

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*
MIKE AND KIM HANSON

Docket No. 2008-45
Complaint No. 300284

Complainant,

v

JOSEPH ALLEN BOYD
D/B/A BEAVER CREEK HOMES
License No. 21-01-137072

Respondent.

FINAL ORDER

WHEREAS, this matter having come before the Michigan State Board of Residential Builders and Maintenance & Alteration Contractors, hereafter the "Board", on May 6, 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 March 11, 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, and the Board having elected to exercise its authority pursuant to MCL 339.514 to impose penalties different from those recommended by the Administrative Law Judge; 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 \$10,000.00. The fine is payable to the State of Michigan within 60 days from the mailing date of this Final Order. Complaint No. 300284 must be clearly indicated on the check or money order, and the payment sent to the Department of Labor & Economic Growth, Bureau of Commercial Services, Administrative Services Division, P.O. Box 30018, Lansing, Michigan 48909.
2. Respondent shall make RESTITUTION to Mike and Kim Hanson by paying the amount of \$63,711.90 as ordered by the 14th Judicial Circuit Court, filed April 19, 2005, Case No. 04-050266-FH-B, in accordance with the terms set by the Court.

3. The license of Respondent, and any and all Article 24 licenses held by Respondent shall be and hereby are IMMEDIATELY REVOKED. 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. 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 failure to comply with each and every condition of this Final Order shall result in CONTINUED REVOCATION of any and all Article 24 licenses held by Respondent.


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 22nd day of July, 2008.

BY: 
Mark T. Glynn, Chairperson

Date mailed: July 22, 2008

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.	2008-45
Bureau of Commercial Services, Petitioner	Agency No.	300284
v Joseph Allen Boyd d/b/a Beaver Creek Homes, Respondent	Agency:	Bureau of Commercial Services
	Case Type:	Sanction

Issued and entered
this 17th day of March, 2008
by Erick Williams
Administrative Law Judge

HEARING REPORT

BACKGROUND

The Bureau of Commercial Services issued a complaint against Joseph Boyd on November 26, 2007, under MCL 339.601, MCL 339.604, and MCL 339.2411. A hearing convened under MCL 24.271 et seq. on March 4, 2008. Kim Brietmeyer represented the Bureau of Commercial Services. Notices of the hearing were sent to Mr. Boyd and his lawyer, Paul Newman, at several addresses, but no one appeared in behalf of Mr. Boyd, and the hearing continued in his absence. This opinion finds the complaint substantiated.

ISSUES AND APPLICABLE LAW

MCL 339.601 (1) reads:

A person shall not engage in or attempt to engage in the practice of an occupation regulated under this act or use a title designated in this act unless the person possesses a license or registration issued by the

department for the occupation.

MCL 339.604 reads:

A person who violates 1 or more of the provisions of an article which regulates an occupation or who commits 1 or more of the following shall be subject to the penalties prescribed in section 602:

(b) Practices fraud, deceit, or dishonesty in practicing an occupation.

(c) Violates a rule of conduct of an occupation.

(d) Demonstrates a lack of good moral character.

MCL 339.2411 reads in part:

(1) A complaint filed under this section or article 5, or both, shall be made within 18 months after completion, occupancy, or purchase, whichever occurs later, of a residential structure or a combination of residential and commercial structure.

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

(j) Aiding or abetting an unlicensed person to evade this article, or knowingly combining or conspiring with, or acting as agent, partner, or associate for an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as or being an ostensible licensed residential builder or licensed residential maintenance and alteration contractor for an undisclosed person who does or shall control or direct, or who may have the right to control or direct, directly or indirectly, the operations of a licensee.

1979 AC R 338.1521 (3) reads in part:

An applicant operating as a corporation shall submit a copy of the articles of incorporation and the latest corporation annual report, if any, and be in good standing as a corporation.

FINDINGS OF FACT

Mr. Boyd incorporated Beaver Creek Homes in Michigan in 2002. The corporation was never licensed as a builder. In 2003, Mr. Boyd, acting in behalf of Beaver Creek Homes, Inc, sold a new house to Michael and Kimberly Hanson. Litigation followed. In March 2005, Mr. Boyd was convicted in Muskegon County Circuit Court on three counts of fraud, embezzlement and wrongfully encumbering a house. He was sentenced to jail and ordered to pay \$63,177 restitution.

CONCLUSIONS OF LAW

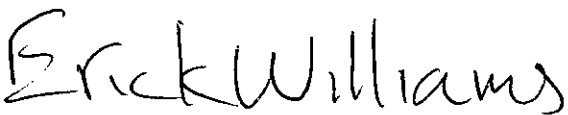
Failing to register or obtain a license for his corporation, Mr. Boyd violated 1979 AC R 338.1521 (3) and MCL 339.604 (c).

Mr. Boyd, signed a contract as president of Beaver Creek Homes, Inc, and thus violated MCL 339.601 (1) and MCL 339.2411 (j) by acting as officer of a corporate builder without a license.

His convictions for fraud and embezzlement imply that Mr. Boyd violated MCL 339.604 (b) and (d).

Sanction

The Bureau of Commercial Services has recommended a \$5,000 fine and revocation of Mr. Boyd's license.



Erick Williams
Administrative Law Judge