

**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*  
WILLIAM AND DEBRA DARE**

**Docket No. 2007-1312  
Complaint No. 301736**

**Complainant,**

**v**

**LAKESHORE BUILDING & CONSTRUCTION, INC.  
ANTHONY WILLIAM RAUNIKAR, QUALIFYING OFFICER  
License No. 21-02-174745**

**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 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 Roger E. Winkelman, Administrative Law Judge, dated February 14, 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. 301736 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 \$3,621.00 to William and Debra Dare, by certified check made payable to William and Debra Dare, and mailed to 7448 Lakeshore Drive, Newport, MI 48166, 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 **SUSPENSION** of any and all Article 24 licenses held by Respondent or Respondent's Qualifying Officer. 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 301736 and 301738. 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 22<sup>nd</sup> 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

**Bureau of Commercial Services,  
Petitioner**

v

**Lakeshore Building & Construction,  
Inc.**

**Anthony William Raunikar, Q.O.,  
Respondent**

**Docket No. 2007-1312**

**Agency No. 301736**

**Agency: Bureau of Commercial  
Services**

**Case Type: Sanction**

and

**Bureau of Commercial Services,  
Petitioner**

v

**Anthony William Raunikar,  
Respondent**

**Docket No. 2007-1313**

**Agency No. 301738**

**Agency: Bureau of Commercial  
Services**

**Case Type: Sanction**

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**Issued and entered  
this 14<sup>th</sup> day of February, 2008  
by Roger E. Winkelman  
Administrative Law Judge**

**HEARING REPORT**

**PROCEDURAL HISTORY**

This proceeding was commenced with the filing of a Notice of Hearing upon a Formal Complaint issued by the Enforcement Division of the Department of Labor & Economic Growth's Bureau of Commercial Services (Petitioner) dated January 5, 2007, charging Lakeshore Building & Construction, Inc., Anthony William Raunikar, Qualifying Officer, and Anthony William Raunikar (Respondents) with one or more violations of the Occupational Code, 1980 PA 299, as amended (Code), MCL 339.101 *et seq.* Pursuant to

Section 92 of the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201 *et seq.*, Respondents were afforded an opportunity to demonstrate compliance prior to the commencement of formal proceedings. Respondents failed to satisfactorily demonstrate compliance and, as a result, the matter was set and noticed for a formal hearing.

The hearing was set for Wednesday January 16, 2008 at the State Office of Administrative Hearings & Rules of the Department of Labor & Economic Growth, Cadillac Place, 2<sup>nd</sup> Floor Annex, Room 2-700, 3026 West Grand Boulevard, Detroit, Michigan, and the same proceeded as scheduled. Roger E. Winkelman presided as Administrative Law Judge. Kim Breitmeyer, Administrative Law Specialist, appeared on behalf of the Petitioner. William Dare (Homeowner), Debra Dare (Homeowner), and Bernard Ciupak (Village Estral Beach Building Inspector) appeared as Witnesses for Petitioner. Anthony William Raunikar appeared in pro per on behalf of Respondents.

### **ISSUES AND APPLICABLE LAW**

The general issue presented is whether Respondent violated the Code, with respect to the practice of residential building. The specific issues are whether Respondent violated MCL 339.601(1), MCL 339.604(c) & (h) and 1979 AC, R338.1536 and 1979 AC, R 338.1551(4) & (5) of the Code, which provide, in pertinent part:

**Sec. 601. (1) 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.**

**Sec. 604. 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:**

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

(h) Violates any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.

**Rule 36.** Acceptance or performance of a contract procured by a salesperson not licensed under a builder or contractor, or acceptance or performance of a contract, other than the sale of real property, procured by anyone not licensed under the act, is prohibited.

**Rule 51. (1)** A complaint shall be submitted in a form specified by the department.

(4) If a complaint is justified by the local building inspector or by a person authorized by the department to make inspections, the builder or contractor shall correct the complaint within a reasonable time. Failure or refusal by the licensee to correct a structural matter that is materially deficient, dangerous, or hazardous to the owners shall be presumed to be dishonest or unfair dealing.

(5) Standards of construction shall be in accordance with the local building code, or in the absence of a code in accordance with the building code of the nearest political subdivision having a building code.

## EXHIBITS

Petitioner offered the following exhibits for consideration at the hearing:

<u>Exhibit</u>	<u>Description</u>
1	Contract
2	Total payments \$8, 393.29
3	Repair estimate of \$3,621.00
4	License Verifications
4A	Pictures of skylight
4B	Pictures of Flashing
4C	Pictures of Windows installed
4D	Pictures of Cracked Tiles
4E	Pictures of Windows
5	Articles of Incorporation

- 7 Verification of License for Dan Edwards
- 8 Building Permit
- 9 Inspection Report

Respondent offered the following exhibits for consideration at the hearing:

<u>Exhibit</u>	<u>Description</u>
A	Letter to Homeowners
B	Letter to Building Inspector

### FINDINGS OF FACT

Dan Edwards, on behalf of Lakeshore Building & Construction, Inc., entered into a contract to perform services regulated by the Occupational Code with Homeowners on or about May 25, 2004. (Petitioner's Exhibit 1). Dan Edwards was not a licensed salesperson (Petitioner's Exhibit 7) at that time.

