

**STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE & ALTERATION CONTRACTORS**

In the matter of:

REINER EDMUND WEDEL	Docket No. 2002-444
D/B/A REINER WEDEL CUSTOM HOMES	Complaint No. 8628
License No. 21-01-137563 (Lapsed)	Former Complaint No. 21-00-5071-00

OTHER LICENSE:

**REINER WEDEL CUSTOM HOMES, INC.
REINER EDMUND WEDEL, QUALIFYING OFFICER
License No. 21-02-158220**

_____/

FINAL ORDER

WHEREAS, this matter having come before the Michigan Board of Residential Builders and Maintenance & Alteration Contractors, hereafter the "Board", on November 4, 2003;

WHEREAS, the Board having considered the Findings of Fact and Conclusions of Law in the Hearing Report of Renee A. Ozburn, Administrative Law Judge, dated August 19, 2003;

WHEREAS, the Board having received the Hearing Report under MCL 339.514, and Reiner Edmund Wedel d/b/a/ Reiner Wedel Custom Homes, Licensed Residential Builder, License No. 21-01-137563, hereafter "Respondent", having been found in violation of Sections 604(c); 2411(2)(m) of the Michigan Occupational Code, 1980 P.A. 299, as *amended*, hereafter the "Code", MCL 339.604(c); MCL 339.2411(2)(m) and Rules 51(4); 51(5) of the State Board of Residential Builders and Maintenance & Alteration Contractors General Rules, *promulgated hereunder*, being 1979 AC, R 338.1551(4); 1979 AC, R 338.1551(5);

WHEREAS, the hearing report being hereby incorporated by reference; now, therefore,

IT IS HEREBY ORDERED, that the following penalties authorized by Section 602 of the Code are hereby imposed:

1. Respondent shall pay a FINE in the amount of Five Hundred Dollars and 00/100 Cents (\$500.00), said fine to be paid to the Department of Labor & Economic Growth within sixty (60) days from the mailing date of this Final Order, said fine shall be paid by cashier's check or money order, with Complaint No. 8628 clearly indicated on the check or money order, made payable to the State of Michigan and sent to the Department of Labor & Economic Growth, Bureau of Commercial Services, Enforcement Division, P.O. Box 30185, Lansing, Michigan 48909.

2. Respondent's failure to comply with each and every condition of this Final Order shall suspend any and all Article 24 licenses held by Respondent, including Reiner Edmund Wedel d/b/a Reiner Wedel Custom Homes, Licensed Residential Builder. License No. 21-01-137563 (Lapsed); Reiner Wedel Custom Homes, Inc., Reiner Edmund Wedel, Qualifying Officer, Licensed Residential Builder, License No. 21-02-158220. No application for licensure, relicensure or reinstatement shall be considered by the Department until the fine imposed by this Final Order is paid-in-full.

3. Respondent shall submit in writing to the Michigan Department of Labor & Economic Growth, Bureau of Commercial Services, Audit Unit, 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.

This Final Order is effective immediately upon its mailing.

Given under my hand at Okemos, Michigan, this 3rd day of November 2004.

BY: _____
Mark T. Glynn, Chairperson

Date mailed: _____

Proof of Compliance should be filed with:

**Department of Labor & Economic Growth
Bureau of Commercial Services
Enforcement Division
Audit Unit
P.O. Box 30018
Lansing, MI 48909**

**STATE OF MICHIGAN
DEPARTMENT OF CONSUMER & INDUSTRY SERVICES
BUREAU OF HEARINGS**

In the matter of

Docket No. 2002-444

**Bureau of Commercial Services,
Petitioner**

Agency No. 21-00-5071-00

v

Agency: Bureau of Commercial Services

Reiner Edmund Wedel

**d/b/a Reiner Wedel Custom Homes,
Respondent**

Case Type: Sanction

**Issued and entered
this 19th day of August, 2003
by Renée A. Ozburn
Administrative Law Judge**

HEARING REPORT

PROCEDURAL HISTORY

This matter commenced with a Notice of Hearing (Notice) upon a Formal Complaint (Complaint) by the Bureau of Commercial Services (Petitioner), dated November 5, 2001, which alleged that Reiner Edmund Wedel, d/b/a Reiner Wedel Custom Homes, (Respondent), violated the Occupational Code, 1980 PA 299, as amended, MCL 339.101 *et seq.* (Act 299)

