

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

Docket No. 2007-1499  
Complaint No. 305110

Complainant,

v

JEFFREY G. DOMPIERRE  
License No. 21-05-136735

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 Michelle Howie, Administrative Law Judge, dated July 25, 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 date of this Final Order. Complaint No. 305110 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, Michigan 48909.
2. Respondent shall make RESTITUTION to the Homeowner Construction Lien Recovery Fund in the amount of \$9,000.00 and \$2,100.00 in litigation costs, fees and interest at the statutory rate from September 22, 2006, payable to the Homeowner Construction Lien Recovery Fund and mailed to Department of Labor & Economic

Growth, Administrative Services Division, P.O. Box 30018, Lansing, MI 48909 within 60 days from the mailing date of the Final Order.

3. The licenses of Respondent and any and all Article 24 licenses held by Respondent shall be and hereby are **IMMEDIATELY REVOKED**. Respondent's failure to comply with each and every condition of this Final Order within 60 days shall result in **CONTINUED REVOCATION** 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.

4. It is the intent of the Board that the fine and restitution be assessed one time in order to satisfy Final Orders issued for complaint Numbers 305109 and 305110. Once the fine and restitution ordered in one of the companion Final Orders is 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 25<sup>th</sup> 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**

<b>In the matter of</b>	<b>Docket No.</b>	<b>2007-1498</b>
<b>Bureau of Commercial Services, Petitioner</b>	<b>Agency No.</b>	<b>305109</b>
<b>v</b>	<b>Agency:</b>	<b>Bureau of Commercial Services</b>
<b>Jeff Dompierre Construction Group LLC, Respondent</b>	<b>Case Type:</b>	<b>Sanction</b>

**and**

<b>Bureau of Commercial Services, Petitioner</b>	<b>Docket No.</b>	<b>2007-1499</b>
<b>v</b>	<b>Agency No.</b>	<b>305110</b>
<b>Jeffrey G. Dompierre, Respondent</b>	<b>Agency:</b>	<b>Bureau of Commercial Services</b>
	<b>Case Type:</b>	<b>Sanction</b>

---

**Issued and entered  
this 25<sup>th</sup> day of July, 2008  
by Michelle Howie  
Administrative Law Judge**

**AMENDED HEARING REPORT**

This matter was before the undersigned Administrative Law Judge on February 14, 2008 at the State Office of Administrative Hearings & Rules, Cadillac Place, Detroit, Michigan. On March 11, 2008 separate Hearing Reports were issued for Dockets 2007-1498 and 2007-1499 which contained omissions and incorrect violations cited in the Conclusions of Law Section. In addition, there were typographical errors and the caption for Docket 2007-1498 was incorrect. For the purpose of correcting those errors, this Amended Hearing Report will replace the previous reports issued for Dockets 2007-1498 and 2007-1499.

**PROCEDURAL HISTORY**

This matter commenced with the issuing of a Formal Complaint dated July 26, 2007 by the Department of Labor and Economic Growth, Bureau of Commercial Services, (Petitioner), against Jeff Dompierre Construction LLC, Marc Pouliot Qualifying Officer, and Jeffrey G. Dompierre (Respondents), alleging one or more violations of the Occupational Code (Code), 1980 PA 299, as amended, MCL 339.101, *et seq.* and the administrative rules promulgated thereunder.

A Notice of Hearing was issued December 5, 2007 scheduling a contested case hearing at 9:00am on February 14, 2007 at the State Office of Administrative Hearings & Rules, Cadillac Place, 2<sup>nd</sup> Floor Annex, Suite 2-700, Detroit, Michigan. The notice was properly sent to Respondent's last known addresses of record. The hearing in this matter commenced as scheduled. Administrative Law Judge Michelle Howie presided. Kathy Kakish, Assistant Attorney General, appeared on behalf of Petitioner. Neither Respondents nor an attorney on behalf of Respondents appeared at the hearing. The allegations against Marc Pouliot as Qualifying Officer were dismissed and his named removed from the complaint at the request of Petitioner.

The hearing proceeded in the absence of Respondents pursuant to Section 72 of the Administrative Procedures Act of 1969 (APA), 1969 PA 306, as amended, MCL 24.201 *et seq.*, and a default was granted on behalf of Petitioner pursuant to Section 78 of the APA.

§ 72(1) of the APA provides, in pertinent part:

If a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party.

§ 78(2) of the APA provides, in pertinent part:

Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default or other method agreed upon by the parties.

As a result of the default, the factual allegations contained in Petitioner's Formal Complaint were deemed proven.

### **EXHIBITS**

The following exhibits were admitted into the record at Petitioner's request:

<b><u>Exhibit</u></b>	<b><u>Description</u></b>
A	Proof of Respondents Addresses
B	Proof of Service
C	Complaint with attached Exhibits (1-7)

### **ISSUES AND APPLICABLE LAW**

The specific issue in this case is whether Respondent violated MCL 339.604(c), MCL 339.2411(2)(c) & (l), and MCL 339.2411(3) of the Occupational Code, 1980 PA 299; and Rule 51(2) of the Residential Builders and Maintenance and Alteration Contractors Board Rules, promulgated thereunder, being 2006 AC, R 338.1551(2). Those sections state in pertinent part:

**Section. 604.** A person who violates 1 or more of the following 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.**

**Section. 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:

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

**(l) Becoming insolvent, filing a bankruptcy action, becoming subject to a receivership, assigning for the benefit of creditors, failing to satisfy judgments or liens, or failing to pay an obligation as it becomes due in the ordinary course of business.**

**Section. 2411. (3)** The department shall suspend or revoke the license of a person licensed under this article whose failure to pay a lien claimant results in a payment being made from the homeowner construction lien recovery fund pursuant to the construction lien act, 1980 PA 497, ...

