



**SENT VIA EMAIL TO: [bward@atlanta.bbb.org](mailto:bward@atlanta.bbb.org)**

July 8, 2008

Better Business Bureau of Metro Atlanta, Inc.

**Attention: Barbara Ward**

503 Oak Place, Suite 590

College Park, GA 30349

**Re: Additional Response Information For This Complaint**

Dear Better Business Bureau:

The following is our additional response to the above referenced complaint. Please add this to our response file in this matter.

**(Preamble) INTRODUCTION**

On June 14, 2007, even though we were not a member of the BBB, our firm had a “satisfactory record” with the BBB. Starting June 14, 2007, we were solicited by the BBB to join the BBB for a fee. Because of inaccuracies and omissions in our “satisfactory record,” we put off a decision to join. We did however, on July 6, 2007, notify in writing the BBB about these inaccuracies and omissions. We also requested changes in certain details stated in and omitted from our “satisfactory record.” After not receiving the changes we requested, we declined the BBB’s offer to join.

On July 13, 2007, seven days after we sent the BBB our letter detailing the inaccuracies, we received a letter from the BBB stating:

“We have made the factual changes to your report as requested...”

It then went on to state that the BBB was

“...reviewing the information we provide to be sure it is as factual as it can be for the public to view...”

***Incredibly, after receiving our letter and after receiving our denial to join the BBB for a fee, the BBB placed derogatory, unfactual, slanderous, libelous and inaccurate information about***

**our company on the BBB website as well switching our rating to an “unsatisfactory record.”**

***One of the items BBB took issue with is that we investigate claims through use of documentation. The BBB believes this is improper customer relations. However, the BBB uses this very same method with its own customers to resolve issues and complaints. The BBB even stated this in a letter to our firm dated July 30, 2007. The fact that the BBB thinks investigating and documenting a potential claim is improper for our firm to perform is unacceptable to us.***

Thus, because the BBB has notified us of this customer’s complaint, we are taking advantage of this forum and hereby notifying the BBB in writing that the report on our firm is wrong for the following reasons:

1. The report states what the consumer alleges yet fails to state what we allege. For example, occasionally, a consumer just does not have the money for air conditioning work. However, they are hot and in need of air conditioning. So they call us out but fail to tell us that we will not be paid for our work because they lack the funds. Unknowingly, we do the work they request and they contract for. When it comes time to pay, the customer either refuses to pay or they write us a check that later bounces. In each case, the customer claims they were not happy with the service. Because they will not let us back on to the premises and it appears they are receiving cool, dry air, we have no choice but to file criminal charges and send them to collections. Stores prosecute shop lifters. Gas stations file charges against drive-offs. There is nothing more you can do with a person who steals your services or products for free. The customer’s best defense is to take the offense and claim poor workmanship. The BBB does not look at the customer’s bounced check or refusal to pay as imputing criminal intent on the customer. The BBB appears to believe that any customer has the right not to pay for services rendered whenever they feel like it. We request that the BBB at least state under each complaint what we allege the customer did to us to provide a fair and balanced report for a potential consumer to decide.

2. The report states that our “*responses to complaints often request consumers to complete a detailed series of questions.*” Apparently, the inclusion of this statement is meant to taint our company by implying we generate paperwork instead of resolutions. This is remarkable considering the BBB itself uses “investigations” to examine the merits of an issue as evident by the BBB’s letter to us dated July 30, 2007. Unfortunately, the BBB implies that investigating a claim or problem is bad. Instead of stating: “*Many companies do not respond to customer complaints or do not make a serious attempt to understand or remedy the problem. This firm does the opposite by spending a lot of time and effort with paperwork documenting the complaint and any resolution the company offers.*” The BBB, or someone representing the BBB, has cleverly written our report to *spin* the facts to a certain conclusion. Simply put, someone came to the conclusion and instructed someone else to write a report