The Notice was issued on March 6, 2002. Although the Notice scheduled a hearing for April 10, 2002, the hearing was subsequently adjourned a number of times. On May 27, 2003, an Order Granting Adjournment scheduled the hearing to begin at 9:00 a.m. on July 25, 2003, at the Department of Consumer & Industry Services, Bureau of Hearings, in Okemos, Michigan. No further adjournments were requested or granted. The Notice, and all

subsequent Orders, has been mailed to the Respondent at his last known address of record, which is 2785 N. Geeck Road, Corunna, Michigan 48817.

The Notice informs all parties that a failure to appear at a hearing may result in a default decision. On July 25, 2003, Attorney Tracey Hampton-Yarborough was present and ready to proceed on behalf of the Petitioner. The Respondent was not present and no one appeared on his behalf. Petitioner requested that the Respondent be defaulted. The undersigned Administrative Law Judge deemed that Respondent had been duly served with notice of the hearing, and granted a default pursuant to Section 78 of the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.271 *et seq.* A default constitutes a decision that all of the allegations contained in the November 5, 2001 Complaint are true.

ISSUES AND APPLICABLE LAW

The Complaint in this matter alleges that Respondent violated Sections 604(c) and 2411(2)(m) of Act 299, and Rules 51(4) and (5) of the Residential Builders and Maintenance and Alteration Contractors Board Rules, promulgated there under, being 1979 AC, R 338.1551(4) & (5). These provisions state as follows:

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:

(3) 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 penalties set forth in article 6:

- (13) Poor workmanship or workmanship not meeting the standards of the custom or trade verified by a building code enforcement official.

Rule 51(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.

Rule 51(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

1. At all times relevant to the Complaint, Respondent was licensed as a residential builder under Act 299.
2. On or about August 25, 1998, Respondent entered into a contract with Melody Lovegrove to perform services regulated by Act 299.
3. In performing the contract, Respondent failed to comply with Sections 1901.1, 721.6.4, 407.4, 721.1, 1504.1 and 1403.1 of 1996 Building Officials and Code Administrators Code, adopted by the County of Shiawassee, pursuant to the State Construction Code Act of 1972, 1972 PA 230, contrary to Rule 51(5).
4. Respondent failed to correct those items justified by a local building inspector within a reasonable time, contrary to Rule 51(4).

5. Respondent failed to perform the requirements of the contract with Ms. Lovegrove in a workmanlike manner, contrary to Section 2411(2)(m).
6. Respondent's violation of rules 51(4) and (5) constitute a violation of rules of conduct in practicing an occupation, contrary to Section 604(c).

CONCLUSIONS OF LAW

The principles that govern judicial proceedings also apply to administrative hearings. The burden of proof is upon Petitioner to prove, by a preponderance of the evidence, that Respondent violated Act 299 as alleged, and that grounds exist for imposing sanctions.

Having granted a default, the undersigned Administrative Law Judge concludes that Petitioner has established, by a preponderance of the evidence, that Respondent violated Sections 604(c) and 2411(2)(m) of Act 299, and Rules 51(4) and (5), as alleged in the November 5, 2001 Complaint.

RECOMMENDED SANCTION

Petitioner recommends, and the undersigned Administrative Law Judge concurs, that the following sanctions should be imposed:

- 1) Respondent should pay a civil fine of \$500.00.
- 2) In the event that the fine is not paid within 60 days following issuance of a final order, Respondent's Article 24 license(s) should be suspended.

Renée A. Ozburn
Administrative Law Judge