

STATE OF MICHIGAN  
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH<sup>1</sup>  
BOARD OF RESIDENTIAL BUILDERS AND  
MAINTENANCE & ALTERATION CONTRACTORS

DEPARTMENT OF ENERGY, LABOR &  
ECONOMIC GROWTH,  
BUREAU OF COMMERCIAL SERVICES *ex rel*  
JOHN AND SHARON BLAIR

Docket No. 2009-82  
Complaint No. 309891

Complainant,

v

DAVID C. HARBIN  
License No. 21-01-157505

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 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 February 24, 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 \$1,000.00. The fine is payable to the State of Michigan within 60 days from the mailing date of this Final Order. Complaint No. 309891 must be clearly indicated on the check or money order, and the payment sent to the Department of Energy, Labor & Economic Growth, Bureau of Commercial Services, Final Order Monitoring, P.O. Box 30018, Lansing, Michigan 48909.

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<sup>1</sup> 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).

2. Respondent shall make RESTITUTION to John and Sharon Blair by paying in \$2,200.00, by certified check made payable to John and Sharon Blair and mailed to 13812 Merrie Meadow Lane, South Lyon, MI 48178 within 60 days from the mailing date of the 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. Respondent may not serve as the Qualifying Officer of any licensed 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.

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. 2009-82

Bureau of Commercial Services,  
Petitioner

Agency No. 309891

v

Agency: Bureau of Commercial  
Services

David C Harbin,  
Respondent

Case type: Sanction

Issued and entered  
this 24<sup>th</sup> day of February 2009  
by Erick Williams  
Administrative Law Judge

HEARING REPORT

BACKGROUND

The Bureau of Commercial Services issued a complaint against David Harbin on November 24, 2008, under MCL 339.604 and MCL 339.2411. A hearing convened under MCL 24.271 et seq. on February 23, 2009. William Wilhelm Jr represented the Bureau of Commercial Services. Mr. Harbin was sent notice of the hearing at two addresses, in Whitmore Lake and Livonia, but he did not appear at the hearing, which 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.

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

(g) Commits an act which demonstrates incompetence.

**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: ...

(m) Poor workmanship or workmanship not meeting the standards of the custom or trade verified by a building code enforcement official.

**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....

(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.

**FINDINGS OF FACT**

Mr. Harbin has an individual builder's license. Exhibit 1.

From 1996 until 2005, Harbin also owned a corporation, HCI Carpentry Inc, which was dissolved in 2005. Exhibits 2 and 3.

In 2007, Mr. Harbin signed a building contract with John and Sharon Blair for erection of a pole barn with a cement floor in South Lyon. Exhibit 5.

The Blair's paid HCI Carpentry Inc \$33,000 for the project. Exhibit 6.

Mr. Harbin pulled a building permit under his individual license. After the pole barn was constructed, there were some problems, and the Blair's called for an inspection. Michael S Kruszewski, Green Oak Township Building Official, inspected the construction site on 25 April 2008. Mr. Kruszewski found three workmanship defects. The ridge had not been sealed properly. The metal roof was leaking; there were missing grommets on some of the metal roof panels. The concrete floor was heaving. No permit had been pulled for the concrete floor; the township had not inspected the dirt compaction phase of the job. Exhibit 4.

Mr. Harbin did not respond to the inspection report or the complaints, and he did nothing to correct the construction problems. Complaint, paragraph 11.

The Blairs obtained an estimate from another contractor to correct the construction defects. The estimate quotes a price of \$2,200. Exhibit 7.

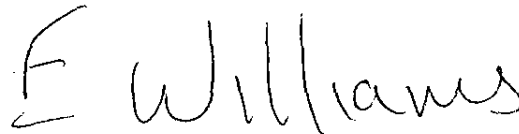
**CONCLUSIONS OF LAW**

Having signed a contract in behalf of a non-existent corporation, Mr. Harbin acted deceitfully, in violation of **MCL 339.604 (b)**.

Having built a pole barn with a leaky roof and heaving concrete floor, Mr. Harbin committed an act that demonstrated poor workmanship and incompetence, in violation of MCL 339.604 (b) and MCL 339.2411 (2) (m).

Having failed to respond to the complaint or correct the construction problems, Mr. Harbin violated 2006 AACRS R 338.1551 (2) and (4).

The Bureau of Commercial Services has recommended a \$1,000 fine and \$2,200 restitution.




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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 24th day of February, 2009.



Shirley Dacus  
State Office of Administrative Hearings and Rules

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