based on that conclusion. It is amazing since many other businesses do what we do. Recently, an airline lost one of our employee's bags. Instead of handing over the money, the employee had to list what was in the bag. It was a lot of paperwork and I am sure the employee was frustrated. However, the paperwork seemed fair. Eventually, they got their money but the airline made sure they were not being cheated. This is normal conduct by a business to ensure they: (a) understand the problem; (b) understand the cause of the problem; and (c) fix the problem if it is at fault. Another common issue that arises is when a customer calls us to fix their non-working unit. We discover five things wrong with the unit. The customer cannot afford all of the fixes and selects the fix that is the cheapest and will make it work now. Even though we document our recommendations and all of the problems with the unit, the customer still persists. We then fix the one item that makes it work. In one week, the unit fails again. The customer now claims we need to fix the rest of the items for free or replace the unit. This is not new. It happens with car mechanics. If you take your car in for an oil change, and the car has a problem the next day, you assume it was the oil change company's fault. Of course the oil change company will investigate the problem rather than simply replace your engine for free. (See below for the growing list of bankruptcies of our competitors). Furthermore, we do not send a series of questions to all of our customers. In fact, our last 12 responses, as of August 6, 2007, contained no "*series of questions*" to the customer. The BBB fails to mention that. When we do not understand the complaint, we send out questions. In addition, we take every complaint seriously. We do not hide our head in the sand like other businesses. Surely, the BBB ranks us high with the extremely thorough investigation we conduct with each complaint?

3. The report states that "*responses often provide signed affidavits from their employees, suggesting that the consumers are not factual in their accounting of the situations*". The BBB's own website mentions it works closely with law enforcement and governmental agencies. Thus, our firm and others are on notice that this agency is a potential investigatory arm of the government and we should make sure any complaint filed on our firm has all the documentation necessary to show the government that we have investigated this complaint thoroughly. By providing the BBB with all this documentation, we can assure ourselves that the BBB will present our side of the story along with our evidence to the government. It is also very interesting how the BBB has spun this fact. Apparently, it is important for the public to know that our firm sometimes disagrees with the customer. The BBB has chosen not to list the other positive aspects about our company like how many times we correct problems brought to our attention and settle other claims. If we join the BBB and pay the fees associated with this membership, will this change our report? We hope any governmental agency or reporter reviewing this material thoroughly investigates the fees paid to the BBB and how they decide to say what about a particular firm because you can bet we will during the discovery phase of a lawsuit.

4. On our report, the BBB makes statements under the heading "*Additional File Information*" that is false and misleading. The Bureau is disseminating this false information about private individuals or private

employees, which have nothing to do with our firm. What is the purpose of this false information? The BBB is disseminating information on our “*BBB Reliability Report*” under this heading concerning other firms that we have no relation to whatsoever! The Bureau is misleading the public by implying there is some relationship, libeling us and damaging our company. Hopefully, the BBB used a law firm with malpractice coverage to proof our report and hopefully any lawyer or reporter who repeats these claims has deep pockets.

5. The report fails to add a link to our website. Again, the BBB will add direct web links for “members” who pay, however, will not add this web link for “non-members” who do not pay your membership fees. We thought the purpose of the BBB was to inform the public?

6. The BBB will not put up a link on our “*BBB Reliability Report*” to our web site [http://www.airconditioningatlanta.com/Mechanics\\_Customer\\_Compliments.htm](http://www.airconditioningatlanta.com/Mechanics_Customer_Compliments.htm) in order to give our potential customers a “fair and balanced” look at what our customers have been telling us about our services. Again, if we pay, the BBB will play.

7. The report fails to reflect our 25,000+ happy customers. The BBB report does not reflect the thousands (yes that right “thousands”) of customers per season we help, via our “*Same Day Service*” who are desperate to find relief from Atlanta’s oppressive heat and cold, when no other company has appointments available to come out. The reason we can do this is because we pay people to stand around waiting for calls unlike other services who set appointments in two to three days. It costs more and some clients can wait three days and pay less. That is their choice.

Other issues we have with the BBB:

1. No one at the BBB seems to be able to make a final decision on the merits of a complaint.
2. The BBB seems unable or unwilling to either point out to us where we have violated the Law or our contract in relation to a matter, or to have the professionalism and the courage to put a complaint to bed once and for all.
3. It seems no one at the BBB reads our responses, but rather just pushes a button on the BBB’s new computer system.
4. The BBB’s “customer complaint process” seems to be nothing more than an exercise in endurance for both sides.
5. The BBB allows consumers to abuse the BBB’s services.
6. The BBB has failed to respond to many of our response letters requesting assistance to resolve matters with customers.
7. Our unresolved complaints on the BBB’s website closely resemble our stopped payments, bounced checks or refusal to pay list.

