people lying on the floor and in the corridors. Some begged for water or for someone to change their diapers.

Dixon eventually gave up trying to reach the Superdome and accepted a ride to Baton Rouge and then travelled on to Conyers, Ga. There she stayed with the “old family friend” who later took her for \$19,000.

#### **Carpetbaggers or scapegoats?**

Listening to some Louisiana officials describe home repair abuses in the wake of Katrina, one might conclude that the most relevant item in Dixon’s story was the out-of-state origin of her victimizer.

“Amidst the chaos of destruction and devastation, opportunity seekers and fortune hunters invaded our State looking for the easy dollar to be made from the victims of hurricanes and hard times” the state licensing board noted a few months after the storm.<sup>40</sup> Marceaux said in an interview that at least 40 percent of the new applicants for home repair contractor registration were from outside Louisiana.

But “invaders” can’t be blamed for all of the abuses. In fact, since Katrina most of the violators disciplined by the board gave Louisiana addresses. Among the defendants in

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<sup>40</sup> The Louisiana Director’s Contractor News Source, Summer 2006, p. 1

the 623 registration and licensing violation cases heard from February 2006 to May 2008, only 57, or fewer than 10 percent, came from other states.<sup>41</sup>

### Fighting for the survival of a culture

Herreast Harrison is a resident of the Upper Ninth Ward. After the storm, she set out to rebuild the home she bought with her late husband. That effort became part of the crusade to restore the irreplaceable cultural life and traditions of New Orleans.



Herreast Harrison

Harrison, who formerly operated day care centers, went to Houston during Katrina. Even before she could return to New Orleans, she began working in the New Orleans suburb of Kenner helping children make a quilt displaying their memories and feelings about the storm.

A quilt seems like an ideal undertaking for Harrison, whose family has contributed many threads to the fabric of New Orleans' rich traditional and contemporary culture. Her late husband was a leading Mardi Gras "Indian." Her son, Donald Harrison, is an influential jazz saxophonist. And her grandson, Christian Scott, is a young trumpet player who has built a popular following for jazz spiced with hip hop and funk.

But Katrina had no respect for the arts, or artists. Harrison, who had to buy a crowbar to force open the warped and blocked front door of her flooded house, found that water had destroyed or damaged some of the valuable quilts and Mardi Gras "suits," or costumes, stored there.

After returning Harrison set out to build a community center for young people on her property. But first she had to wrestle with a contractor and a procession of subcontractors who bungled or left undone portions of the estimated \$90,000 worth of remodeling and repair work needed to again make her home habitable. The resulting delays forced her to live, and suffer nose bleeds, for more than two years in a formaldehyde-filled FEMA trailer squeezed onto the lot alongside her house.

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<sup>41</sup> Analysis of Louisiana State Licensing Board for Contractors residential violations' data posted on-line at <http://www.lslbc.louisiana.gov/whatsnew.htm> .

Now the trailer is gone. Harrison was able to move back into her home in April 2008 and, with the help of lawyer Jay Welch of New Orleans Legal Assistance (NOLAC), is suing the politically connected general contractor to whom she handed over \$57,000. The lawsuit includes a lengthy inventory of unfinished or poorly done work, including painting, repairs of windows and the foundation, replacement of hardwood floors and installation of sheet rock, heating and air conditioning, plumbing and electrical fixtures.

Harrison was hurt and disappointed by her contractor's failure to complete the promised work and by the lack of competence among the work crew. "For money given, there should be a certain skill set that your workers come with and produce results," she says. She also wondered why government officials couldn't make a registry of skilled, licensed contractors easily accessible. She would even have liked to see some official oversight to entire projects.

While her feelings about her victimization by a contractor have faded, or at least numbed, Harrison remains determined to make an impact on behalf of her community and her city: "Just because I'm a little old lady doesn't mean that I don't have fight in me."

### **Transformation**

Despite the efforts of Harrison and other fighters, the future of New Orleans remains in doubt. There were some ominous signs even before a city-wide evacuation was ordered as Hurricane Gustav approached in August 2008.

Three years after the storm more than one-quarter of New Orleans' pre-storm population had not yet returned.<sup>42</sup> Many lacked a place to live. After Katrina more than 100,000 homes in New Orleans were uninhabitable (up from 30,000 before the storm).<sup>43</sup> Storm damage and floods, and resulting higher rents, had the impact of "almost completely eradicating affordable housing in the city," according to state officials.<sup>44</sup>

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<sup>42</sup> <sup>42</sup> "The New Orleans Index: Tracking Recovery of New Orleans and the Metro Area," by the Metropolitan Policy Program at the Brookings Institution and Greater New Orleans Community Data Center, August 2008, p. 8.

<sup>43</sup> New Orleans Redevelopment Authority web site at [www.noraworks.org/about\\_nora.htm](http://www.noraworks.org/about_nora.htm) and [www.noraworks.org/post\\_katrina.htm](http://www.noraworks.org/post_katrina.htm), viewed May 23, 2008.

<sup>44</sup> Louisiana and New Orleans Metro Housing Needs Assessment, Feb. 15, 2008, p. 2, posted on-line at [http://www.lhfa.state.la.us/downloads/aboutus/HousingNeedsAssessment\\_032808.pdf](http://www.lhfa.state.la.us/downloads/aboutus/HousingNeedsAssessment_032808.pdf).



A storm-damaged house in the Upper Ninth Ward, February 2008

Some policy decisions seemed designed to worsen the housing shortage. For example the City Council, ignoring protests, voted to demolish four large public housing projects with 4,500 apartments.<sup>45</sup>

Even government aid to homeowners seeking to rebuild could, in the wake of contractor fraud, boomerang. According to Mark Moreau of New Orleans Legal Assistance, victims who got state aid for rebuilding could find themselves left with houses still in disrepair even as they themselves face state actions to recoup money already stolen by predators. Victims also face the threat of foreclosures by city officials enforcing housing and building codes, he says.

