

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

In the matter of:

DENNIS ALBERT DONDERS
D/B/A MAXIMUM BUILDING
License No. 21-01-148134 (Lapsed)

Docket No. 2003-747
Complaint No. 10040
Former Complaint No. 21-01-4505-00

_____ /

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 Erick Williams, Administrative Law Judge, dated August 27, 2003;

WHEREAS, the Board having received the Hearing Report under MCL 339.514, and, Dennis Albert Donders, d/b/a Maximum Builders, Licensed Residential Builder, License No. 21-01-148134 (Lapsed), hereafter "Respondent", having been found in violation of Sections 604(c); 2411(2)(a); 2411(2)(c); and 2411(2)(l) of the Michigan Occupational Code, 1980 P.A. 299, *as amended*, hereafter the "Code", MCL 339.604(c); MCL 339.2411(2)(a); MCL 339.2411(2)(c); MCL 339.2411(2)(l) and Rule 51(2) of the State Board of Residential Builders and Maintenance & Alteration Contractors General Rules, *promulgated hereunder*, being 1979 AC, R 338.1551(2);

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 Seven Thousand Five Hundred Dollars and 00/100 Cents (\$7,500.00), a higher fine than recommended by the Administrative Law Judge, because of the severity of the violations, particularly abandonment and failure to account for or remit funds, said fine to be paid to the Department of Labor & Economic Growth within sixty (60) days from the mailing date of this Final Order, by cashier's check or money order, with Complaint No. 10040 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 Paul E. and Tricia K. Blanz, in the amount of Fourteen Thousand Two Hundred Dollars and 00/100 Cents (\$14,200.00), paid by certified check made payable to Paul E. and Tricia K. Blanz, and mailed to 2429 Grant Road, Remus, MI 49340, and shall ALSO MAKE RESTITUTION to Remus Lumber Co., Inc., by satisfying the judgment entered in 77th Judicial District Court, entered in Case No. 00-24880-GC, on February 3, 2001, in the amount of Three Thousand Ninety Six Dollars and 55/100 Cents (\$3,096.55), plus interest at the

statutory rate, pursuant to the attached Statutory Interest Schedule, which accompanies this Final Order, effective from November 4, 2003, the date the Board determined the Respondent's obligation to pay under § 602(h) of the Code, paid by certified check made payable to Remus Lumber Company, and mailed to Remus Lumber Company, c/o Joseph A. Harper, Esq., Harper Law Office, 211 Maple Street, Box 710, Big Rapids, MI 49307. Both of the above separate restitution payments must be made by Respondent to the respective parties identified –above within sixty (60) days from the mailing date of this Final Order

3. Respondent's failure to comply with each and every condition of this Final Order shall result in SUSPENSION of any and all licenses held by Respondent, MCL 339.2405(3), including Dennis Albert Donders, d/b/a Maximum Building, License No. 21-01-148134 (Lapsed). No application for licensure, relicensure or reinstatement shall be considered by the Department until compliance is made with this Final Order.
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 payment of fine and satisfaction of judgment, 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 4th 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**

This is the final page of a Final Order in the matter of Dennis Albert Donders d/b/a Maximum Building, Licensed Residential Builder, Complaint No. 10040, before the Michigan State Board of Residential Builders and Maintenance & Alteration Contractors, consisting of three (3) pages, this page included.

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

In the matter of

**Bureau of Commercial Services,
Petitioner**

v

**Dennis Albert Donders
dba Maximum Building,
Respondent**

Docket No. 2003-747

Agency No. 10040

Agency: Bureau of Commercial Services

Case type: Sanction

**Issued and entered
this 27th day of August 2003
by Erick Williams
Administrative Law Judge**

HEARING REPORT

PROCEDURAL HISTORY

On 14 January 2003, the Bureau of Commercial Services issued a complaint against Dennis Donders under the Occupational Code, MCL 339.101 *et seq.* A hearing was scheduled for 22 July 2003. Notice of the hearing was sent to Mr. Donders at 5263 East Twelve Mile Road, Remus, MI. When the hearing convened, Tracey Yarborough represented the Bureau of Commercial Services, but no one appeared in behalf of Mr. Donders. I find that service was adequate to hold a hearing under the Administrative Procedures Act, MCL 24.201 *et seq.* and issue a ruling in Mr. Donders' absence. By default, I consider the complaint true and that Mr. Donders violated the laws cited in the complaint. I adopt the

recommendations of the Bureau of Commercial Services: \$17,388.71 restitution (based on Exhibits 1 and 2), and a \$2,000 fine.

ISSUES AND APPLICABLE LAW

The following statutes and rules were cited in the complaint. MCL 339.604(c) 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(2) 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:

(a) Abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee....

(c) Failure to account for or remit money coming into the persons 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....

1979 AC R 338.1551(2) reads:

(2) Upon receipt of a valid and written complaint, the department shall assign a complaint number, acknowledge the complaint and forward a copy of the complaint to the licensee. He shall reply to the department within 15 days from receipt of the complaint and shall confirm or deny the justification of the complaint. A complaint acknowledged as justified shall be corrected within a reasonable time. If a complaint or a portion thereof is not acknowledged by the licensee as being justified, the department shall notify the complainant of the area of disagreement.

CONCLUSIONS OF LAW

There are no contested issues of law. The charges in the complaint are taken as true. Mr. Donders has violated 1979 AC R 338.1551(2), MCL 339.2411(2)(a), (c), and (L), and MCL 339.604(c).

PROPOSED SANCTIONS

Pursuant to MCL 339.602(e) and (h), a \$2,000 fine and \$17,388.71 restitution are recommended.

Erick Williams
Administrative Law Judge