In summary, it is interesting how the BBB has never once pointed out to us where we have done anything wrong or illegal. Furthermore, the BBB chooses NOT to see our many satisfied and happy customers, our “*company’s experience in the marketplace in dealing with their customers*” (the BBB will

not put up a link on our “*BBB Reliability Report*” to our web site [http://www.airconditioningatlanta.com/Mechanics\\_Customer\\_Compliments.htm](http://www.airconditioningatlanta.com/Mechanics_Customer_Compliments.htm) in order to give our potential customers a “fair and balanced” look at what our customers have been telling us about our services), but rather the BBB chooses to stay “blind” and slap our firm with an unfounded “unsatisfactory record”.

So, like any good reporter or governmental lawyer, we started wondering how accurate the information was on our competitors. With the very first competitor we looked at, in July of 2007, we discovered a local competitor, Hammack’s Heating and Air not only had a registered sex offender working at their firm but had his HVAC license on probation with the State of Georgia. This was very odd because this firm was not only a paying member to the BBB but was advertising extensively that they were BBB certified. So we sent the BBB a letter in July of 2007 and the BBB stated they would look into it and investigate. (*Remember the above how the BBB places negative language on our firm on the BBB’s website about how terrible it is that we investigate claims?*)

On December 11, 2007, we sent another letter to the BBB detailing additional issues we had with not only with Hammack’s but now with another air conditioning contractor, Reliable Heating and Air. See a summary of the letter below:

*Beginning of Letter*

“Please recall our letter to you dated July 24, 2007. At that time, we brought to your attention the fact that Hammock’s, a member of the BBB’s in good standing, had a sexual offender working for them.

<http://services.georgia.gov/gbi/gbisor/SexualOffenderDetails.jsp?action=SexualOffenderDetails&sexualoffenderId=559801LB6>

We also pointed out the fact that this company’s license is on probation.

[https://secure.sos.state.ga.us/mylicense%20weblookup/docs/2002\\_1158\\_cn208513\\_002.pdf](https://secure.sos.state.ga.us/mylicense%20weblookup/docs/2002_1158_cn208513_002.pdf)

[https://secure.sos.state.ga.us/mylicense%20weblookup/docs/2002\\_1158\\_cn208513\\_001.pdf](https://secure.sos.state.ga.us/mylicense%20weblookup/docs/2002_1158_cn208513_001.pdf)

After almost 5 months of BBB “investigations”, this company’s report still does NOT warn consumer’s of these facts. What is going on?

<http://atlanta.bbb.org/WWWRoot/Report.aspx?site=39&bbb=0443&firm=4000456>

Your organization has questioned our complaint handling including the time period it takes us to conduct an investigation. It appears it takes you at least **4 months** to conduct an investigation on Hammack's; the same investigation that took us about ten minutes. Of course, during that delay, Hammack's was able to tell everyone he was a member in good standing and we assume continue to pay fees to your firm. We have noted his advertisements telling everyone such certification.

Please explain why your investigations take so long?

Why does the BBB not inform the public about Hammock's sex offender?

Other members, in good standing, of the BBB's have come to our attention. Two companies with the same name, Reliable Heating & Air:

<http://atlanta.bbb.org/WWWRoot/Report.aspx?site=39&bbb=0443&firm=4004103>

<http://atlanta.bbb.org/WWWRoot/Report.aspx?site=39&bbb=0443&firm=7268>

A brief two minute search on the internet turned up some interesting information on these two firms. It appears these "good standing" BBB members are in heavy litigation against each other, and that they are in Federal Bankruptcy Court.

[http://www.ganb.uscourts.gov/judges/opn/opn\\_view.php?Id=928](http://www.ganb.uscourts.gov/judges/opn/opn_view.php?Id=928)

The first sentence of the judge's opinion told us Reliable Air has been in bankruptcy since 2005. Page 8 confirms they filed bankruptcy in 2005. Reading further in the opinion, it goes on to state how they have intentionally confused the public as to which company is which including using a phone number that is one digit off.

