



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

KEITH W. COOLEY
DIRECTOR

DEPARTMENT OF LABOR & ECONOMIC
GROWTH,
BUREAU OF COMMERCIAL SERVICES, ex rel
STEPHEN SLEGER

Complaint No.: 307160
Docket No.: 2008-276

Complainant,

V

DANIEL J. HOLMQUIST
License No. 21-01-124312

Respondent.

FINAL ORDER

WHEREAS, this matter having come before the Board of Residential Builders and Maintenance and Alteration Contractors, and

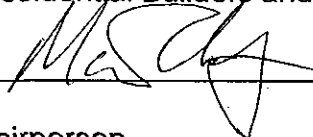
WHEREAS, Daniel J. Holmquist, License No. 21-01-124312, has agreed with the requirements, conditions and terms set forth with specificity in a Stipulation attached hereto, signed by Respondent on April 11, 2008, Emily W. Fransted, Esq., Attorney for Respondent, on April 11, 2008, William D. Wilhelm Jr., Administrative Law Specialist, on April 22, 2008, and approved under delegated authority by Stephen J. Gobbo Esq., Legal Affairs Division Director, on June 6, 2008, on behalf of the Bureau of Commercial Services, Department of Labor & Economic Growth.

NOW, THEREFORE, IT IS HEREBY ACKNOWLEDGED that the Board of Residential Builders and Maintenance and Alteration Contractors, pursuant to MCL 339.508(3); having considered and found said Stipulation acceptable, does hereby incorporate same by reference thereto in this Final Order.

This Final Order is effective immediately upon its mailing.

Given under our hands at Okemos, Michigan, this 22nd day of
July, 2008.

Board of Residential Builders and Maintenance and Alteration Contractors

By: 

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, Michigan 48909

This is the last and final page of the Final Order in the matter of Daniel J. Holmquist, Complaint No. 307160, before the Board of Residential Builders and Maintenance and Alteration Contractors.

RECEIVED

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BUREAU OF COMMERCIAL SERVICES

APR 14 2008

DEPARTMENT OF D.L.E.G.
C.E.D. - COMPLIANCE UNIT

DEPARTMENT OF LABOR &
ECONOMIC GROWTH,
BUREAU OF COMMERCIAL SERVICES, *ex rel*
STEPHEN SLEGER

Complainant,

v

DANIEL J. HOLMQUIST
License No. 21-01-124312

Docket No. 2008-279
Complaint No. 307160

Respondent.

STIPULATION

This matter having been scheduled for a Formal Administrative Hearing before the State Office of Administrative Hearings and Rules (SOAHR) on April 15, 2008, pursuant to a Formal Complaint, hereafter "Complaint," dated November 6, 2007, filed in accordance with the provisions of the Michigan Occupational Code, 1980 PA 299, as amended, MCL 339.101 et seq., against DANIEL J. HOLMQUIST, hereafter "Respondent," by the Department of Labor & Economic Growth, and all parties being desirous of reaching an amicable settlement of said Complaint; therefore,

1. **IT IS STIPULATED**, by and between the parties hereto, that there currently is pending related civil litigation between Respondent and Complainant in Case No. 08-11464-CK, 49th Circuit Court, Osceola County. Therefore, Respondent is entering into this Stipulation with the understanding that any admission in this administrative proceeding is not to be considered as an admission of liability in the pending civil litigation case and Respondent is of the understanding that he reserves the right to contest all allegations in the civil litigation case.
2. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that the Respondent admits to the factual allegations and violations set forth in numbered paragraphs of the Formal Complaint in this matter as follows:
 5. Respondent failed to perform the requirements of the contract in a workmanlike manner, contrary to MCL 339.2411(2)(m).
 8. Respondent failed to reduce changes in the agreement (contract) to a writing, dated and initialed by the parties, contrary to 2006 AACCS, R 338.1533(1).

9. Respondent violated a rule of conduct (see rule violation in #8), contrary to MCL 339.604(c).

3. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that all other charges, as set forth in Paragraphs #6 and #7 are dismissed pursuant to the principle of settlement and compromise. It is noted that Respondent contends that Complainant failed to fully pay for services and materials provided pursuant to the contract, including extras, and Complainant disputes that contention. The allegation in Paragraph #6, concerning Respondent's failure to satisfy a Lien recorded by Big Rapids Cash & Carry Lumber, in the amount of \$10,303.00, was dismissed because Respondent provided an Affidavit, dated March 20, 2008, and a Discharge of Lien, dated March 20, 2008, providing evidence that Respondent satisfied the Lien. It is also noted that the allegation in Paragraph #7, concerning Respondent's failure to satisfy a Lien recorded by Sweet Tile & Carpet, Inc., in the amount of \$5,709.53, was dismissed because Respondent alleges that he did not receive the related payment from Complainant and the allegation will be adjudicated in the pending related civil litigation case.

4. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that it is acknowledged that the Formal Complaint does not allege that Respondent failed to correct the alleged workmanship items [2006 AACRS, R 338.1551(4)], as the Complainant did not provide Respondent with an opportunity to correct the items due to the financial dispute that was pending between the parties.

5. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that the issue of Restitution is not being addressed in this administrative proceeding because the issue will be adjudicated in the pending related civil litigation case between Respondent and Complainant.

6. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that Respondent acknowledges that Respondent was issued an Individual Builder License (No. 21-01-124312) in the name of Daniel J. Holmquist (only) and Respondent's license does not currently contain the "doing business as" name of "Holmquist Construction." Therefore, Respondent acknowledges that, pursuant to builder licensing regulations, if Respondent contracts and/or advertises under the name of "Holmquist Construction," Respondent's builder license must include the name of "Holmquist Construction" as a "d/b/a." [see Administrative Rule 21(2)(a); 2006 AACRS, 338.1521(2)(a)]. Accordingly, in order to comply with Rule 21(2)(a), Respondent must obtain a Certificate of Assumed Name issued by the county clerk where Respondent resides, and Respondent must file with the Department, a completed "Request for Name and/or Address Change" form – including a copy of the Certificate of Assumed Name filed with the county clerk authorizing Respondent to conduct business under that name.

7. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that Respondent shall pay a FINE in the amount of TWO THOUSAND Dollars and No Cents (\$2,000.00). The Fine shall be paid by Certified Check or Money Order, with Complaint No. 307160 clearly indicated on the Certified Check or Money Order, made payable to the STATE OF MICHIGAN, within SIXTY (60) DAYS of the date of mailing of the Final Order in this matter. The Certified Check or Money Order shall be mailed to the Department of Labor & Economic Growth, Bureau of Commercial Services, Enforcement Division, P.O. Box 30018, Lansing, Michigan 48909.

8. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that failure to comply with the terms and conditions set forth in this Stipulation shall result in Suspension of all Article 24 licenses or registrations of Respondent (individual and/or corporate) or in Denial of any license or registration renewal and Denial of future applications for licensure or registration until compliance is made with all the terms or conditions of this Stipulation.

9. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that based upon the agreement to execute this Stipulation, the Administrative Hearing scheduled to be held on April 15, 2008, was dismissed/cancelled (without prejudice), by the State Office of Administrative Hearings and Rules (SOAHR), at the request of the Bureau of Commercial Services.

10. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that Respondent agrees to submit written proof of having complied with each requirement of this Stipulation/Final Order, in a form acceptable to the Department, to the Michigan Department of Labor and Economic Growth, Bureau of Commercial Services, Administrative Services Division, P.O. Box 30018, Lansing, MI 48909 (517) 241-9272. Forms of acceptable proof of monetary restitution payment, if restitution is a part of the Stipulation, include: A copy of the front and back of the cancelled check that was made payable to the person(s) ordered to receive restitution; or a receipt signed by the person(s) to whom restitution was payable, stating restitution was paid and the amount paid.

11. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that the Director of the Enforcement Division of the Bureau of Commercial Services or his designee must approve this Stipulation before the Director forwards it to the Board of Residential Builders and Maintenance and Alteration Contractors for final approval. Should the Director, his designee or the Board reject this Stipulation, the Department will schedule the matter for an Administrative Hearing without prejudice to either party.

Respondent understands and intends that by signing this Stipulation, he is waiving the right, pursuant to the Occupational Code, *supra*, the rules promulgated pursuant thereto, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 et seq., to a Hearing before an administrative hearing officer at which time the Department would be required to prove the charges set forth in the aforesaid Complaint by presentation of evidence and legal authority and at which Respondent would be entitled to appear with or without the benefit of an attorney to cross-examine all adverse witnesses and to present such testimony, other evidence or legal authority deemed appropriate as a defense to said charges.

This Stipulation is agreed to by:

Respondent:

Daniel J. Holmquist
Daniel J. Holmquist *enf*

4/11/2008
Date

11414 S. Hawkins Road, Reed City, MI 49677
Respondent Address (current address)

Emily W. Fransted
Emily W. Fransted, Esq. (or)
Steve Lobert, Esq.

4/11/2008
Date

Bureau of Commercial Services:

William D. Wilhelm, Jr.
William D. Wilhelm, Jr.
Administrative Law Specialist
Legal, Compliance, F.O.I.A. Unit
Enforcement Division

4/22/08
Date

Approved under delegated authority:

Stephen J. Gobbo, Esq.
Stephen J. Gobbo, Esq.
Commercial Enforcement Division
Date: Apr 6, 2008

Approved: _____
G. Archie Millben, Director
Enforcement Division

Date