

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH¹
BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE & ALTERATION CONTRACTORS

DEPARTMENT OF ENERGY, LABOR &
ECONOMIC GROWTH,
BUREAU OF COMMERCIAL SERVICES *ex rel*
JAMES AND CYNTHIA KNOWLTON

Docket No. 2008-959
Complaint No. 306572

Complainant,

v

KEITH W GROGITSKY
License No. 21-01-075738

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 5, 2009;

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 January 18, 2009;

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 \$10,000.00. The fine is payable to the State of Michigan within 60 days from the mailing of this Final Order. Complaint No. 306572 must be clearly indicated on the check or money order, and the payment sent to the Department of Energy, Labor & Economic Growth, Final Order Monitoring, P.O. Box 30018, Lansing, MI 48909.
2. The license of Respondent and any and all Article 24 licenses held by Respondent hereby are IMMEDIATELY REVOKED. No application for licensure, relicensure, reinstatement or

¹ Effective December 28, 2008, by Executive Order 2008-20, the Department of Labor & Economic Growth (DLEG) was reorganized and renamed as the Department of Energy, Labor & Economic Growth (DELEG).

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.

3. It is the intent of the Board that the fine be assessed one time in order to satisfy the Final Orders issued for complaint numbers 306571 and 306572. Once the fine ordered in one of the companion Final Orders is satisfied, the fine ordered in the other Final Order will be considered satisfied.

4. Respondent shall submit in writing to the Michigan Department of Energy, Labor & Economic Growth, Bureau of Commercial Services, Final Order Monitoring, 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 Energy, 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 day of July, 2009.

BY: 
Mark T. Glynn, Chairperson

Date mailed: July 22 2009

Proof of Compliance should be filed with:

Department of Energy, Labor & Economic Growth, Bureau of Commercial Services
Final Order Monitoring
P.O. Box 30018
Lansing, MI 48909

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Docket No. 2008-959

Bureau of Commercial Services,
Petitioner

Agency No. 306572

v

Agency: Bureau of Commercial
Services

Keith W Grogitsky QO,
Respondent

Case type: Sanction

Issued and entered
this 18th day of January 2009
by Erick Williams
Administrative Law Judge

HEARING REPORT

BACKGROUND

The Bureau of Commercial Services issued a complaint against Keith Grogitsky on May 13, 2008, under MCL 339.604 and MCL 339.2411. A hearing convened under MCL 24.271 et seq. on December 17, 2008. William Wilhelm Jr represented the Bureau of Commercial Services. Notice was sent to Mr. Grogitsky at an address in Grand Blanc, but no one appeared in behalf of KGB. Since Mr. Grogitsky had actual notice of the proceedings, having earlier filed an adjournment motion, the hearing continued in his 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 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.

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....

(c) Failure to account for or remit money coming into the person's possession which belongs to others....

FINDINGS OF FACT

KGB Development Inc had a builder's license active from 2000 to 2007. Keith Grogitsky is the corporation's qualifying officer; he has a builder's license which has been active since 1987 and is currently active. Exhibit 1.

In January 2006, KGB contracted to build a house in Lewiston, MI, for James and Cindy Knowlton at a price of \$300,000. Exhibit 5.

Between January and October 2006, the Knowltons paid KGB \$203,000. Exhibit 6.

KGB did not pay all its subcontractors.

In December 2006, United Building Centers filed a lien against the Knowltons. Exhibit 9.

The Knowltons paid \$29,539 to suppliers; \$61,549 remains unpaid. Exhibits 8 and 11.

Mr. Grogitsky gave the Knowltons an altered invoice purporting to show charges from an electrical subcontractor, AIM Electric Inc. The original invoice is

Exhibit 13. Exhibit 12 is the altered version handed to the Knowltons – altered to produce a lower invoice amount.

The Knowltons filed a complaint with the Bureau of Commercial Services in April 2007, and the BCS sent KGB a request for an accounting on June 26, 2007. KGB did not respond to the request for an accounting. Exhibits 2, 3 and 4.

The Knowltons terminated the contract in July 2007. Exhibit 10.

Mr. Grogitsky filed a bankruptcy petition in December 2007. Exhibit 14.

KGB Development Inc has not filed a bankruptcy petition.

CONCLUSIONS OF LAW

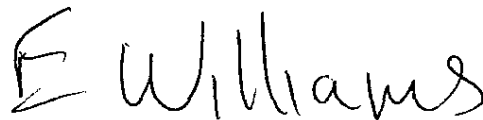
Having altered an invoice purporting to show charges from an electrical subcontractor, KGB Development Inc and Mr. Grogitsky violated MCL 339.604 (b).

Having failed to complete the project by July 2007, KGB Development Inc and Mr. Grogitsky violated MCL 339.2411 (2) (a).

Having failed to account for the money collected on the Knowlton project, KGB Development Inc and Mr. Grogitsky violated MCL 339.2411 (2) (c).

Sanction

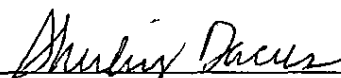
The Bureau of Commercial Services has recommended that KGB Development Inc and Mr. Grogitsky, jointly and severally, be ordered to pay a \$10,000 fine, and if payment is not made within six months after the final order then Mr. Grogitsky's license should be revoked.



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 18th day of March, 2009.



Shirley Dacus

State Office of Administrative Hearings and Rules

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