

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
BUREAU OF CONSTRUCTION CODES  
BOARD OF RESIDENTIAL BUILDERS AND  
MAINTENANCE AND ALTERATION CONTRACTORS

In the Matter of

CHRISTOPHER MICHAEL WETHERELL  
License No. 21-01-174026,  
Respondent.

Docket No. 18-009264  
File No. 21-17-334400

FINAL ORDER

On March 23, 2018, the Department of Attorney General, Licensing and Regulation Division, on behalf of the Department of Licensing and Regulatory Affairs, executed a Formal Complaint charging Respondent with violating the Occupational Code, MCL 339.101 *et seq.*

An administrative hearing was held in this matter before an administrative law judge who, on July 23, 2018, issued a Hearing Report setting forth Findings of Fact and Conclusions of Law.

The Michigan Board of Residential Builders and Maintenance and Alteration Contractors having reviewed the administrative record, considered this matter at a regularly scheduled meeting held in Lansing, Michigan on September 11, 2018, and received the administrative law judge's Findings of Fact and Conclusions of Law in the Hearing Report.

IT IS ORDERED that for violating MCL 339.604(b), (c), (d), (h) and (i), and 339.2411(2)(a) and (b), Respondent's license to practice as an individual builder in the state of Michigan is REVOKED.

IT IS FURTHER ORDERED that reinstatement of a license which has been revoked is not automatic and, in the event Respondent applies for reinstatement of the license, application shall be in accordance with MCL 339.411(5).

IT IS FURTHER ORDERED that Respondent is FINED \$20,000.00 to be paid to the State of Michigan within 90 days from the effective date of this Order.

IT IS FURTHER ORDERED that the fine shall be mailed to the **Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, P.O. Box 30255, Lansing, MI 48909**. The fine shall be paid by check or money order made payable to the State of Michigan, and the check or money order shall clearly display file number **21-17-334400**.

IT IS FURTHER ORDERED that Respondent shall pay RESTITUTION in the amount of \$19,130.00 to Luke E. Killingbeck within 90 days from the effective date of this Order.

IT IS FURTHER ORDERED that Respondent shall satisfy the Claim of Lien dated August 10, 2017, in the amount of \$12,240.00 to lien claimant Doug Kanouse Excavation within 90 days from the effective date of this Order.

IT IS FURTHER ORDERED that Respondent shall satisfy the Claim of Lien dated October 4, 2017, in the amount of \$29,377.22 to lien claimant Pro Build Company, LLC<sup>1</sup> within 90 days from the effective date of this Order.

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<sup>1</sup> Pro Build Company is now known as Builder's First Source. [Hearing Report, Findings of Fact 25, p 8]

IT IS FURTHER ORDERED that Respondent shall submit acceptable written evidence of payment of the ordered restitution and satisfaction of the liens to the **Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, P.O. Box 30254, Lansing, MI 48909.**

IT IS FURTHER ORDERED that, in accordance with MCL 339.411(3)(c), 339.602(c) and 339.604(k), no application for licensure, renewal, relicensure, or reinstatement shall be granted until all final orders of the Board have been satisfied in full.

IT IS FURTHER ORDERED that in the event Respondent violates any provision of this Order, the Board may proceed to take disciplinary action pursuant to MCL 339.604(k).

This Final Order is a public record required to be published and made available to the public pursuant to the Michigan Freedom of Information Act, MCL 15.231 *et seq.*

IT IS FURTHER ORDERED that this Order shall be effective 30 days from the date signed by the Chairperson of the Board or authorized representative, as set forth below.

Dated: October 12, 2018

**MICHIGAN BOARD OF RESIDENTIAL BUILDERS AND  
MAINTENANCE AND ALTERATION CONTRACTORS**

By: Deanne Barnes  
for Keith Lambert, Director  
Bureau of Construction Codes

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STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
BUREAU OF PROFESSIONAL LICENSING  
BOARD OF RESIDENTIAL BUILDERS AND  
MAINTENANCE AND ALTERATION CONTRACTORS

In the Matter of

CHRISTOPHER MICHAEL WETHERELL

License No. 21-01-174026

Complaint No. 21-17-334400

Respondent.

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FORMAL COMPLAINT

NOW COMES Attorney General Bill Schuette, through Timothy C. Erickson, Assistant Attorney General, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Complainant, pursuant to the Occupational Code, as amended, MCL 339.101 *et seq*, and its rules promulgated thereunder, and files this Formal Complaint against Christopher Michael Wetherell, Respondent, upon information and belief alleges as follows:

1. The Board of Residential Builders and Maintenance and Alteration Contractors is an administrative agency established under Article 24 of the Occupational Code, MCL 339.2401 *et seq*.

2. Beginning on October 14, 2004, Respondent was licensed as a Residential Builder and/or Maintenance and Alteration Contractor pursuant to Article 24 of the Code, and was continually licensed until May 31, 2009 when the license expired. On March 3, 2010, the license was reissued by relicensure application and Respondent has been continually licensed.

3. Section 604(b) of the Code subjects a licensee to sanction for “fraud, deceit, or dishonesty in practicing an occupation.”

4. Section 604(c) of the Code subjects a licensee to sanction for violating a rule of conduct of an occupation.

5. Section 604(d) of the Code subjects a licensee to sanction who demonstrates a lack of good moral character, meaning “the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner,” as defined by MCL 338.41.

