

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

In the matter of:

**STEVEN C. YOAS
License No. 21-01-114065
(Lapsed/ Suspended)**

**Docket No. 2003-252
Complaint No. 10315
Former No. 21-01-5961-00**

FINAL ORDER

WHEREAS, this matter having come before the Michigan Board of Residential Builders and Maintenance & Alteration Contractors, hereafter the "Board", on July 15, 2003 and

WHEREAS, the Board having considered the Findings of Fact and Conclusions of Law in the Hearing Report of Gregory Holiday, Administrative Law Judge, dated June 4, 2003,

WHEREAS, the Board having received the Hearing Report under MCL 339.514, and Steven C. Yoas, Licensed Residential Builder, License No. 21-01-114065 (Lapsed/Suspended), hereafter "Respondent", having been found in violation of Section 2411(2)(I) of the Michigan Occupational Code, 1980 P.A. 299, as *amended*, hereafter the "Code", MCL 339.2411(2)(I) and

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 Two Thousand Five Hundred Dollars and 00/100 Cents (\$2,500.00), a higher amount than recommended by the Administrative Law Judge due to the severity of the violations, prior disciplinary action, and the license being currently suspended, said fine to be paid to the Department of Consumer & Industry Services within sixty (60) days from the date of mailing of this Final Order. Said fine shall be paid by cashier's check or money order, with Complaint No. 10315 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 shall make RESTITUTION to Janice M. Hatcher in the amount of Two Thousand Two Hundred Twenty-Nine Dollars and 99/100 Cents (\$2,229.99) by fully satisfying the 1st Judicial District Court Judgment entered in Case No. 01P 145 SC, dated May 31, 2001, plus costs in the amount of Fifty Five Dollars and 73/100 cents (\$ 55.73) and interest at the statutory rate, pursuant to the attached Statutory Interest Schedule which accompanies this Final Order, effective from May 31, 2001, the date Judgment was entered in 1st Judicial District Court Case No. 01P-145-SC, by certified check made payable to Janice M. Hatcher and mailed to Janice M. Hatcher, 363 Stevens Trail, Monroe, MI 48161. Restitution shall be paid not later than sixty (60) days from the mailing date of this Final Order.**
- 3. Suspension of the residential builder's license of Steven C. Yoas, License Residential Builder, License No. 21-01-114065, shall be and hereby is continued effective the mailing date of this Final Order, MCL 339.2405(3). No application for licensure, relicensure or reinstatement shall be granted until fine and restitution are paid-in-full.**
- 4. 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, in a form acceptable to the Department, with each and every requirement of this Final Order.**

This Final Order shall not be construed as limiting the Department of Consumer & Industry Services, 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 itself 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 15th day of July 2003.

BY: _____
Mark T. Glynn, Vice- 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 LABOR & ECONOMIC GROWTH
BUREAU OF HEARINGS**

In the matter of

Docket No. 2003-252

**Bureau of Commercial Services,
Petitioner**

Agency No. 10315

**v
Steven C. Yoas,
Respondent**

**Agency: Bureau of Commercial
Services**

Case Type: Sanction

**Issued and entered
this 4th day of June 2003
by Gregory Holiday
Administrative Law Judge**

HEARING REPORT

PROCEDURAL HISTORY

This proceeding was commenced with the filing of a Notice of Hearing upon a Formal Complaint dated August 7, 2002, charging Respondent with one or more violations of the Occupational Code, 1980 PA 299, as amended (Code), MCL 339.101 *et seq.* Pursuant to Section 92 of the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201 *et seq.*, Respondent was afforded an opportunity to demonstrate compliance prior to the commencement of formal proceedings. Respondent failed to satisfactorily demonstrate compliance and, as a result, the matter was set and noticed for a formal hearing.

The hearing was scheduled to be held on Monday, March 31, 2003 at 9:00 a.m., at the Bureau of Hearings of the Department of Labor & Economic Growth, Cadillac Place, 2nd Floor Annex, Room 2-700, 3026 West Grand Boulevard, Detroit,

Michigan, and the same proceeded as scheduled. Gregory Holiday presided as Administrative Law Judge. Ronald Quick, Assistant Attorney General, appeared on behalf of the Bureau of Commercial Services' Enforcement Division of the Department of Labor & Economic Growth (Petitioner). Steven C. Yoas (Respondent) appeared and testified on his own behalf.

ISSUES AND APPLICABLE LAW

At the hearing the second charge against Respondent was withdrawn by Petitioner. The sole issue is whether Respondent violate Section 2411(2)(l) of the Code, which provides:

Sec. 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:

(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.

EXHIBITS

Petitioner offered the following exhibit for consideration at the hearing:

<u>Exhibit</u>	<u>Description</u>
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1	Copy of Small Claims Judgement for \$2,285.99
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Although given an opportunity to do so, Respondent did not offer any exhibits at the hearing.

FINDINGS OF FACT

On May 31, 2001, a Small Claims Judgment was entered by consent in favor of Janice Hatcher against Respondent in the amount of \$2,285.72 (including costs) plus interest. Respondent, whose residential builder's license is suspended from another matter, has not paid any part of the judgment.

According to Respondent, without his builder's license, he has been unable to earn sufficient funds to make payments on the judgment and he has another obligation binding him to pay an "obscene" amount of money within the next few months. He is hoping that his circumstances improve to the point where he can begin to pay the judgment. Respondent does expect to pay the Hatcher judgment when his circumstances permit.

CONCLUSIONS OF LAW

The principles that govern judicial proceedings also apply to administrative hearings. 8 Callaghan's Michigan Pleading & Practice (2d ed) ' 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 AACCS, R 339.1763.

Violation of Section 2411(2)(l) of the Code

By this charge, Petitioner asserts that Respondent failed to pay a judgment in violation of Section 2411(2)(l) of the Code.

There is no dispute that Respondent had a judgment entered against him in favor of Ms. Hatcher for \$2,285.72 and that he has not paid any part of the judgment. The failure to pay the Hatcher judgment constitutes a violation of Section 2411(2)(l) of the Code.

Accordingly, Petitioner has proven, by a preponderance of the evidence, that Respondent has violated Section 2411(2)(l) of the Code.

DECISION AND RECOMMENDED SANCTIONS

It is the decision of this Administrative Law Judge that Respondent violated Section 2411(2)(l) of the Code as described in this Hearing Report. Petitioner recommended that sanctions include a revocation of Respondent's license and no reinstatement until the judgment has been satisfied.

It is recommended that the Board include the following as sanctions in this matter:

1. Payment of restitution to Janice M. Hatcher in the form of a satisfaction of her 1st District Court Judgment of \$2,285.72 (including interest).
2. Suspension of any Article 24 licenses held by Respondent until either (a) the judgment has been satisfied or (b) Respondent submits evidence that has been making regular partial payments on the judgment in accordance with a court-approved installment payment plan for at least 90 days.

Gregory Holiday
Administrative Law Judge