

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

In the matter of

Docket No. 2000-418

**Bureau of Commercial Services,
Petitioner**

Agency No. 21-94-1134-00

v

**Agency: Bureau of Commercial
Services**

**Elliott Builders, Inc.
Wayne C. Elliott, Q.O.,
Respondent**

Case Type: Sanction

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**Issued and entered
this 28th day of February, 2002
by Michael R. Corman
Administrative Law Judge**

AMENDED HEARING REPORT
PER REMAND ORDER

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to a Remand Order entered on February 3, 2000. The matter was remanded pursuant to the Residential Builder's Board request in order to have additional detail placed in the hearing report regarding the amount of restitution. In the alternative, the Board requested that the hearing be reopened to obtain proofs necessary to determine the amount of restitution. The ALJ did, in fact, reopen the hearing to obtain said proofs regarding restitution.

The remanded hearing was held on September 26, 2000. Ronald Quick, an Assistant Attorney General, appeared on behalf of BCS. Respondent again failed to appear for the hearing notwithstanding the Notice sent to Respondent. Michael R. Corman presided as ALJ.

A hearing was initially held on this matter on April 26, 1999, and a Hearing Report issued on May 12, 1999. In that report, the ALJ recommended that Respondent make restitution to Du Page Green Condominiums in the amount of \$168,568.15. Essentially, in the Order of Remand, the Board asked for an explanation regarding the amount of restitution. The ALJ, in this Amended Hearing Report, incorporates by reference the Hearing Report issued in this matter on May 12, 1999 with the exception of the Recommended Sanctions section of that Report. A new Recommended Sanction section is included herein. Further, the ALJ will, in this Amended Hearing Report, include one additional Finding of Fact, based upon a new Exhibit admitted into the evidence. The new Exhibit, Petitioner's Exhibit 2, reveals that DuPage Condominium Association has, to date, incurred costs in the amount of \$33,067.67 to repair the roof at the subject condominiums.

ADDITIONAL FINDING OF FACT:

As indicated above, the Findings of Fact section of the initial Hearing Report are incorporated herein by reference. The ALJ makes the following additional Finding of Fact in this Amended Hearing Report:

11. The costs incurred by Du Page Condominium Association to repair the roof at the subject condominium totals \$33,067.67 to date.

RECOMMENDED SANCTIONS:

Based upon the default entered against Respondent and in light of the additional Exhibit entered into the evidence, the ALJ finds that Respondent violated the Occupational Code and Administrative Rule as described in the initial Hearing Report. Accordingly, the ALJ adopts the recommendation of the Assistant Attorney General and recommends that:

1. Respondent pay a civil fine in an amount the Board deems appropriate;
2. Respondent make restitution to Du Page Green Condominiums in the amount of \$33,067.67;
3. Respondent be ordered to pay the fine and restitution within sixty (60) days of the issuance of the Final Order; in the event the fine and restitution are not paid within the 60 days, then suspension of any Article 24 licenses held by Respondent and no new or renewal licenses be issued until the fine and restitution have been paid.

Michael R. Corman
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 28th day of February, 2002.

Andrea B. Wade
Bureau of Hearings

Wayne C Elliott
Elliott Builders, Inc.
22322 Burch
Woodhaven, MI 48183

Wayne C Elliott
24200 Farmington Road
Farmington Hills, MI 48336

Bureau of Commercial Services
c/o Gisela Chuman
PO Box 30018
Lansing, MI 48909