Yet, despite this, your firm deems it not an issue for the public. It is interesting to note on your report on these two firms, your firm states it knows about this information and considers it trivial.

"In addition, the BBB has a **clear understanding** of the company's business, and the business is not in an industry which has raised significant marketplace concerns."

"The BBB **understands** and has **no concerns** about the company's products, services and type of business."

So, these two companies are creating warranties, signing contracts for service that may carry them for a year and despite being in bankruptcy and possibly not being able to honor those warranties (as we are sure your lawyers have explained to you about bankruptcy and the fact that contracts may be voided), you deem it not an important matter. Wow! What a great service you provide the public. It appears these two firms, **unlike ours**, are paying you to be members. What a coincidence!

We have a few questions for your firm:

Why is “Reliable” a member in good standing?

Why does the BBB have one standard for our firm and another standard for Reliable and Hammack’s?”

*End of Letter*

It appears that until we pay the BBB money to belong to your firm, we will be discriminated against.

On December 13, 2007, frustrated with the clear advantage our bankrupt competitors had on us, we wrote a letter to the President of the Atlanta BBB Fred Elsberry detailing some additional issues we had and reasserting some prior issues:

*Beginning of Letter*

“.....I want to take this opportunity to further explain how our relationship with the BBB looks from this side of the fence so you can have a clear view of the situation.

We look at the BBB as providing two services to the public:

1. Dispute resolution process – this allows for a resolution without litigation;
2. A certification or Seal of Approval that tells the public this is a good company and you can deal with them in confidence. The BBB has checked them out.

We want to focus on number 2.

It is one thing if you simply stated a company like Reliable or Hammack’s is a member. It is another when you use words like:

"Find Businesses You Can Trust"

“Creating a community of trustworthy businesses”

“Celebrating marketplace role models”

The public is trusting your judgment based on statements like these.

Furthermore, the message you give the public is that we have thoroughly vetted these businesses and not everyone gets in the door. You state:

“From BBB inception, businesses that apply to the BBB have undergone a detailed review process and committed to abide by a set of ethical standards for marketplace conduct.”

“BBB Accreditation is an honor – and not every company is eligible. Businesses that meet our high standards are invited to join BBB.”

Then you go on to state that not only do you have the resources to properly supervise these firms, but that you continue to monitor them:

“BBB is the resource to turn to for objective, unbiased information on businesses. Our network of national and local BBB operations allows us to monitor and take action on thousands of businesses issues affecting consumers at any given time.”

“Every BBB Accredited Business is monitored for continuing adherence to BBB standards”

So when you write us and explain your limited resources, and you display on your website Principals of Trust and Ethics while stating you do have these resources, it seems hollow to us when we are singled out and our competitors have free rein to abuse consumers. The public reads these statements on your website and believes them:

“BBB is your key advisor, most reliable evaluator and most objective expert on the topic of trust in the marketplace”

The one thing that we desire is a level playing field; no discrimination; no favoritism; no bias. Tell it like it is. Yet you give our competitors a free pass. We have only started looking at **two**: Hammacks and Reliable. When we pointed out Hammack’s sex offender working for him or his license probation, you were unable to report that to the public for almost five months. What kind of protection is that for families who have this individual in their homes? Do you know how much cheaper my prices would be if I could hire sex offenders (who find it hard to get a job and accept less) and did not have to pay firms for background checks on my people?

What about Reliable? The judge’s orders reads like a novel. Are you aware they have stiffed over one million dollars to suppliers? They stiffed Bell South almost \$100,000. Do you know how much cheaper my prices could be if I did not have to pay advertising? Did you know Reliable stiffed Mingledorf’s (an equipment supplier) for almost \$556,000? Do you know how much cheaper my prices could be if I did not have to pay my suppliers?

You ought to read the drug use, the criminal charges, not paying employees health benefits, the violence. You ought to read this stuff. We are making copies for you. Did you know the two folks who run that company filed bankruptcy in '90 and completed it in '93? Did you know they again filed bankruptcy in '94 and completed it in '97? Did you know Reliable filed bankruptcy in 2005? Your website says you are monitoring these folks.

