

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. 2008-112
Complaint No. 305543

Complainant,

v

CHAD DEKON DOUGLAS
License No. 21-01-160075

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 Robert H. Mourning, Administrative Law Judge, dated June 26, 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. 305543 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 \$20,000.00 and \$1,606.50 in litigation costs, fees and interest at the statutory rate from August 18, 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 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. 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.	2008-112
Bureau of Commercial Services, Petitioner	Agency No.	305543
v	Agency:	Bureau of Commercial Services
Chad Dekon Douglas, Respondent	Case Type:	Sanction
_____ /		

**Issued and entered
this 26th day of June 2008
by Robert H. Mourning
Administrative Law Judge**

HEARING REPORT

PROCEDURAL HISTORY

This matter is commenced with the issuance of a Formal Complaint dated November 16, 2007, charging Chad Dekon Douglas (Respondent), with one or more violations of the Occupational Code (Code), 1980 PA 299, as amended, MCL 339.101 *et seq.* On January 25, 2008, a Notice of Hearing was mailed to the parties, scheduling a contested case hearing for March 26, 2008 at 9:00 a.m., in the hearing rooms of the Department of Labor & Economic Growth, State Office of Administrative Hearings and Rules, Ottawa Building, 611 West Ottawa, 2nd Floor, Lansing, Michigan. The Notice of Hearing was mailed to the Respondent's last known address.

On March 26, 2008, the Bureau of Commercial Services (Petitioner) requested an adjournment. On March 31, an Order Granting Adjournment was issued, rescheduling the hearing date to April 30, 2008.

On April 30, 2008, Assistant Attorney General Jennifer Fitzgerald appeared on behalf of the Bureau of Commercial Services. Neither the Respondent nor an attorney on behalf of the Respondent appeared at the hearing.

Assistant Attorney General Fitzgerald requested that the Petitioner be allowed to proceed in the Respondent's absence pursuant to Section 72 of the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.272 (APA), and that a default be granted on behalf of Petitioner pursuant to Section 78 of the APA, being MCL 24.278.

Sec. 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.

Sec. 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.

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

The Petitioner offered the following exhibits, which were admitted into evidence:

Exhibit 1: Certification of Licensure, 9/28/07.

Exhibit 2: Payment from HCLRF, 8/18/06.

Exhibit 3: Claim of Lien, 3/9/05.

Exhibit 4: Litigation Cost Report, 8/18/06.

Exhibit 5: Stipulation and Order, 11/9/06.

ISSUES AND APPLICABLE LAW

The general issue is whether the Respondent violated the Code. The specific issue is whether the Respondent violated MCL 339.2411(3).

FINDINGS OF FACT

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

1. At all times relevant to this Formal Complaint, the Respondent has been licensed as a residential builder under the Code, except as to those events that occurred after May 31, 2006, at which time the license lapsed.

2. On August 18, 2006, as a result of the Respondent's failure to pay one or more lien claimants, payment was made by the Homeowner Construction Lien Recovery Fund (HCLRF) in the amount of \$20,000 to Big L Corporation pursuant to a Stipulation and Order for Subrogation and Dismissal and Assignment of Claim.

3. The HCLRF incurred litigation costs in the amount of \$1,606.50.

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 30.

The burden of proof is upon Petitioner to prove, by a preponderance of the evidence, that grounds exist for the imposition of sanctions upon the Respondent 1990 AACRS, R 339.1763. Under Section 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).

Having granted a default in this case, it is concluded that the Petitioner has established, by a preponderance of the evidence, that the Respondent has violated MCL 339.2411(3) under the Code.

RECOMMEDATIONS

The Administrative Law Judge recommends that the Board impose the following sanctions on the Respondent:

1. A civil fine in the amount of \$10,000.
2. The Respondent shall pay restitution to the HCLRF in the amount of \$21,606.50. The restitution shall be paid within 60 days after the date of the Final Order by the Board. Statutory interest shall accrue from the date of the Final Order of the Board until the restitution is fully paid by the Respondent.
3. In the event the civil fine and restitution are not paid within 60 days following the issuance of a final order by the Board, the Respondent's licenses should be suspended. No licenses should be renewed nor should any new licenses be issued until the civil fine and restitution, including accrued statutory interest, are paid in full.
4. In the event the civil fine and restitution, including accrued statutory interest, have not been paid within 90 days following the issuance of the Board's Final Order, then all licenses under the jurisdiction of the Board should be revoked.



Robert H. Mourning
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 26th day of June, 2008.



Genevieve Williams
State Office of Administrative Hearings and Rules

Chad Dekon Douglas
311 S. Webster
Greenville, MI 48838

Chad Dekon Douglas
749 Crawford
Belding, MI 48809

Daniel Burns
Burns Law Office PLC
29 Pearl St. NW
145 Federal Square Bldg.
Grand Rapids, MI 49503

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