**Rule 51. (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.

**FINDINGS OF FACT**

Based on the record, the following findings of fact are established:

1. Jeff Dompierre Construction Group LLC, Respondent, has at all times relevant to this Complaint, been licensed as a maintenance and alteration contractor under the Occupational Code, 1980 PA 299, as amended, Article 24; MCL 339.2401-2412.
2. Jeffrey G. Dompierre, Respondent, has at times relevant to this Complaint, been licensed as a salesperson for Jeff Dompierre Construction Group LLC under Occupational Code, 1980 PA 299, as amended, Article 24; MCL 339.2401-2412.
3. A complaint against Respondents, conforming to the requirements of MCL 339.2411, has been filed with the Department.
4. On September 22, 2006, as a result of Respondents failure to pay one or more lien claimants, payment was made by the Homeowner Construction Lien Recovery Fund in the amount of \$9000.00 to Building Supply LLC. pursuant to a Consent Judgment in favor of Auger Built, Inc. against the Homeowner Construction Lien Recovery Fund. (Petitioner Exhibit 3, pg.4)
5. The Homeowner Construction Lien Recovery Fund incurred litigation costs in the amount of \$2,100.00. (Petitioner Exhibit 3, pg.5)
6. The facts underlying the payment arose out of and in connection with the performance of Respondents' duties as licensed maintenance and alteration contractor and Respondent Jeffrey G. Dompierre having designated himself owner of Jeff .Dompierre Construction Group LLC. (Petitioner Exhibit 3, pg.6)
7. Respondents failed to remit money belonging to Jeffrey C. and Marie D. Schroeder to Stock Building Supply LLC contrary to MCL 339.2411(2)(c).
8. Respondents failed to account for money, which belonged to Jeffrey C. and Marie D. Schroeder contrary to MCL 339.2411(2)(c).
9. Respondents failed to satisfy a lien filed on January 13, 2005, by Stock Building Supply LLC in the County of Wayne, Michigan see (Petitioner Exhibit 3, pg.7), contrary to MCL 339.2411(2)(l)

10. Respondents failed to respond to the Complaint in a timely manner contrary to 2006 AC, R 338.1551(2).
11. Respondents have violated a rule of conduct in practicing an occupation contrary to MCL 339.604(c).
12. Respondent Jeffrey G. Dompierre was a party to the acts and omissions and was in a position to ensure compliance with the Occupational Code or otherwise prevent the violations but failed to do so.

### **CONCLUSIONS OF LAW**


The principles that govern judicial proceedings also apply to administrative hearings. 8 Callaghan's Michigan Pleading and Practice (2d ed.) Section 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 AACS, R 339.1763. Under § 72 of the APA, there is no requirement to provide a full evidentiary hearing when all alleged facts are taken as true. Smith v Lansing School Dist, 428 Mich. 248 (1987).

Based upon the facts described herein, Petitioner has proven, by a preponderance of the evidence, that Respondent violated Sections 604(c), and 2411(2)(c) & (l) and 2411(3) of the Occupational Code and rule 51(2) of the Residential Builders and Maintenance and Alteration Contractors Board Rules.

### **RECOMMENDATIONS**

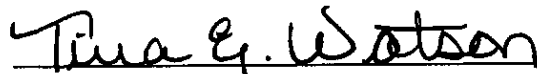
The Administrative Law Judge makes the following recommendations to the Board:

1. Respondent pay a civil fine in an amount deemed appropriate by the Board.
2. Respondent pay restitution of \$11,100.00 to the HCLRF fund.
3. In the event the civil fine and restitution have not been paid within 60 days following the issuance of the Board's Final Order, then all licenses or registrations under the jurisdiction of the Code should be suspended and no new or renewal licenses or registrations should be issued until the civil fine and restitution have been paid.

  
\_\_\_\_\_  
**Michelle Howie**  
**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 25<sup>th</sup> day of July, 2008.



Tina E. Watson

State Office of Administrative Hearings and Rules

Anissa C Hudy  
Warner Norcross & Judd LLP  
2000 Town Center, Ste. 2700  
Southfield, MI 48075

Marc Pouliot  
Jeff Dompierre Construction Group LLC  
32166 Freedom Rd., Apt. 103  
Farmington Hills, MI 48336

Marc Pouliot  
Jeff Dompierre Construction Group LLC  
2244 Cumberland Dr.  
Brighton, MI 48114

Marc Pouliot  
Jeff Dompierre Construction Group LLC  
27620 Farmington Rd Ste.B8  
Farmington Hills, MI 48334

Stephen J. Gobbo  
Bureau of Commercial Services  
Compliance/Legal Unit  
Enforcement Division  
P.O. Box 30018  
Lansing, MI 48909