Loss of housing has hit African Americans especially hard. For example, in the Orleans Parish public schools – which, with a population that is 90 percent African American, can serve as a barometer for changes in the city’s black community – enrollment plummeted from 66,400 in October 2004 to only 6,200 in the immediate aftermath of Katrina. In the spring of 2008 enrollment was still only 32,900, less than half the pre-storm total.<sup>46</sup>

The non-tourism economy also shriveled. A year after the storm, only 42 percent of the businesses in low-income neighborhoods had reopened, and only one in five in the mainly black Lower Ninth Ward.<sup>47</sup> Employment throughout the New Orleans metropolitan area fell by 29 percent, from 602,000 to 427,000, and by April 2008 rebounded to 510,000 – still only 85 percent of the pre-storm total.<sup>48</sup>

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<sup>45</sup> “In New Orleans, Plan to Raze Low-Income Housing Draws Protest” by Leslie Eaton, New York Times, Dec. 14, 2007, p. A28.

<sup>46</sup> “The New Orleans Index: Tracking Recovery of New Orleans and the Metro Area,” by the Metropolitan Policy Program at the Brookings Institution and Greater New Orleans Community Data Center, April 16, 2008, p. 13/53.

<sup>47</sup> Issue Brief: Building a Better New Orleans, Hope Needs Help by PolicyLink, August 2007, p. 8, posted online at <http://www.policylink.org/HopeNeedsHelp/HopeNeedsHelp.pdf>.

<sup>48</sup> U.S. Bureau of Labor Statistics, [www.data.bls.gov](http://www.data.bls.gov), Local Area Unemployment Statistics, New Orleans-Metairie-Kenner Metropolitan Statistical Area, employment, interactive table generated June 24, 2008.

Residents of the city of New Orleans took an even bigger hit. Their employment fell 51 percent, from 189,000 in the July previous to the storm to 92,000 in July 2006. In April 2008, employment had only reached 99,000, or 52 percent of the pre-storm total.<sup>49</sup>

As this report is published in the autumn of 2008, the road home continues to stretch out in front of many poor and black Louisianans, with no end in sight. Home repair issues have made the journey more difficult for those who are homeowners.

## VII. Mississippi

Within Mississippi, the poorest of the 50 United States, the Gulf Coast constitutes an island of relative prosperity. The natural beauty and man-made attractions of three coastal counties – Hancock, Harrison and Jackson – make them a tourist destination, while shipyards and energy companies provide some better-paying jobs.<sup>50</sup>

Yet that coast sits starkly exposed to the forces of nature. After his family's weekend house in Waveland got destroyed by Hurricane Katrina, and before that by hurricanes Betsy in 1965 and Camille in 1969, writer Michael Lewis noted drily: "That's what Mississippi was for: to get wiped out by hurricanes. A hurricane in Mississippi was not a natural disaster but an excuse for a real estate boom."<sup>51</sup>

These days, real estate booms in the Gulf Coast are fueled by a gambling industry centered on 11 casinos with 13,000 employees.<sup>52</sup> While those hives of slot machine and table game activity shut down for three months after Katrina, the industry recovered quickly. A year after the hurricane, monthly gross gambling revenue of \$109 million set a record.<sup>53</sup>

But the benefits of casino-based prosperity spread unevenly. Even as the hotel at Biloxi's Beau Rivage Casino filled to capacity on a February 2008 weekend, residents a few blocks away continued to live in temporary trailers scattered among still-vacant lots.

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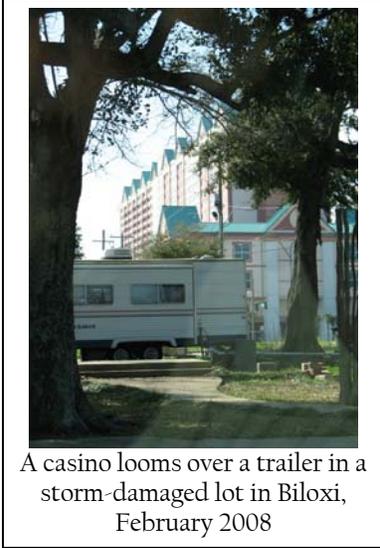
<sup>49</sup> Ibid., New Orleans, La., employment, interactive table generated June 24, 2008.

<sup>50</sup> Mississippi's per capita income of \$28,845 in 2007 ranked last among the 50 states "State Personal Income 2007," U.S. Bureau of Economic Analysis news release BEA 08-11, March 26, 2008, p. 3. Per capita incomes in Hancock, Harrison and Jackson counties ranked fourth, eighth and tenth among the state's 82 counties Data from Local Area Personal Income interactive table available on-line from U.S. Bureau of Economic Analysis, [www.bea.gov/regional/reis/](http://www.bea.gov/regional/reis/).

<sup>51</sup> "Wading Toward Home" by Michael Lewis in New York Times magazine, Oct. 9, 2005.

<sup>52</sup> Mississippi Gaming Commission, Directory of Current Operators April 2008, and Quarterly Survey Information, January 1 to March 31, 2008, both posted on-line at [www.mgc.state.ms.us](http://www.mgc.state.ms.us).

<sup>53</sup> Mississippi State Tax Commission Miscellaneous Tax Bureau Casino Gross Gaming Revenues, posted on-line at [www.mstc.state.ms.us/taxareas/misc/gaming/stats/GamingGrossRevenues.pdf](http://www.mstc.state.ms.us/taxareas/misc/gaming/stats/GamingGrossRevenues.pdf).



A casino looms over a trailer in a storm-damaged lot in Biloxi, February 2008

A lot of rebuilding remains to be done. Throughout Mississippi, more than 240,000 housing units were damaged by Katrina and two subsequent hurricanes, according to FEMA.<sup>54</sup> A later study by the Rand Corporation found that in the three Gulf Coast counties winds, storm surge and floods damaged about 60 percent of the 136,000 housing units and estimated the total tab for rebuilding there at \$4 billion.<sup>55</sup>

The surge of money to finance that rebuilding led to what Grant Hedgepeth, head of the Attorney General's consumer protection division, describes as "a deluge of home repair fraud complaints."