Fred, the statements you put on Reliable's BBB listing says:  
"...the BBB has a **clear understanding** of the company's business..." ,  
"The BBB **understands** and has **no concerns** about the company's products, services and type of business."

You are misleading the public. Please look at this! This wording is morally and maybe legally wrong!

We are in the process of checking out over 20 pages of our competitors on the BBB website to see what we can find. We will pass that information on to you over the next year. But of course, you can do it yourself if you choose.

I beg you to look at what you tell the public and correct these statements to reflect the truth! Please! You are certifying to the public that our competitors are great companies when they are terrible. Consumers use them and not us and you are playing a role in this. We did not like having cameras shoved in our faces recently. Really, it is not beyond comprehension that 60 Minutes or Dateline does a story on this. Think about it. It would be the end of your business if word got out that the companies that pay get a free pass and the ones that don't get hammered on the website, reported to government agencies and turned in to local reporters. Please live by the ethics and trust you espouse on your website. Surely your lawyers would tell you the same thing.

Tell the public something like this:

This company has pledged to use our dispute resolution process. This company has submitted answers to questions and we have used limited resources to check them out. We do not monitor them after they join until someone brings up an issue. We don't check public records for bankruptcies, lawsuits, sex offenders and criminal charges. We encourage you to do so.

Also you need to say something about volume. If we service 1,500 customers a month and generate two BBB complaints that is far different than servicing 200 complaints and generating one complaint. You need to tell the public that you do not inspect volume and that companies with bigger volumes might have more complaints.

Finally, it is amazing how long it physically takes the BBB to check out these issues on paying members like Reliable and Hammacks yet on us it was instantaneous. This is a serious issue. You may hate us and wake up every day trying to destroy our firm but at least call our suppliers and find out who we owe? Find out about our Christmas party for our employees and suppliers. You would be surprised that we do good things in the community but we never advertise these things. Our religion prohibits it.

We are not as bad as you think and our competitors are not as good as you report. Please correct these injustices while there is time.

We are going to try and use your electronic filing system to respond to complaints rather than mailing and faxing. This may save you some time and money. If the electronic system does not work, we will have to go back to the paper system. Please let us know how we can make the electronic system work better for both of us.

Obviously, this is a lot to digest and we understand that you have a board and advisors and attorneys. We want you to accept this letter in the spirit it is given. We are not running to any government agency or reporter with this information. We are only running to you to give you a chance to do the right thing. Live by the Principles of Trust. Level the playing field....”

*End of Letter*

In April of 2008, we sent the BBB a packet of information on Reliable Heating and Air Conditioning. This packet included court filed documents such as arrest warrants, sworn statements regarding drug use by one of the owners, bankruptcy filings and creditor motions.

We received a response from BBB's President Fred Elsberry that seemed to imply the BBB was looking into this however, with the BBB's ethics being questioned and evidence provided to support our assertions, one would think the BBB would be all over this like the heat on a Georgia summer night. We again urge the BBB to look into how their service supports businesses in bankruptcy, using sex offenders, working with probated state licenses, run by drug users and violent individuals.

We will continue to notify the BBB of additional businesses we discover that have issues we deem important to the public. Here is a list so far of the businesses we have notified the BBB about:

Hammack's Heating and Air Conditioning  
Sex Offender Working for this Firm  
HVAC License on Probation with Georgia

Reliable Heating and Air Conditioning  
Owned by Dan Jape and Barbara Jape

In Bankruptcy since 2005

As of the date of this letter, nothing has been done especially to Reliable's BBB listing which states they are a good company and have diligently paid their fees to BBB even though they owe over a million dollars to creditors in Atlanta. This proves our theory that paying the BBB fees gets you a good listing. One day, somebody is going to expose this injustice and fraud.

Despite the prejudicial treatment of our firm, we wish to thank the Bureau for the opportunity to respond to the above referenced complaint.

**Please reference all attached documentation in accordance with this complaint.**

Thank You.

Sincerely,

*Terry Adams*

Terry Adams  
Mechanic's Heating & Air Conditioning, LLC  
Member