

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*
CARROL A. TILLE

Docket No. 2007-1250
Complaint No. 304817

Complainant,

v

VERN DENNIS LAFOUNTAIN
License No. 21-01-083179

Respondent.

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 Erick Williams, Administrative Law Judge, dated April 8, 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 \$2,500.00. The fine is payable to the State of Michigan within 60 days from the mailing of this Final Order. Complaint No. 304817 must be clearly indicated on the check or money order, and the payment sent to the Department of Labor & Economic Growth, Administrative Services Division, P.O. Box 30018, Lansing, MI 48909.
2. Respondent shall pay RESTITUTION in the amount of \$1,210.00, to Carrol A. Tille by certified check made payable to Carrol A. Tille and mailed to 1759 Arrowhead Court, Defiance OH 43512, within 60 days from the mailing date of this Final Order, providing that the debt represented by the restitution has not been discharged in bankruptcy.

3. Respondent's failure to comply with each and every condition of this Final Order shall result in 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 also the intent of the Board that the fine and restitution be assessed one time in order to satisfy the Final Orders issued for complaint Numbers 304816 and 304817. Once the fine and restitution ordered in one of the companion Final Orders are 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 17th 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. 2007-1250

Bureau of Commercial Services,
Petitioner

Agency No. 304817

v

Agency: Bureau of Commercial
Services

Vern D LaFountain,
Respondent

Case type: Sanction

Issued and entered
this 21st day of April 2008
by Erick Williams
Administrative Law Judge

HEARING REPORT

BACKGROUND

The Bureau of Commercial Services issued a complaint against Vern LaFountain on April 24, 2007, under MCL 339.2411 and MCL 339.604. The hearing convened under MCL 24.271 et seq. on December 18, 2007. Susan Balkema, Assistant Attorney General, represented the petitioner. Vern LaFountain appeared for the respondent. After some discussion the parties agreed to adjourn. The hearing resumed on April 1, 2008. On that date, Ms Balkema appeared, but no one appeared in behalf of Mr. LaFountain. 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: ...

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

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 AACRS R 338.1551 reads in part:

(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.

(5) Standards of construction shall be in accordance with the local building code, or in the absence of a code in accordance with the building code of the nearest political subdivision having a building code.

FINDINGS OF FACT

At the April 1, 2008 session, Ms Balkema reported that she had spoken to Vern LaFountain the day before. He did not want to settle the case but had no objection to a default opinion.

Mr. LaFountain had filed a personal bankruptcy petition, including the homeowners in this matter in the list of creditors.

Ms Balkema introduced two estimates (Exhibit 1) to establish the cost of correcting the defects, totaling \$1,210.

The respondent having failed to appear, the allegations in the complaint are taken as true. L&L Contractors Inc, operated by Vern LaFountain contracted with Carol and Mary Tille for work on a house in Alganssee Township. The local building inspector found defects in the work which were not corrected.

CONCLUSIONS OF LAW

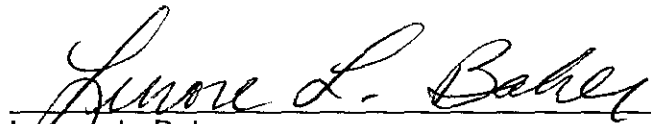
Having failed to correct defects in the Tille job, Vern LaFountain and L&L Contractors Inc, jointly and severally, violated MCL 339.2411 (2) (m), 2006 AACRS R 338.1551 (4), and MCL 339.406 (c).



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 8th day of April, 2008.



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State Office of Administrative Hearings and Rules

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