Photos of contractors wanted for fraud, Mississippi Attorney General's Office, Biloxi

There were many problems, according to the Mississippi Center for Justice, a nonprofit public interest law firm. Some contractors took advantage of inexperienced or desperate homeowners by demanding large up-front payments or making deals with other onerous terms. Others collected money from homeowners but did little or no work, or failed to complete the

promised work satisfactorily. In some cases, contractors hired subcontractors but failed to pay them, and some of those subcontractors then filed liens against homeowners' properties.<sup>56</sup>

Homeowners, especially those with low or moderate incomes, faced what Hedgepeth called "the realities of the construction business" in the wake of a disaster: "When a whole town is decimated, there are not enough construction workers to build it back and people are desperate."

### Seeking help at a clinic

<sup>54</sup> Data from FEMA survey of storm damage released July 12, 2006 and posted on-line by Mississippi Steps Coalition at [www.stepscoalition.org/downloads/news/reports/HUD\\_MDA\\_FEMAdamage\\_estimates.pdf](http://www.stepscoalition.org/downloads/news/reports/HUD_MDA_FEMAdamage_estimates.pdf).

<sup>55</sup> "Post-Katrina Recovery of the Housing Market Along the Mississippi Gulf Coast" by Kevin F. McCarthy and Mark Hanson of the Gulf States Policy Institute of the Rand Corp., 2007, pp. xiv, xvi, 17.

<sup>56</sup> Mississippi Center for Justice video orientation for volunteer lawyers.

Traces of that desperation showed in the faces of dozens of homeowners who sat in folding chairs in the public library in Pass Christian on a mild evening in February 2008. Some waited for hours for a chance to talk about their home repair problems with a volunteer lawyer at a clinic organized by the Mississippi Center for Justice.



Contractor fraud clinic, Pass Christian

The lawyers had traveled to Mississippi from the San Francisco office of O'Melveny & Myers, a large law firm with many blue chip corporate clients and a 125 year history. Bobby Shuffield, a former property manager, was among those who received free consultations. During Katrina, the doors had blown in and a tree had fallen on Shuffield's house in nearby Gulfport. Shuffield felt fortunate when a contractor working across the street agreed to fix all of the \$20,000 worth of damage in exchange for a slightly smaller insurance check that Shuffield had received. But the contractor vanished after cashing the check, repairing the roof and leaving most of the work undone.

### **Slamming the rip-off artists**

Mississippi officials don't mince words about how they intend to handle predators in the state's home repair market. "When we have a guy that just intentionally rips off a homeowner we're going to try to slam him," said Hedgepeth.

But the reach of law enforcement is limited. Only about 10 percent of the complaints received by the attorney general's office get handled as criminal matters – usually "nightmare situations," according to Hedgepeth.

In 2003, Mississippi passed a home repair fraud statute that criminalizes contracts based on misrepresentations, false promises, deception, coercion or force, and concealment of the contractor's identity. However, the original law treated all first offenses as misdemeanors punishable by no more than six months in jail and a \$1,000 fine, regardless of the amount of money involved.<sup>57</sup> After Katrina, the contractor fraud

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<sup>57</sup> Mississippi Legislature Regular Session 2003 House Bill No. 1121 (As Sent to Governor). Section 10, pp. 8-11, posted on-line at [billstatus.ls.state.ms.us/documents/2003/pdf/HB/1100-1199/HB1121SG.pdf](http://billstatus.ls.state.ms.us/documents/2003/pdf/HB/1100-1199/HB1121SG.pdf). See also "New Law Targets Home Repair Scams" by Margaret Baker, Biloxi Sun Herald, April 8, 2003, p. A7.

law was tightened to make felonies out of first offenses where the amount taken exceeded \$5,000.<sup>58</sup>

The original law didn't trigger a lot of enforcement activity. In fact, Hedgepeth says he could not recall the attorney general receiving a single home repair complaint prior to Katrina. So when the storm hit that office didn't have any investigators assigned to work on home repair fraud, he says.

However, officials knew that predators would follow in the wake of the storm. "We tried to warn the public to be on the look-out, get their contracts in writing, only deal with state licensed contractors," Hedgepeth says.

The attorney general also assembled a six-member team "with a special interest in this field." All knew people who had lost houses and all but one had lost his or her own house, he says.

Still, predators went to work. In his annual report for the fiscal year that ended June 30, 2007 the attorney general reported receiving 685 home repair fraud complaints since Katrina.<sup>59</sup> Eight months later the cumulative total of complaints had risen to somewhere between 800 and 1,000 and prosecutors had about 300 investigations active, Hedgepeth says.

The attorney general and local prosecutors secured 11 guilty pleas or verdicts, induced one contractor to pay restitution and had 78 cases still pending, according to a list of arrests through June 2008 posted on the attorney general's web site.<sup>60</sup> In April, Attorney General James Hood said at a news conference that his office had also referred 50 to 60 cases for mediation.<sup>61</sup>

### **"Highly recommended"**

Virginia Thompson, a housewife from Pass Christian, was also at the Mississippi Center for Justice clinic in February. Thompson wanted help getting money back from

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<sup>58</sup> Mississippi Legislature Regular Session 2006 Committee Substitute for House Bill No. 1316 posted on-line at [billstatus.ls.state.ms.us/documents/2006/pdf/HB/1300-1399/HB1316SG.pdf](http://billstatus.ls.state.ms.us/documents/2006/pdf/HB/1300-1399/HB1316SG.pdf). See also "Mississippi cracks down on repair fraud" by Janet Braswell, Hattiesburg American, April 2, 2006, p. 1A.

<sup>59</sup> 2007 Mississippi Attorney General's Office Annual Report, posted on-line at [www.ago.state.ms.us/images/uploads/forms/2007\\_Annual\\_Report.pdf](http://www.ago.state.ms.us/images/uploads/forms/2007_Annual_Report.pdf), p. 19

<sup>60</sup> Figures posted July 17, 2008 at [www.ago.state.ms.us/images/uploads/forms/homerepairfraudarrests1.pdf](http://www.ago.state.ms.us/images/uploads/forms/homerepairfraudarrests1.pdf). On p. 19 of the Attorney General's annual report for the 2007 fiscal year, it says that his office received 685 fraud complaints, conducted 155 criminal investigations and had 37 outstanding warrants.

