

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE & ALTERATION CONTRACTORS

DEPARTMENT OF LABOR &
ECONOMIC GROWTH,
BUREAU OF COMMERCIAL SERVICES *ex rel*
CAROLINE WOODS

Docket No. 2008-410
Complaint No. 305831

Complainant,

v

RONALD JAY KEAGLE
D/B/A GNR CONSTRUCTION
License No. 21-01-167606

Respondent.

FINAL ORDER

WHEREAS, this matter having come before the Michigan State Board of Residential Builders and Maintenance & Alteration Contractors, hereafter the "Board", on November 18, 2008;

WHEREAS, the Board having received a Hearing Report under MCL 339.514 for this case and the Board having considered the Findings of Fact and Conclusions of Law in the Hearing Report of Edward F. Rodger II, Administrative Law Judge, dated June 6, 2008;

WHEREAS, the hearing report is hereby incorporated by reference;

WHEREAS, the Respondent having been found in violation of the Michigan Occupational Code, PA 299 of 1980, hereafter the "Code," or rules promulgated there under, now, therefore,

IT IS ORDERED, that the following penalties authorized by Section 602 of the Code are imposed:

1. Respondent shall pay a FINE in the amount of \$1,000.00. The fine is payable to the State of Michigan within 60 days from the mailing of this Final Order. Complaint No. 305831 must be clearly indicated on the check or money order, and the payment sent to the Department of Labor & Economic Growth, Administrative Services Division, P.O. Box 30018, Lansing, MI 48909.

2. Respondent shall pay RESTITUTION in the amount of \$3,400.00, to Caroline Woods by certified check made payable to Caroline Woods and mailed to 3302 Glendale Cr., Bay City, MI 48706, within 60 days from the mailing date of this Final Order.

3. Respondent's failure to comply with each and every condition of this Final Order shall result in REVOCATION of any and all Article 24 licenses held by Respondent. No application for licensure, relicensure, reinstatement or renewal shall be considered or granted by the Department until all Final Orders of the Board have been fully complied with. Respondent may not serve as the Qualifying Officer of any licensed corporate entity while any other Article 24 license held by Respondent is in suspended or revoked status.

4. Respondent shall submit in writing to the Michigan Department of Department of Labor & Economic Growth, Bureau of Commercial Services, Administrative Services Division, P.O. Box 30018, Lansing, Michigan 48909, proof of compliance with each and every requirement of this Final Order, in a form acceptable to the Department.

This Final Order shall not be construed as limiting the Department of Labor & Economic Growth, any other agency of the State of Michigan, or any individual as to the use of a lawful method of collection of the payment imposed by this Final Order.

Failure to comply with the provisions of this Final Order is considered a violation of the Code pursuant to Section 604(k) and may result in further disciplinary action.

This Final Order is effective immediately upon its mailing.

Given under my hand at Okemos, Michigan, this 15th day of January, 2009.

BY: 
Mark T. Glynn, Chairperson

Date mailed: 1-15-09

Proof of Compliance should be filed with:

Department of Labor & Economic Growth, Bureau of Commercial Services
Administrative Services Division
P.O. Box 30018
Lansing, MI 48909

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

In the matter of

Docket No. 2008-410

Department of Labor and Economic
Growth
Bureau of Commercial Services,
Petitioner

Agency No. 305831

v

Agency: Bureau of Commercial
Services

Ronald Jay Keagle
d/b/a GNR Construction,
Respondent

Case Type: Sanction

Issued and entered
this 6th day of June, 2008
by Edward F Rodgers II
Administrative Law Judge

HEARING REPORT

PROCEDURAL HISTORY

This matter commenced with the filing of a Request for Hearing on April 2, 2008. Following the receipt of the Request for Hearing, the State Office of Administrative Hearings and Rules (SOAHR) issued a Notice of Hearing on April 4, 2008. The Notice of Hearing issued by SOAHR scheduled a hearing to commence on May 21, 2008.

The Notice was issued pursuant to allegation set forth in a Formal Complaint issued on February 13, 2008. The Complaint alleged that the Respondent violated the Occupational Code of 1980, 1980 PA 299, as amended, (Code), being MCL 339.101, *et seq.* and the Administrative Rules promulgated thereunder.

The hearing in the above matter commenced as scheduled. At the hearing, Kim Breitmeyer, appeared on behalf of Petitioner. Neither the Respondent nor an attorney acting on behalf of the Respondent appeared at the hearing.

At the outset of the hearing on May 21, 2008, Ms. Breitmeyer on behalf of Petitioner requested that the Petitioner be allowed to proceed in the Respondent's absence pursuant to Section 72 of the Administrative Procedure Act of 1969, 1969 PA 306, as amended (APA), being MCL 24.272 and that a default be granted on behalf of Petitioner pursuant to Section 78 of the APA, being MCL 24.278.