Lakeshore Building & Construction was issued a Corporate Residential Building license on December 20, 2004 and has been continuously licensed since. (Petitioner's Exhibit 4)

According to the Articles of Incorporation for Respondent Lakeshore Building & Construction, Inc. (Petitioner's Exhibit 5), which was filed with the State of Michigan on November 17, 2003, Anthony W. Raunikar and Dan Edwards were the incorporators.

Anthony William Raunikar was issued an Individual Residential Builder License on June 8, 2004 and has been continuously licensed since. (Petitioner's Exhibit 4)

As per Petitioner's Exhibit 2, Homeowners paid Respondents by two checks totaling \$8,393.29. Both of these checks were made out to Lakeshore Building and Construction. The check for \$3,938.50 is endorsed by Dan Edwards. The second check for \$4,454.79 was endorsed by Tony Raunikar.

A Complaint against Respondents, conforming to the requirements of Section 2411 of 1980 PA 299, as amended; MCL 339.2411 has been filed with the Michigan Department of Labor & Economic Growth.

On or about December 2, 2005, Bernard Ciupak, Village of Estral Beach Building Inspector issued a report noting code violations and workmanship violations which are incorporated by reference through Petitioner's Exhibit 9.

On or about July 12, 2004, Respondent Anthony Raunikar applied for and was issued a building permit to provide the services that were the subject of the contract with Homeowners. (Petitioner's Exhibit 8)

Respondent accepted a contract procured by a salesperson, not licensed under Respondents, per Petitioner's Exhibit 7. (contrary to 1979 AC, R 338.1536)

Respondent Anthony William Raunikar failed to ensure that services provided were performed in a workmanlike manner. (contrary to MCL 339.2411(2)(m))

Respondents, in performance of the services, failed to comply with Section R903.2; R905 and R806 of the 2003 Michigan Residential Code, which was adopted pursuant to the Stille-DeRossett-Hale single state construction code act, effective February 29, 2004. (contrary to 1979 AC, R 338.1551(5))

Respondents failed to correct those violations within a reasonable time. (contrary to 1979 AC, R338.1551(4)) Respondents were given many opportunities to fix the violations.

Respondent Lakeshore Building & Construction, Inc., has violated a provision or rule for which a penalty is not otherwise prescribed.

Respondents have violated a rule of conduct in practicing an occupation.  
(contrary to MCL 339.604(c))

Respondent Anthony William Raunikar was a party to the acts and omissions alleged and was in a position to ensure compliance with the Occupational Code or otherwise prevent the violations that are the subject of this complaint but failed to do so.

### **CONCLUSIONS OF LAW**

The principles that govern judicial proceedings also apply to administrative hearings. 8 Callaghan's Michigan Pleading & Practice (2d ed) § 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 upon Respondent. 1990 AACRS, R 339.1763. Petitioner has proved by a preponderance of the evidence that Respondents violated MCL 339.601(1), MCL 339.604(c) & (h) and 1979 AC, R338.1536 and 1979 AC, R 338.1551(4) & (5) of the Code.

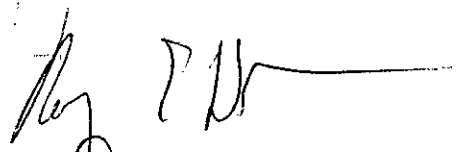
### **DECISION AND RECOMMENDED SANCTIONS**

It is the decision of this Administrative Law Judge that Respondent violated MCL 339.601(1), MCL 339.604(c) & (h) and 1979 AC, R338.1536 and 1979 AC, R 338.1551(4) & (5) of the Code as described in this Hearing Report. Petitioner recommended that sanctions include a fine of \$3,000.00 and restitution of \$3,621.00 payable to William and Debra Dare (Homeowners).

It is recommended that the Board include the following as sanctions in this matter:

1. Payment of a civil fine in the amount that the Board deems fair and reasonable.

2. Payment of restitution to William and Debra Dare of \$3,621.00.
3. In the event the civil fine and restitution have not been paid within 60 days following the issuance of a final order, then all Article 24 licenses should be suspended and no new or renewal licenses should be issued until the civil fine and restitution have been paid.
4. In the event the civil fine and restitution have not been paid within 6 months following the issuance of a final order, then all Article 24 licenses should be revoked.



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**Roger E. Winkelman**  
**Administrative Law Judge**