<sup>61</sup> "Repair Fraud Arrests Total 87" by Anita Lee in the Biloxi Sun Herald, April 24, 2008, p. A4.

the contractor she had hired to rebuild her house, which had been flooded by 16 feet of water.

The contractor, a Georgian who had come “highly recommended from a lot of people in our subdivision,” estimated that her house could be repaired for \$105,000, says Thompson. But after she handed over a \$28,000 as a down payment, the contractor did only minimal work, then raised his estimate to \$186,000. Frustrated, Thompson instead sought legal help.

The contractor had won the confidence of Thompson and her neighbors in part by showing them a workers’ compensation insurance certificate. “He said he was licensed in Mississippi but that was not true,” Thompson says ruefully.

#### **Checking out a contractor**

Verifying a contractor’s claim to be licensed in Mississippi is possible for anyone with access to the Internet who knows the name and web address of the Mississippi State Board of Contractors ([www.msbec.us/index.html](http://www.msbec.us/index.html)).

But finding out whether that contractor has a clean record is a different matter. The contractor listings on the board’s web site don’t show whether the contractor has been the subject of consumer complaints or disciplinary actions. Nor does the site allow visitors to do a general search of such records. In mid-August 2008, a tab for “board actions” led to a dead link.

While the state Attorney General and Auditor have investigated and pursued abusive contractors since Katrina, neither agency has a web site that allows consumers to search for complaints and disciplinary actions.

Consumers can search the web site of the Better Business Bureau of Mississippi ([ms.bbb.org](http://ms.bbb.org)) to see if complaints have been lodged against a contractor. Consumers can also look there for the names of accredited contractors who have paid a fee and met the organization’s standards for dealing with consumer complaints. However, in mid-August 2008, in a state with more than 5,200 licensed residential contractors, the bureau list of accredited contractors included only 85 residential builders and 16 home improvement contractors.

#### **Licensing requirements**

While Mississippi requires a contractor who does a home remodeling or repair job valued at \$10,000 or more to hold a license, the qualifications are not stringent. To

obtain a license, an applicant must pass a test with a score of 70 and disclose previous license revocations and suspensions including those in other states. Workers' compensation insurance is required but liability insurance is not.<sup>62</sup>

Investigating and disciplining the state's licensed residential contractors is the job of the state Board of Contractors which is made up entirely of contractors.<sup>63</sup> Working without a license is a misdemeanor punishable by a fine of up to \$5,000 and imprisonment for up to 60 days. Contractors without licenses are also prohibited from applying for building permits from local authorities or filing lawsuits to enforce the terms of building or remodeling contracts.<sup>64</sup>

Although the board lacks the power to intervene on behalf of consumers, the board says it will send a field investigator to look at a contractor's work in cases where the amount in dispute exceeds \$10,000.<sup>65</sup>

The board responded to Katrina by speeding up the licensing process. It lifted the normal 30-day waiting period for licensing and delegated to its top administrators the power to issue emergency licenses, according to Tommie Cardin, a lawyer for the board.

Cardin said he thought the state's licensing system "worked quite well" after the storm. The board sought to speed rebuilding but maintain licensing standards, he says, adding: "I think that if we had it to do all over again they'd do everything the same."

Yet there were many problems. Cardin says that the board saw a "dramatic increase" in consumer disputes with contractors, with complaints and disciplinary actions both up ten-fold after the storm.

And in its oversight of at least one contractor, the board could certainly have done a lot better.

### **The Computers Couldn't Write "Roofer"**

Gulfport homeowner Mary Kim signed a \$75,000 deal with that contractor in November 2005. The contract, set "just for what insurance paid," covered a range of work, including replacement of bathroom cabinets, and installation of countertops and a

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<sup>62</sup> See Mississippi Residential Builders Law Section 1. 73-59-1 (c) and Section 2. 73-59.3 and Rules and Regulations of the State Board of Contractors as Applied to Residential Builders and Remodelers, I. Application for License, posted on-line at [www.msbc.us/pdf/ms-professions\\_and\\_vocations.pdf](http://www.msbc.us/pdf/ms-professions_and_vocations.pdf).

<sup>63</sup> See web site of Mississippi State Board of Contractors at [www.msbc.us/about.html](http://www.msbc.us/about.html).

<sup>64</sup> See Mississippi Residential Builders Law Section 3. 73-59-5 posted on-line at [www.msbc.us/pdf/ms-professions\\_and\\_vocations.pdf](http://www.msbc.us/pdf/ms-professions_and_vocations.pdf).

<sup>65</sup> Contractor Fraud Manual presented by the Mississippi Center for Justice, pp. 4, 15.

new oven and dishwasher, according to a lawsuit filed for Kim in December 2006 by Jeremy Eisler, a lawyer for the Mississippi Center for Legal Services. The agreement also called for the contractor to do carpentry, sheet rock, electrical, plumbing and heating and air conditioning work in exchange for the roughly \$75,000 that Kim expected to receive from her insurance company.

But the work turned out poorly, according to the lawsuit. Windows lacked sills, and were sprayed with paint. The oven and dishwasher didn't arrive and the countertop was filled with dings, cracks and holes around the edges. Doors were hung incorrectly and post-it notes explaining what colors to use had been sprayed over. And in the bathroom, on the unsecured, wrong-sized vanity, Kim made perhaps her most disturbing find: a copy of a book called "1 2 3 Steps of Basic Wiring," apparently left behind by the contractor responsible for re-wiring her house safely.

Why the contractor needed to refer to a beginner's manual on wiring emerged a few months later. Although he had an official state license that identified him as a "remodeler," the contractor had not passed Mississippi's licensing exam. Instead, the contractor's license was issued a month after Katrina under a reciprocity agreement with Florida.

The contractor got the license by showing Mississippi officials a Florida contractor's license and "affidavit of roofing competency." The Mississippi board said in a November 2006 letter that contractor's license described the roofer as a remodeler because its "computers were not set-up to be able to fill in the description 'roofing' for a while, and the closest classification to it is our 'remodelers' classification."<sup>66</sup> In fact, the board said, the labeling error was corrected on the licenses only after "many were issued."<sup>67</sup>

Kim made a series of payments totaling \$49,800 to the roofer with the misleading license but, dissatisfied with his work, she refused to hand over another \$24,300 in May 2006. The contractor reacted by writing an angry letter accusing Kim of being "unappreciative" and of "misleading" him, and warned her that she would get socked with an additional \$30,000 in legal bills. The contractor also telephoned Kim from

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<sup>66</sup> Letter dated Nov. 16, 2006 from Mississippi State Board of Contractors Branch Director Charles Sharman and filed as exhibit in Kim's lawsuit.

