

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. 2008-122  
Complaint No. 301991

Complainant,

v

DONALD S. JOHNSON  
License No. 21-01-061134

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 July 15, 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 Erik Williams, Administrative Law Judge, dated April 16, 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. 301991 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 \$10,000.00 and \$10,150.00 in litigation costs, fees and interest at the statutory rate from October 7, 2005, payable to the Homeowner Construction Lien Recovery Fund and mailed to Department of Labor & Economic

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

3. The license 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 and Respondent's Qualifying Officer. 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 17<sup>th</sup> day of September, 2008.

BY:   
Mark T. Glynn, Chairperson

Date mailed: September 17, 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.	2008-122
Bureau of Commercial Services, Petitioner	Agency No.	301991
v Donald S. Johnson, Respondent	Agency:	Bureau of Commercial Services
	Case Type:	Sanction

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Issued and entered  
this 11<sup>th</sup> day of April, 2008  
by Erick Williams  
Administrative Law Judge

**HEARING REPORT**

**BACKGROUND**

The Bureau of Commercial Services issued a complaint against Donald Johnson on November 29, 2007, under MCL 339.2411. A hearing convened under MCL 24.271 et seq. on April 9, 2008. Susan Balkema represented the Bureau of Commercial Services. Mr. Johnson was served with notice of the hearing, but did not appear, and the hearing continued in his absence. This opinion finds the complaint substantiated.

**ISSUES AND APPLICABLE LAW**

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: ...

(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....

(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, MCL 570.1101 to 570.1305, regardless of whether the person was performing services as a licensee under this article; under the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892; or under 1929 PA 266, MCL 338.901 to 338.917. The department shall not renew a license or issue a new license until the licensee has repaid in full to the fund the amount paid out plus the costs of litigation and interest at the rate set by section 6013 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6013.

### **FINDINGS OF FACT**

The allegations in the complaint are taken as true. Mr. Johnson failed to pay suppliers for a building project in Stevensville; the claimants filed a lien, eventually filed suit, and obtained a payment from the Homeowner Construction Lien Fund.

### **CONCLUSIONS OF LAW**

Having failed to account for money he received for the Stevensville project, Mr. Johnson violated MCL 339.2411 (2) (c).

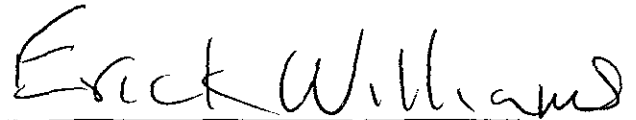
Having failed to satisfy a lien, Mr. Johnson violated MCL 339.2411 (2) (L).

The Bureau of Commercial Services recommends that:

Mr. Johnson shall pay the Homeowner's Construction Lien Fund \$10,150 litigation costs pursuant to MCL 339.2411 (3).

Mr. Johnson shall reimburse the Homeowner Construction Lien Fund for the \$10,000 award pursuant to MCL 339.2411 (3).


Mr. Johnson's license shall be suspended until those amounts are paid.

A handwritten signature in black ink that reads "Erick Williams". The signature is written in a cursive style with a horizontal line underneath the name.

**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 10<sup>th</sup> day of April, 2008.



Genevieve Williams

State Office of Administrative Hearings and Rules

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Donald S Johnson  
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Stephen J. Gobbo  
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