

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 KAKO

Docket No. 2007-1017
Complaint No. 300563

Complainant,

v

WILLIAM JOSEPH BLONDHEIM
License No. 21-01-155841

Respondent.

FINAL ORDER

WHEREAS, this matter having come before the Michigan State Board of Residential Builders and Maintenance & Alteration Contractors, hereafter the "Board", on September 9, 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 Renee A Ozburn, Administrative Law Judge, July 2, 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 \$5,000.00. The fine is payable to the State of Michigan within 60 days from the mailing of this Final Order. Complaint No. 300563 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, MI 48909.

2. Respondent's failure to comply with each and every condition of this Final Order within 60 days shall result in suspension of any and all Article 24 licenses held by Respondent. 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 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. 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 25th day of November, 2008.

BY: 
Mark T. Glynn/Chairperson

Date mailed: November 25, 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. 2007-1017

Bureau of Commercial Services,
Petitioner

Agency No. 300563

Agency: Bureau of Commercial Services

v

William Joseph Blondheim,
Respondent

Case Type: Sanction

Issued and entered
this 2nd day of July, 2008
by Renée A. Ozburn
Administrative Law Judge

AMENDED HEARING REPORT

PROCEDURAL HISTORY

On April 27, 2007, the Bureau of Commercial Services (BCS/Petitioner) issued a Formal Complaint alleging that William Joseph Blondheim (Respondent) violated provisions of the Occupational Code, 1980 PA 299, as amended, (Code) Article 24; MCL 339.2401-2412 *et seq.*, while practicing as a licensed residential builder.

On August 21, 2007 a Notice of Hearing was issued scheduling this matter for hearing on October 2, 2007. The hearing was subsequently adjourned to 9 a.m. on Tuesday, April 15, 2008, at the State Office of Administrative Hearings and Rules, in Detroit, Michigan. The Notice of Hearing, and subsequent Orders of Adjournment, were mailed to Mr. Blondheim at his last known addresses of record: 16168 Masonic, Fraser,

Michigan 48026 and 25620 Roan, Warren, Michigan 48089. The Notice of Hearing informs parties that failure to appear for a hearing may result in a default judgment or decision against the non-appearing party.

On April 15, 2008, at the time scheduled for hearing, Attorney Kim Breitmeyer, appeared and was ready to proceed on behalf of BCS. Mr. Blondheim did not appear. The undersigned Administrative Law Judge deemed that Mr. Blondheim had been duly served with notice, and the hearing could proceed in his absence pursuant to Section 72 of the Administrative Procedures Act, 1969 PA 306, as amended, (APA) MCL 24.201 *et seq.* Ms. Breitmeyer motioned to default Mr. Blondheim pursuant to Section 78 of the APA. The undersigned Administrative Law Judge granted a default. A default judgment constitutes a decision that allegations in a Complaint are true as alleged.

ISSUES AND APPLICABLE LAW

The Petitioner's motion to dismiss paragraphs 9 and 10 of the Complaint was granted. The remaining issue is whether Mr. Blondheim has violated Code Sections 604 (c) and 2411(2)(j) and rule 21(3) of the Residential Maintenance and Alteration Contractors Board Rules promulgated thereunder, being 1979 AC, R 338.1521(3), which provide:

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.

Sec. 2411.

(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.

R 338.1521 Applications for licenses

Rule 21. (3) A foreign company shall submit evidence of current authority to do business in Michigan.

A Hearing Report was issued on June 4, 2008. By correspondence dated June 25, 2008, BCS requested that the Issues and Applicable Law Section be amended to reflect the rule 21(3) in effect during the dates relevant to the Complaint in this matter. Therefore, the above citation for Rule 21(3) should be disregarded. The correct citation is as follows:

Rule 21 (3) An applicant operating under an assumed name or d.b.a. shall submit a certified copy of the assumed name certificate. An applicant operating as a copartnership shall submit a certified copy of the certificate of copartnership. An application 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.

SUMMARY OF EXHIBITS

| | |
|------------------------|------------------------------|
| Petitioner's Exhibit 1 | Contract |
| Petitioner's Exhibit 2 | Checks written to Respondent |
| Petitioner's Exhibit 3 | License History |

FINDINGS OF FACT

1. William Joseph Blondheim (Respondent) has, at all times relevant to the Complaint in this matter, been licensed as a residential builder under the Occupational Code.
2. An authority charged with the enforcement of the laws governing construction of residential or residential and commercial buildings in the political subdivision in which the building is located, has submitted an evaluation of the consumer complaint submitted.

3. Respondent, on behalf of Bronson Architectural Construction, Inc., entered into a contract to perform services regulated by 1980 PA 200, as amended, with William Kako on or about June 17, 2005. (Exhibit 1)
4. At the time Respondent, on behalf of Bronson Architectural Construction, Inc., entered into the contract, Bronson Architectural Construction, Inc., was not licensed (Exhibit 3), although required to be licensed pursuant to 1980 PA 299, *supra*.
5. Respondent has acted as agent, partner, or associate with Bronson Architectural Construction, Inc., an entity not licensed under 1980 PA 299, as amended, although required to be licensed pursuant to 1980 PA 299, *supra*, contrary to MCL 339.2411(2)(j).
6. Respondent failed to file corporate documents with the Department of Labor & Economic Growth before he commenced doing business as Bronson Architectural Construction, Inc., as evidenced by the Exhibit 1 contract, contrary to 1979 AC, R 338.1521(3).
7. On or about June 15, 2005, a permit was issued under Respondent's license to perform the services of the contract.
8. Respondent has violated a rule of conduct in practicing an occupation, contrary to MCL 339.604(c).

CONCLUSIONS OF LAW

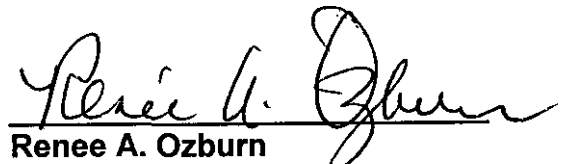
Petitioner bears the burden of proving, by a preponderance of the evidence, that the Respondent violated the Code as alleged, and that grounds exist for imposing sanctions.

Pursuant to the above Findings of Fact, the undersigned Administrative Law Judge concludes that Petitioner has established by a preponderance of the evidence that Respondent violated Code Sections 604(c) and 2411 (2)(j) and rule 21(3) as alleged in the Formal Complaint issued on April 27, 2007.

RECOMMENDED SANCTION

The Petitioner recommends, and the undersigned Administrative Law Judge concurs, that the Board should order as follows:

- 1) Respondent shall pay a civil fine of \$1,000 for unlicensed activity.
- 2) If the fine is not paid within 60 days of issuance of a Final Order in this matter, Respondent's license shall be suspended.


Renee A. Ozburn
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 2nd day of July, 2008.



Lenore Baker
State Office of Administrative Hearings and Rules

Kimberly Breitmeyer
Bureau of Commercial Services
Enforcement Division
P.O. Box 30018
Lansing, MI 48909

Stephen J. Gobbo
Bureau of Commercial Services
Compliance/Legal Unit
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