<sup>67</sup> *Ibid.*

outside her house, and unleashed a stream of profane screams so loud that Kim got a worried inquiry from a nearby volunteer fire department.

In August 2006, the contractor placed a lien against Kim's house seeking about \$40,000. Four months later Kim sued the contractor, asking for \$12,600 of her money back as well as punitive damages. Noting that the contractor had been able to file a lien tying up the title to her house without any court proceeding, Kim's lawsuit also asked that the state's lien statute be declared unconstitutional.

Kim eventually settled her lawsuit against contractor. According to Eisler, the contractor dropped a \$30,000 claim against Kim and endorsed over to her a "substantial" insurance check made out to Kim and the contractor jointly. In addition, a local court official canceled the contractor's lien against Kim's house and the contractor's board fixed its computer, recalled the incorrectly labeled licenses and notified local officials of the license labeling error, Eisler said. No ruling was made on the constitutionality of Mississippi's lien statute, which is now the subject of another legal challenge, Eisler said.

After Katrina, the rebuilding and repair job facing Mississippi homeowners was massive. They endured many abuses and rip-offs despite the state's licensing requirement and efforts by officials to step up enforcement of criminal laws. Limited access to records of consumer complaints about contractors and state disciplinary actions complicated the task of checking out potential service providers.

Since the storm, lawsuits and changes in state law and industry rules have only slightly improved the situation of consumers seeking to employ builders and remodelers in a state where, despite widespread poverty, predators and abusive contractors still search out victims.

## **VIII. Finding and Dealing with a Contractor**

As you prepare, as a consumer, to engage a home repair contractor, you face the challenge of finding good advice and information. Then comes the really hard part: using that advice and information in the real world.

That can be a formidable task – especially if you have been displaced or suffered losses due to a storm or other disaster, and are desperate to rebuild and return home.

Nonetheless, it is important to work to gather useful information and make good choices – even as you prepare for unexpected complications in what may be your best-

laid plans. Too often, the measures you take to protect yourself can be all that stand between you and fraudulent or incomplete work.

Job one is to size up, to the best of your ability, your situation and needs and figure out what financial resources you expect to have available for the project.

For many projects, you will require the skills, tools and experience of a contractor. As you prepare to look for one, do your best to become familiar with the laws, rules and licensing requirements that may apply.

After you have an idea of what work has to be done, your financial situation, the type of contractor you need and the rules that apply, stop. Think about whether your approach jibes with common sense, your previous experiences in similar undertakings and the experiences of others.

Guidance abounds. On the Internet, in bookstores, in libraries or community centers you can find checklists and helpful hints on how to avoid rip-offs or bad deals. Consider this guidance but remain skeptical. Individual situations vary so much that you can rarely rely completely on any one checklist or blueprint.

Even with good advice, you must remain on guard against predators and others who seek to take advantage of you. Expect to be hard-pressed to find the patience and bargaining power needed to get a good deal. And remember that a successful project requires planning, analysis and negotiation skills.

If you end up with a roof, foundation, carpentry, wiring, plumbing and dozens of other practical and aesthetic elements that make your house livable, and you paid a reasonable price, you will have done well.

What follows is a summary of advice gathered from manuals produced by local and national consumer advocates, government agencies and trade associations. Most offer suggestions about how to find a contractor, the elements of a good contract, and payment dos and don'ts. Some guides address other issues, such as steps to prepare for a home repair project, pitfalls of financing and the danger signs of fraud or abuse.<sup>68</sup>

### **Preparation**

Start by making a detailed list of the work that needs to be done and assessing the money available to pay for the work and materials. Try to weigh each step carefully,

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<sup>68</sup> See page 36 for list of the consumer guides reviewed and web addresses for those available on-line.

and resist getting pressured into a big project that exceeds your needs or resources. In a pinch, consider making temporary repairs.

### **Finding a Contractor**

This involves checking and comparing -- and then checking and comparing some more.

1. Seek referrals from friends, neighbors, co-workers or others whom you know and trust.

2. Get more than one written bid or estimate. Make sure bids are detailed and cover comparable work and quantities and quality of materials. (In Louisiana, consumers can consult a pricing guide for common work and materials that was developed by Louisiana Rebuilds, a coalition of government agencies and nonprofit organizations, on-line at [www.louisianarebuilds.info/contractor#pricing](http://www.louisianarebuilds.info/contractor#pricing).)

3. From each bidding contractor, get a name (backed up with a photo ID – or snap a photo of their license plate), address, phone number, license number and certificates of workers' compensation and liability insurance and bonding – and check them out! (Do the same for subcontractors expected to work on the project). In Mississippi, the state Development Authority suggests that consumers also check contractors' city or county business licenses.

4. Get references – preferably local – including banks and previous customers, and check them out, too!

5. Check with state regulators to verify each bidding contractor's license, and inquire as to whether that contractor has been the subject of previous consumer complaints, lawsuits or disciplinary actions. Also check with the Better Business Bureau and other consumer and government agencies and trade associations.

### **The Contract**

Get it in writing. Make sure that you sign and your contractor signs the contract and that it spells out in detail the work to be done, estimated start and completion dates, quality and quantity of materials to be used, total price and a schedule for partial payments. Louisiana consumers can file a notice of a home repair contract with a parish

mortgage and conveyance office, according to The Loyola Law School New Orleans College of Law.<sup>69</sup>

If the contract is signed in your home, make sure it spells out your right to cancel within three days. And never sign a contract without reading and understanding it. Ask a lawyer or knowledgeable friend to look it over first. It's a good thing if the written deal spells out the contractor's obligation to get permits, how "change orders" will be handled and any warranties for work and materials. Refuse to sign contracts that include blanks that aren't filled in or clauses that require disputes to be submitted for arbitration. Try to include a waiver of the contractor's and any subcontractor's right to file liens against your house if there is a payment dispute.

