

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

In the matter of:

**BILLIE BURNS IRVINE III  
D/B/A B & B BUILDERS**

**Docket No. 2002-1389  
Complaint No. 10475  
Former Complaint No. 21-01-6543-00**

**License No. 21-01-149532 (Revoked)**

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**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 February 11, 2003;

**WHEREAS**, the Board having received the Hearing Report under MCL 339.514, and Billie Burns Irvine III d/b/a/ B & B Builders, Licensed Residential Builder, License No. 21-01-149532 (Revoked), 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(2); 51(4) and 51(5) of the State Board of Residential Builders and Maintenance & Alteration Contractors General Rules, promulgated hereunder, being 1979 AC, R 338.1551(2); 1979 AC, R 338.1551(4); 1979 AC, R 338.1551(5) 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 Five Thousand Dollars and 00/100 Cents (\$5,000.00), a higher fine than recommended by the Administrative Law Judge, because of a prior disciplinary action and the severity of the violations, particularly failure to follow the local building codes, said fine to be paid to the Department of Labor & Economic Growth 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. 10475 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. Revocation of the Residential Builders License of Respondent Billie Burns Irvine III, License No. 21-01-149532 (Revoked), and any and all other Article 24 licenses held by Billie Burns Irvine III, if any, SHALL BE CONTINUED, effective the mailing date of this Final Order, MCL 339.2405(3). No 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 \_\_\_\_ day of \_\_\_\_\_, 2004.

BY: \_\_\_\_\_  
Mark T. Glynn, Chairperson

Date mailed: \_\_\_\_\_

Proof of Compliance should be filed with:

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

This is the final page of a Final Order in the matter of Billie Burns Irvine III d/b/a/ B & B Builders, Licensed Residential Builder, Complaint No. 10475, before the Michigan State Board of Residential Builders and Maintenance & Alteration Contractors, consisting of two (2) pages, this page included.

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

**In the matter of**

**Bureau of Commercial Services,  
Petitioner**

**v**

**Billie Burns Irvine, III  
d/b/a B&B Builders,  
Respondent**

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**Docket No. 2002-1389**

**Agency No. 21-01-6543**

**Agency: Bureau of Commercial Services**

**Case type: Sanction**

**Issued and entered  
this 11<sup>th</sup> day of February, 2003  
by Erick Williams  
Administrative Law Judge**

**HEARING REPORT**

**PROCEDURAL HISTORY**

On 16 July 2002, the Bureau of Commercial Services issued a complaint against Billie Irvine under the Occupational Code, MCL 339.101 *et seq.* A hearing was scheduled for 6 December 2002. On 5 December, Mr. Irvine requested an adjournment, which was granted. The hearing was rescheduled for 31 January 2003. When the hearing convened, Tracy Hampton Yarborough represented the Bureau of Commercial Services. The homeowner, Rudy Meyers, appeared. But no one appeared in behalf of Mr. Irvine. Since Mr. Irvine had notice of the hearing, and having filed a request for adjournment, 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. Irvine's absence. By default, I consider the complaint true and that Mr.

Irvine violated the laws cited in the complaint.

**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)(m) reads:

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.

1979 AC R 338.1551(2), (4), and (5) read:

(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....

(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**

There are no contested issues of fact. The allegations in the complaint are taken as true. The following exhibits were received in evidence:

1. Photo of edge of roof and drip edge strip.
2. Photo showing missing mortar between bricks.
3. Photo of bent, poorly installed drip edge strip and fascia.
4. Photo of shingles cut improperly and curling up.
5. Photo of wavy roofline
6. Photo of siding, touching the ground, missing under the door.
7. Photo of supports holding up trusses; nailed to existing roof.

### **CONCLUSIONS OF LAW**

There are no contested issues of law. The charges in the complaint are taken as true.

**DECISION**

Mr. Irvine violated MCL 339.604(c), MCL 339.2411(2)(m) and 1979 AC R 338.1551(2), (4), and (5).

**PROPOSED SANCTIONS**

The Bureau of Commercial Services recommends a \$3000 fine pursuant to MCL 339.602(e); and if the fine is not paid within 60 days of the final order, then suspension of license. No restitution is recommended because civil litigation is pending.

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**Erick Williams**  
**Administrative Law Judge**