Section 72(1) of the APA provides in pertinent part:

If a party fails to appear in a contested case after proper services of notice the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party

§78(2) of the APA provides, in pertinent part:

Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default or other method agreed upon by the parties.

At the hearing the Judge granted Petitioner's Motion for Default. As a result of the default, allegations contained in the Petitioner's Formal Complaint were deemed proven.

During the contested case hearing on May 21, 2008, the following exhibits from Petitioner were admitted into the record:

1. Petitioner's Exhibit 1 is a contract between Respondent and Caroline Woods (Power of Attorney for her parents Mr. and Mrs. Vermeesch).
2. Petitioner's Exhibit 2 is a check, dated October 1, 2005, from Judy

Vermeesch to Respondent in the amount of \$2,180.00.

3. Petitioner's Exhibit 3 is a receipt from Hopkins' Roofing Company, dated January 15, 2007, for necessary repairs to correct poor workmanship in the amount of \$3,400.00.
4. Petitioner's Exhibit 4 is four photographs showing the poor workmanship.
5. Petitioner's Exhibit 5 is the building inspection report.

ISSUES AND APPLICABLE LAW

The general issue in this matter is whether or not the Respondent violated the Code or the Rules. The specific issue in this case is whether or not the Respondent violated §2411(2)(m) of the Occupational Code, 1980 PA 299; as amended; MCL 339.2411(2)(m). That Code states in pertinent part:

Section 2411(2). A licensee or applicant who commits 1 or more of the following shall be subject to the penalties set forth in article 6:

* * *

(m) Poor workmanship or workmanship not meeting the standards of the custom or trade verified by a building code enforcement official.

FINDINGS OF FACT

Based on the record, including the default, the pleadings, and the exhibits accepted into the record, the following Findings of Fact are established:

1. Ronald Jay Keagle d/b/a GNR Construction (Respondent), has, at all times, relevant to this Complaint, been licensed as a residential builder.
2. Respondent entered into a contract to perform services regulated by the Code with Caroline Woods on or about September 28, 2005.

3. Respondent failed to perform the requirements of the contract in a workmanlike manner.

CONCLUSIONS OF LAW

The principles that govern judicial proceedings also apply to administrative hearings. 8 Callaghan's Michigan Pleading and Practice (2d. Ed.) Section 60.48, page 230. The burden of proof is upon Petitioner to prove, by a preponderance of the evidence, that grounds exist for the imposition of sanctions under 1990 AACRS, R 339.1763. Under §72 of the APA, there is no requirement to provide a full evidentiary hearing when all alleged facts are taken as true. Smith v. Lansing School Dist., 428 Mich. 248 (1987). Based upon the record as a whole in this matter, including the exhibits and the fact that a default has been granted, the Petitioner has proven by a preponderance of the evidence that the Respondent violated MCL 339.2411(2)(m) of the Occupational Code.

DESICION

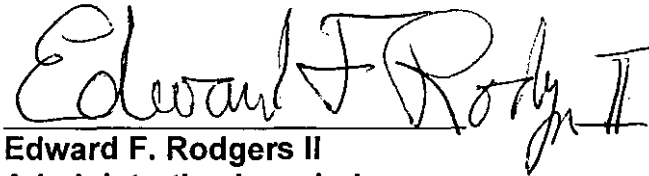
Based upon the Findings of Fact and Conclusions of Law, the Administrative Law Judge finds that the Respondent violated Section 2411(2)(m) of the Occupational Code.

PENALTY RECOMMENDATIONS

Based upon the Findings of Fact and Conclusions of Law, the Administrative Law Judge makes the following penalty recommendations to the Board:

1. Respondent to pay a civil fine in the amount of \$1,000.00 for his violations.

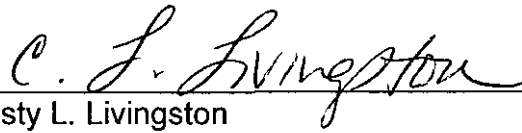
2. Respondent to be severally liable for restitution to Caroline Wood in the amount of \$3,400.00.
3. In the event the civil fine and restitution has not been paid within 60 days following the issuance of the Board's Penalty Order, Respondent's licenses be revoked.

A handwritten signature in black ink that reads "Edward F. Rodgers II". The signature is written in a cursive style with a horizontal line underneath the name.

Edward F. Rodgers II
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the forgoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail, to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on 6th day of June, 2008.



Christy L. Livingston
State Office of Administrative Hearings and Rules

Ronald Jay Keagle
d/b/a GNR Construction
1595 Carter Rd.
Linwood, MI 48634

Ronald Jay Keagle
d/b/a GNR Construction
10 S Garfield
Linwood, MI 48634

Stephen J. Gobbo
Bureau of Commercial Services
Compliance/Legal Unit
Enforcement Division
P.O. Box 30018
Lansing, MI 48909