If a contract is pre-printed, remember that you can cross out or add clauses. Make sure that both parties initial and date each change, and that each party receives a copy of the signed final version of the contract, including modifications. Carbon copies can work well.

#### **Payment dos and don'ts**

Don't make a big down payment. According to various sources this means no more than \$1,000, 10 percent of the total price or 30 percent of the total price. Pay with a check or money order. Never pay cash. In Mississippi, the state Development Authority suggests that consumers have an attorney perform a title update whenever a partial payment is made to a contractor.<sup>70</sup>

As the project nears completion, make sure to hang on to the final payment and hold off on signing a release until you have determined that all the work (including hauling away trash) has been done satisfactorily. If you can, try to determine that all the subcontractors and suppliers have been paid.

#### **Danger Signals**

It's a good idea to initiate contact with a prospective contractor, not vice versa. Avoid door-to-door solicitations, high-pressure sales tactics and "special offers" that involve left-over materials, incentives for bringing in more customers or handing over a

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<sup>69</sup> "Contractor Fraud: Informational Resource" by Loyola Law School New Orleans College of Law Katrina Clinic Fall 2007, posted on-line at [www.hurricanelaw.org/articles/File/Contractor%20Fraud%20%20packet9%5B1%5D\\_19\\_07.pdf](http://www.hurricanelaw.org/articles/File/Contractor%20Fraud%20%20packet9%5B1%5D_19_07.pdf) .

<sup>70</sup> "Protect Yourself from Contractor Fraud" by Mississippi Development Authority, posted on-line at [www.mshomehelp.gov/fraud.htm](http://www.mshomehelp.gov/fraud.htm) .

credit card number. Don't rely on a smooth or persuasive sales pitch to measure the trustworthiness or skills of a contractor.

Don't agree to a contractor's request that you pull, or apply for, the permits for the project. In Mississippi, pulling your own permits may make you the contractor on the job, and deny you the consumer protections afforded by the state's licensing and contracting laws.

### **Financing pitfalls**

Don't allow the contractor to arrange financing and avoid loans that use your house as security for payment. If you need a loan, get competitive offers from banks and credit unions.

### **Other issues**

Keep a file with a copy of the contract, payment records and other paperwork, as well as a log of all oral communications, and take photographs of the work as it progresses.

Consider asking that the contractor post a bond guaranteeing satisfactory completion of the project. Although a bond may add to your costs, it could provide the opportunity to file a claim if the work isn't completed or turns out to be defective. Without a bond, even if a lawsuit is successful a consumer is likely to have difficulty finding any assets that can be used to pay a judgment.

### **No silver bullet**

Follow all this to the letter and ... things may still go wrong! There is no silver bullet. The experience of homeowners seeking help in rebuilding after Katrina provided many object lessons of how things can turn out badly – even when a consumer makes sensible choices.

For example, some guides suggest that consumers begin the search for a contractor by seeking referrals from friends, family and co-workers. Yet some homeowners interviewed for this report became the prey of a friend, a relative or a contractor suggested by a co-worker. In New Orleans, some homeowners were victimized by contractors referred by ministers or church friends, Moreau says.

| Source  | Title   | Where to find it   |
|---|---|--|
| Better Business Bureau  | Coping with Disasters: Dependable Tips and Helpful Information from your Better Business Bureau | <a href="http://www.uscbb.org/coping%20with%20disasters.htm">www.uscbb.org/coping%20with%20disasters.htm</a>   |
| FEMA  | Avoid Being a Victim of Contractor Fraud (release on Nov. 3, 2005)                              | <a href="http://www.fema.gov/news/newsrelease.fema?id=20278">www.fema.gov/news/newsrelease.fema?id=20278</a>   |
| Federal Trade Commission  | FTC Consumer Alert: After a Disaster: Repairing Your Home                                       | <a href="http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt030.pdf">www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt030.pdf</a>   |
| Federal Trade Commission  | FTC Facts for Consumers: Home Sweet Home ... Improvement (August 2001)                          | <a href="http://www.ftc.gov/bcp/edu/pubs/consumer/products/pr020.shtm">www.ftc.gov/bcp/edu/pubs/consumer/products/pr020.shtm</a>   |
| Federal Trade Commission  | Hurricane Recovery - Consumer Information - Home Repair Scams                                   | <a href="http://www.ftc.gov/bcp/edu/microsites/recovery/hurricane/consumer_info.html#homeRepair">www.ftc.gov/bcp/edu/microsites/recovery/hurricane/consumer_info.html#homeRepair</a>                               |
| National Association of Home Builders                                 | Everything You Ever Wanted to Know About Hiring a Professional Remodeler                        | <a href="http://www.heartlandhomeimp.com/report/report.pdf">www.heartlandhomeimp.com/report/report.pdf</a>   |
| National Association of the Remodeling Industry                       | Avoiding Home Improvement Scams   | <a href="http://www.nari.org/homeowners/tips/scams.asp">www.nari.org/homeowners/tips/scams.asp</a>   |
| National Association of the Remodeling Industry                       | How to Select a Remodeling Professional   | <a href="http://www.nari.org/pdf/selectremodpro.pdf">www.nari.org/pdf/selectremodpro.pdf</a>   |
| AARP  | Consumer Fraud Kit: Tips on Home Improvement  | <a href="http://www.aarp.org/money/wise_consumer/fixinghome/putting_things_back_together_after_a_disaster.html">www.aarp.org/money/wise_consumer/fixinghome/putting_things_back_together_after_a_disaster.html</a> |
| Federal Emergency Management Agency and American Red Cross            | Repairing Your Flooded Home, p. 43-44.  | <a href="http://www.redcross.org/static/file_cont333_lang0_150.pdf">www.redcross.org/static/file_cont333_lang0_150.pdf</a>   |
| Mississippi Attorney General, Consumer Protection Division            | Guidelines for Home Repair Contracting  | <a href="http://www.ago.state.ms.us/index.php/sections/consumer/home_repair_guidelines">www.ago.state.ms.us/index.php/sections/consumer/home_repair_guidelines</a>   |
| Mississippi Development Authority                                     | Protect Yourself from Contractor Fraud  | <a href="http://www.mshomehelp.gov/fraud.htm">www.mshomehelp.gov/fraud.htm</a>   |
| LouisianaREBUILDS.info (LRA and non-profit partners)                  | Contractor Guide  | <a href="http://www.louisianarebuilds.info/contractor">www.louisianarebuilds.info/contractor</a>   |
| Louisiana State Licensing Board for Contractors                       | Hiring a Contractor - Checklist for Consumers   | <a href="http://www.lslbc.louisiana.gov/publiceducation.htm">www.lslbc.louisiana.gov/publiceducation.htm</a>   |
| New Orleans Legal Assistance  | Hiring a Home Repair Contractor   | Posted at <a href="http://www.lawhelp.org">www.lawhelp.org</a> (click on Louisiana, then "housing" icon, then "repairs")   |
| Common Ground Relief Legal Department                                 | Hiring Contractors & Resolving Disputes   | <a href="http://www.commongroundrelief.org/files/Contractor%20Tri-fold.pdf">www.commongroundrelief.org/files/Contractor%20Tri-fold.pdf</a>   |
| Loyola Law School New Orleans College of Law Katrina Clinic Fall 2007 | Contractor Fraud: Informational Resource  | Posted at <a href="http://hurricanelaw.org">hurricanelaw.org</a> (click on "what to do about contractor fraud")  |