6. Section 604(h) of the Code subjects a licensee to sanction who “[v]iolates a provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.”

7. Section 604(l) of the Code subjects a licensee to sanction who “[a]ids or abets another person in the unlicensed practice of an occupation.”

8. Section 2409 of the Code requires a licensee to “report to the department a change of name or address or a change of members or addresses of the partnership, association, or corporation holding a license under this article within 30 days after the change occurs.”

9. Section 2411(2)(a) of the Code subjects a licensee to sanction for “[a]bandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee.”

10. Section 2411(2)(b) of the Code subjects a licensee to sanction for “[d]iversion of funds or property received for prosecution or completion of a specific

construction project or operation, or for a specified purpose in the prosecution or completion of a construction project or operation, and the funds or property application or use for any other construction project or operation, obligation, or purposes.”

11. Mich Admin Code, R 338.1533(1) requires “[a]ll agreements and changes to the agreements between a builder, or contractor, and the customer to be in writing and signed by the parties. Copies of all agreements and changes to agreements must be in writing and provided to the customer.”

12. Section 514 of the Code authorizes the Board to sanction licensees based on an administrative law hearing examiner’s hearing report.

13. Section 602 of the Code requires the Board to sanction licensees who have violated the Code.

#### FACTUAL ALLEGATIONS

14. On or about July 28, 2016, Respondent, doing business as Wetherell Construction, LLC, contracted with Luke Killingbeck to construct a new home on 230<sup>th</sup> Avenue in Reed City, Michigan for the total contract price of \$166,525.00.

15. Wetherell Construction, LLC is not licensed as a Residential Builder company or Maintenance and Alteration company pursuant to Article 24 of the Occupational Code nor is Wetherell Construction, LLC a recognized business entity in Michigan.

16. In or around February 2017, Respondent obtained a building permit for the project and work commenced.

17. On the building permit application, Respondent wrote the homeowner's name as "Luke Kilibeck" and then forged the homeowner's signature on the application without Mr. Killingbeck's permission.

18. The original plans called for a basement, but review of the construction site revealed that the water table was too high, so the plans were changed to a crawl space. Respondent did not capture this change in a written change order signed by both parties.

19. In or around July 2017, Respondent forged signatures on the following construction lien waivers:

- a. Maveric Plumbing in the amount of \$4,000.00.
- b. Taylor Mechanical in the amount of \$3,500.00.
- c. Taylor Electric in the amount of \$5,000.00.
- d. ProBuild Cadillac in the amount of \$480.00.
- e. Doug Kanouse Excavation in the amount of \$6,000.00.

20. Respondent did not have permission to sign others' names on these lien waivers.

21. In or around August 2017, Respondent abandoned the project and completed no additional work. Respondent had constructed the exterior walls, done framing, installed and shingled most of the roof, and done rough plumbing and electrical.

22. At this point in the project, Respondent had drawn approximately \$120,000.00 from Mr. Killingbeck's bank.

23. In addition to paying some subcontractors on this project, Respondent used monies drawn from Mr. Killingbeck's bank to pay subcontractors and companies for other projects.

24. On or about August 10, 2017, Doug Kanouse Excavation placed a lien in the amount of \$12,240.00 on Mr. Killingbeck's property.

25. On or about October 4, 2017, ProBuild placed a lien in the amount of \$29,377.22 on Mr. Killingbeck's property.

26. Respondent has failed to pay the monies owed to Doug Kanouse Excavation, ProBuild, and other subcontractors.

27. At some point after the issuance of his residential builder license, Respondent changed his address but failed to inform the Department of the change.

#### COUNT I

28. Respondent's conduct, as described above, constitutes fraud, deceit, or dishonesty in practicing an occupation violation of section 604(b) of the Code.

#### COUNT II

29. Respondent's conduct, as described above, is contrary to Mich Admin Code, R 338.1533(1), in violation of section 604(c) of the Code.

#### COUNT III

30. Respondent's conduct, as described above, constitutes a lack of good moral character, in violation of section 604(d) of the Code.



COUNT IV

31. Respondent's conduct, as described above, constitutes a failure to report a change of contrary to Section 2409 in violation of section 604(h) of the Code.

COUNT V

32. Respondent's conduct, as described above, constitutes aiding and abetting the unlicensed practice of the occupation in violation of section 604(l) of the Code.

COUNT VI

33. Respondent's conduct, as described above, constitutes abandonment without legal excuse of a contract, construction project, or operation engaged in or undertaken by the licensee, in violation of section 2411(2)(a) of the Code.

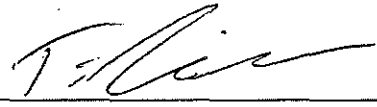
COUNT VII

34. Respondent's conduct, as described above, constitutes diversion of funds or property received for prosecution or completion of a specific construction project or operation, in violation of section 2411(2)(b) of the Code.

WHEREFORE, Complainant, Department of Licensing and Regulatory Affairs, hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, as amended, MCL 24.201-328 and the Occupational Code, *supra*, to determine whether disciplinary action should be taken by the Department of Licensing and Regulatory Affairs, pursuant to the Occupational Code, for the reasons set forth herein.

Respectfully submitted,

BILL SCHUETTE  
Attorney General

By  \_\_\_\_\_

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Dated: March 23, 2018