

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

In the matter of:

TONY C. COTTON
D/B/A COTTON BUILDERS
License No. 21-01-147036

Docket No. 2002-514
Complaint No. 9823
Former Complaint No. 21-01-3705 -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 and

WHEREAS, the Board having considered the Findings of Fact and Conclusions of Law in the Hearing Report of Erick Williams, Administrative Law Judge, dated September 23, 2003,

WHEREAS, the Board having received the Hearing Report under MCL 339.514, and Tony C. Cotton d/b/a/ Cotton Builders, Licensed Residential Builder, License No. 21-01-147036, hereafter "Respondent", having been found in violation of Sections 604(b);(c) and (d) of the Michigan Occupational Code, 1980 P.A. 299, *as amended*, hereafter the "Code", MCL 339.604(b); MCL 339.604(c); MCL 339. 604(d) of the State Board of Residential Builders and Maintenance & Alteration Contractors General Rules, *promulgated hereunder*, 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 Ten Thousand Dollars and 00/100 Cents (\$10,000.00), 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, a higher fine than recommend by the Administrative Law Judge because of the prior disciplinary history and severity of violations, particularly fraud, deceit or deception in an occupation, said fine shall be paid by cashier's check or money order, with Complaint No. 9823 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 Tony C. Cotton, Licensed Residential Builder, License No. 21-01-147036, shall be and hereby is REVOKED effective the mailing date of this Final Order. Any and all other Article 24 licenses of Respondent, if any, shall be and hereby are immediately REVOKED effective the mailing date of this Final Order, MCL.339.2405(3). 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 ____ 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
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. 2002-514

Bureau of Commercial Services,
Petitioner

Agency No. 9823
(formerly 21-01-3705)

v

Tony C. Cotton
d/b/a Cotton Builders,
Respondent

Agency: Bureau of Commercial Services

Case type: Sanction

Issued and entered
this 23rd day of September, 2003
by Erick Williams
Administrative Law Judge

HEARING REPORT

PROCEDURAL HISTORY

On 13 December 2001, the Bureau of Commercial Services issued a complaint against Mr. Cotton under the Occupational Code, MCL 339.101 *et seq.* The case was dismissed in May 2002 after a settlement and reinstated in August 2003. The reason for reinstatement is unknown. A hearing convened on 19 September 2003 under the Administrative Procedures Act, MCL 24.201 *et seq.* Tracey Yarborough represented the Bureau of Commercial Services. Mr. Cotton participated without a lawyer.

ISSUES AND APPLICABLE LAW

The following statutes and rules are cited in the December 2001 complaint. MCL 339.604(b), (c), and (d) read:

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:....

(b) Practices fraud, deceit, or dishonesty in practicing an occupation.

(c) Violates a rule of conduct of an occupation.

(d) Demonstrates a lack of good moral character....

1979 AC R 338.1551(2) reads:

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.

FINDINGS OF FACT

There are no contested issues of fact. Mr. Cotton admitted all the allegations in the complaint, except paragraph 7. The Bureau of Commercial Services did not introduce any evidence-supporting paragraph 7 of the complaint.

CONCLUSIONS OF LAW

Accordingly, the allegations in paragraphs 1-6 and 8 of the December 2001 complaint are established, by stipulation. The allegation in paragraph 7 of the complaint has not been proved. Mr. Cotton violated MCL 339.604(b), (c), and (d).

SANCTIONS

The Bureau of Commercial Services recommended a \$3,000 fine.

Erick Williams
Administrative Law Judge