## IX. Fighting Back Against Abuses and Rip-offs

If you think you have been ripped off by a predator or treated unfairly by a contractor, there are several steps you can take. However, no course of action promises complete or fast relief. In addition, seeking to right a wrong that you believe has been done to you often requires some of the financial and emotional resources and time that you must also draw upon to continue to work to rebuild your home and community.

Still, pursuing a wrongdoer can be useful. Your complaint can prompt authorities to bring charges and, after the appropriate trial or review, punish a wrongdoer. It can also help alert other potential victims to the identity of a predator. In some cases, you may secure partial or full restitution, or even ask for punitive damages.

But any proceeding is likely to be protracted and a satisfactory outcome can't be assured.

A logical first step is to file a complaint with law enforcement officials – often local police or your state attorney general. However, local or state law enforcement agencies may have limited willingness or resources to investigate and file criminal charges in a dispute between a consumer and a contractor. For example, in Mississippi and Louisiana law enforcement officials say they normally intervene only in cases where a contractor took money but failed to do any work. (In Mississippi, the state attorney general refers some other cases for mediation).

You should also file complaints with the agency in your state that licenses and enforces rules that apply to contractors and with the Better Business Bureau. In addition, some non-profit organizations and on-line message boards may accept and record consumer complaints, and make them available to the public. (See Appendix).

Remember that these agencies may have little or no direct authority to intervene to ensure that a home repair project is completed or problems are corrected, or to secure restitution or punitive damages for a victimized consumer.

To pursue restitution or punitive damages, you can consider filing a civil lawsuit. Low-income consumers and some seniors may be eligible for representation by a legal services attorney. However, others will usually need the services of a private attorney to pursue a lawsuit, which is likely to be expensive. Finding an attorney willing to take a

home repair case on contingency – to be paid only if a case is won and damages paid – is likely to be very difficult. As there are time limits for filing civil lawsuits, a homeowner should consult an attorney as soon as it appears that there is a problem.

### Louisiana

In Louisiana, consumers can file civil claims against abusive contractors or predators. under laws that “impose a duty upon contractors to construct a work that is suited for its intended purposes, and to perform their work in a good and workmanlike manner free from defects in materials and workmanship.”<sup>71</sup> A contractor is liable if his work “should fall to ruin either in whole or in part, on account of the badness of the workmanship”<sup>72</sup> or he fails to do the work “in the manner and at the time he has agreed to do it.”<sup>73</sup>

Consumers can also pursue claims against contractors under Louisiana’s unfair trade practices act which also prohibits deceptive practices.<sup>74</sup> In cases where a violator has been put on notice by Louisiana’s attorney general, a consumer can seek treble damages as well as actual damages.<sup>75</sup>

Some home repair consumers may also have claims under the residential truth in remodeling, renovations and construction act, which imposes strict liability on a contractor who fails to notify a consumer that in case of a dispute the contractor could pursue payment by placing a lien on a homeowner’s property.<sup>76</sup>

Attorneys at New Orleans Legal Assistance have received approximately 100 contractor fraud complaints since Katrina, according to lawyer Jay Welch, who himself has represented about three dozen victims. NOLAC provides free legal services to low-income clients.

NOLAC lawyers have found home repair fraud cases to be time consuming, and successful judgments difficult to secure and collect, according to Welch.

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<sup>71</sup> “Consumer Law – Strategies for Representing the Consumer” by Charles Delbaum and Kathy Roux in “Louisiana Legal Services and Pro Bono Desk Manual 2005,” p. 113.

<sup>72</sup> Louisiana Civil Code, article 2762.

<sup>73</sup> Louisiana Civil Code, article 2769.

<sup>74</sup> Louisiana Revised Statutes 51:1401 et seq.

<sup>75</sup> “Consumer Law – Strategies for Representing the Consumer” by Charles Delbaum and Kathy Roux in “Louisiana Legal Services and Pro Bono Desk Manual 2005,” p. 40.

<sup>76</sup> Louisiana Revised Statutes 9:4851 et seq.

As a practical matter, a consumer can only hope to collect on a civil claim if the defendant can be found and if he or she has assets that can be sought in a judgment or settlement. That difficulty existed even before Katrina, says Charles Delbaum, a former NOLAC attorney.

Consumers whose incomes are too high to qualify for representation by legal services attorneys face tough choices if they pursue civil actions against contractors. Pro bono attorneys generally haven't been available to donate their services in home repair fraud cases, according to Welch. And while some private attorneys have solicited home repair cases, Welch says that such cases have to overcome substantial obstacles to obtain collectible judgments. In addition, those pursuing civil claims in home repair disputes are likely to need expert testimony that is expensive and entails overcoming the reluctance of knowledgeable contractors to testify against their peers, Delbaum says.

