

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*  
DEAN AND ANGIE CORDS

Docket No. 2008-1007  
Complaint No. 308346

Complainant,

v

DRS CONSTRUCTION COMPANY LLC  
DAVID ROY SCHNEEBERGER, QUALIFYING OFFICER  
License No. 21-02-183997

Respondent.

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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 Erick Williams, Administrative Law Judge, dated September 8, 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 \$7,500.00. The fine is payable to the State of Michigan within 60 days from the mailing of this Final Order. Complaint No. 308346 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 \$5,130.00 to Dean and Angie Cords by certified check made payable to Jerry A. and Christine A. Lane and mailed to 115 N. Bush St., Mason, MI 48854, within 60 days from the mailing date of this Final Order.

3. The license of Respondent, and any and all Article 24 licenses held by Respondent or Respondent's Qualifying Officer shall be and hereby are IMMEDIATELY REVOKED. 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's Qualifying Officer may not serve as the Qualifying Officer of any licensed corporate entity while any other Article 24 license held by Respondent or Respondent's Qualifying Officer is in suspended or revoked status.

4. It is also the intent of the Board that the fine and restitution be assessed one time in order to satisfy the Final Orders issued for complaint Numbers 308346 and 308347. Once the fine and restitution ordered in one of the companion Final Orders are satisfied, the fine and restitution ordered in the other Final Order will be considered satisfied.

5. 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 15<sup>th</sup> day of January 2009.

BY: Mark T. Glynn  
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. 2008-1007

Bureau of Commercial Services,  
Petitioner

Agency No. 308346

v

Agency: Bureau of Commercial  
Services

DRS Construction Company LLC,  
David R Schneeberger, Qualifying  
Officer,  
Respondent

Case type: Sanction

Issued and entered  
this 8<sup>th</sup> day of September 2008  
by Erick Williams  
Administrative Law Judge

HEARING REPORT

BACKGROUND

The Bureau of Commercial Services issued a complaint against DRS Construction and David Schneeberger, under MCL 339.604 and MCL 339.2411. A hearing convened under MCL 24.271 et seq. on September 4, 2008. Jennifer Fitzgerald represented the Bureau of Commercial Services. No one appeared in behalf of DRS Construction or Mr. Schneeberger. The respondents were properly served with notice at 1560 W Dansville Rd, Mason, Michigan, 48854, and the hearing continued in their absence. This opinion finds the complaint substantiated.

ISSUES AND APPLICABLE LAW

MCL 339.604 reads:

A person who violates 1 or more of the provisions of an article which regulates an occupation or who ... (c) Violates a rule of conduct of an occupation.

MCL 339.2411 reads in part:

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

(a) Abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee.

2006 AACS R 338.1533

Rule 33. (1) All agreements and changes to the agreements between a builder, or contractor, and the customer shall be in writing and signed by the parties. Copies of all agreements and changes to agreements shall be in writing, and provided to the customer.

2006 AACS R 338.1551 reads in part:

(2) Upon receipt of a valid and written complaint, the department shall assign a complaint number, acknowledge the complaint and forward a copy of the complaint to the licensee. The licensee shall reply to the department within 15 days from receipt of the complaint and shall confirm or deny the justification of the complaint. A complaint acknowledged as justified shall be corrected within a reasonable time. If a complaint or a portion of the complaint is not acknowledged by the licensee as being justified, then the department shall notify the complainant of the area of disagreement.

### **FINDINGS OF FACT**

Four exhibits were admitted in evidence:

1. Contract
2. Notice to David Schneeberger
3. Estimate, A-Mazing Alternatives LLC
4. Notice to DRS Construction LLC

The respondents having failed to appear, the allegations in the complaint are taken as true. In 2007, DRS Construction, operated by Mr. Schneeberger, entered into a contract with Dean and Angie Cords of Mason to build a covered porch. The

builder neglected to have the Cords sign the contract. The Cords paid the builder \$4,000. The builder did a little work but did not complete the job and never returned the money. The Cords got a \$5,130 estimate from another builder, A-Mazing Alternatives LLC, for completion of the job. The Cords filed a complaint with the Bureau of Commercial Services. BCS sent a notice to the respondents demanding that they correct the problem or respond to the Cords' complaint, but the respondents did not respond or correct the problem.

**CONCLUSIONS OF LAW**

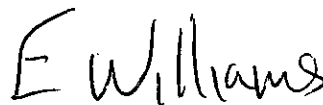
Having abandoned a construction job without a reasonable excuse, DRS Construction LLC violated MCL 339.2411(2)(a)

Having failed to have the Cords sign the contract, DRS Construction LLC violated 2006 AACRS R 338.1533(1) and MCL 339.604(c).

Having failed to correct the problem cited in the complaint, DRS Construction LLC violated 2006 AACRS R 338.1551(2) and MCL 339.604(c)

**Sanction**

The Bureau of Commercial Services recommends a fine, revocation of the builder license of DRS Construction LLC, and restitution to the Cords in the amount of \$5,130.



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**Erick Williams**  
**Administrative Law Judge**

**PROOF OF SERVICE**

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing 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 the 8 day of September, 2008.



Christy L. Livingston  
State Office of Administrative Hearings and Rules

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