### Mississippi

In Mississippi, a consumer seeking to file a civil lawsuit against a contractor can allege breach of contract. A plaintiff who prevails is entitled to actual or compensatory damages. If actual malice, fraud or gross negligence is shown, punitive damages can also be awarded.<sup>77</sup>

In addition, Mississippi law guarantees home repair consumers the right to a workmanlike job, according to Eisler. That right and the normal statute of limitations for enforcing it survive even if language in the contract says otherwise, he says.

Civil claims of fraud are generally not effective for consumers because such claims require a proof of intent. Such claims can be especially difficult if a contractor shows that a consumer failed to read the contract before signing it.<sup>78</sup>

Filing a lawsuit is likely to be an uphill battle for Mississippi home repair consumers, says Bobby Long, a Gulfport construction attorney. Long, who rebuilt his own house after it was destroyed by Katrina and later volunteered to help victims of contractor fraud, says that by February 2008 he had sent about 10 demand letters and filed four or five lawsuits on behalf of those victims but they hadn't had much impact. Many contractors who victimized consumers were from other areas and, even when

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<sup>77</sup> Mississippi Center for Justice, Manual for pro bono attorneys handling contractor fraud and breach of contract cases, draft, p. 10-11.

<sup>78</sup> Ibid, p. 9.

those contractors could be found and served with a lawsuit, would not respond, he says. Even winning could prove hollow, he adds, noting that “you get a judgment and collecting is real time-consuming and expensive.”

## X. Conclusion

Victims of Katrina have drawn upon deep reservoirs of courage, determination and resourcefulness in their efforts to rebuild their homes and contribute to the recovery of their communities. At the same time, predators and abusive contractors have taken away money and peace of mind from many homeowners. This report documents the experiences of some consumers, advocates and government officials who took on predators in the wake of Katrina. It also catalogues the protections provided to consumers in Louisiana and Mississippi and the recourse available to victims.

While fraud and abuse in the home repair market accounted for only a small portion of the pain and financial damage endured by Katrina’s victims, these problems nonetheless deserve attention. The hurricanes that roared in off the Gulf in 2008 provided a painful reminder that the lessons learned by Katrina’s victims remain timely and important to consumers.

Even in normal times such lessons can help consumers and advocates understand the consumer protections afforded by laws and rules in the home repair market, as well as the limitation of those laws and rules. These lessons can also increase the effectiveness of government officials responsible for enforcement and advocates who represent consumers.

Storms and similar disasters are not rare occurrences. We hope these lessons will help consumers, advocates and officials keep up the battle to rebuild after Katrina, respond better to the recent wave of devastation and meet fresh challenges in the future.

*Note on sources: Unless otherwise cited, quotes and information come from telephone or in-person interviews with the subjects.*

## APPENDIX

Places to research contractors and file complaints:

| State       | Agency or Organization                          | How to research a contractor  | How to submit a complaint   | Other information            |
|-------------|---|---|---|------------------------------|
| Louisiana   | Louisiana State Licensing Board for Contractors | Check for license on-line at <a href="http://www.lslbc.louisiana.gov/findcontractor.asp">www.lslbc.louisiana.gov/findcontractor.asp</a> or call 225-765-2301; search recent violations database at <a href="http://www.lslbc.louisiana.gov/pdf_files/violations.pdf">www.lslbc.louisiana.gov/pdf_files/violations.pdf</a> . | Submit a complaint by telephone at 800-256-1392 or by e-mail at <a href="mailto:complaints@lslbc.louisiana.gov">complaints@lslbc.louisiana.gov</a> .  | Web site down Sept. 2, 2008. |
| Louisiana   | Better Business Bureau of Greater New Orleans   | Look on-line at <a href="http://search.bbb.org">search.bbb.org</a> or call 504-581-6222   | File a complaint on-line at <a href="https://odr.bbb.org/odrweb/public/GetStarted.aspx">https://odr.bbb.org/odrweb/public/GetStarted.aspx</a> or call 504-581-6222  |                              |
| Louisiana   | Louisiana Attorney General                      | No resource   | File a complaint on-line at <a href="http://www.ag.state.la.us/Complaint.aspx?articleID=16&amp;catID=15">www.ag.state.la.us/Complaint.aspx?articleID=16&amp;catID=15</a> and mail printed copy and supporting documents to the Consumer Protection Section, P.O. Box 94005, Baton Rouge, LA 70804-9005 or call 800-351-4889 |                              |
| Louisiana   |   | Look on-line at <a href="http://contractor.louisianarebuilds.info/">http://contractor.louisianarebuilds.info/</a>   | Review the performance of a contractor on-line at <a href="http://contractor.louisianarebuilds.info/contractor/reviewNew.php">http://contractor.louisianarebuilds.info/contractor/reviewNew.php</a>   |                              |
| Mississippi | Mississippi State Board of Contractors          | Look for licensing information on-line at <a href="http://www.msbec.us/Search2.CFM">www.msbec.us/Search2.CFM</a>  | Print out a complaint form on-line at <a href="http://www.msbec.us/pdf/complaint-form.pdf">http://www.msbec.us/pdf/complaint-form.pdf</a> , and mail completed form to P.O. Box 320279, 215 Woodline Drive, Suite A, Jackson, MS 39232-0279   |                              |
| Mississippi | Better Business Bureau of Mississippi           | Look on-line at <a href="http://ms.bbb.org/search.asp">ms.bbb.org/search.asp</a> or in the bureau's national data base at <a href="http://search.bbb.org">search.bbb.org</a>  | File an on-line complaint at <a href="https://odr.bbb.org/odrweb/public/GetStarted.aspx">https://odr.bbb.org/odrweb/public/GetStarted.aspx</a>  |                              |
| Mississippi | Mississippi Attorney General                    | No resource   | Download complaint and instructions on-line at <a href="http://www.ago.state.ms.us/images/uploads/forms/MS%20AGO-Complaint%20Form.pdf">www.ago.state.ms.us/images/uploads/forms/MS%20AGO-Complaint%20Form.pdf</a> or call 601-359-4230  |                              |