

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA BOARD OF DENTISTRY

In the Matter of Jeffrey J. Soule,
D.D.S.

**FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION**

This matter came on before Administrative Law Judge Raymond R. Krause ("ALJ") on March 5, 2008, for a prehearing conference at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, MN 55101. The prehearing conference was held pursuant to a Notice of and Order for Hearing and Order for Prehearing Conference, dated January 29, 2008.

Manuel J. Cervantes, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, MN 55101-2130, appeared on behalf of the Minnesota Board of Dentistry (the Board). The Respondent, Jeffrey J. Soule, did not appear in person or by counsel. The record closed upon the Respondent's default on March 5, 2008.

The Notice of and Order for Hearing, Order for Prehearing Conference and Statement of Charges were sent to the Respondent at the address found on the service list and were not returned as undelivered.

STATEMENT OF ISSUES

1. Did Respondent engage in conduct unbecoming a person licensed to practice dentistry and/or conduct contrary to the best interests of the public in violation of Minn. Stat. §§ 150A.08, subd. 1(6); (13); and 144.291 to 144.298?

2. Did the Respondent employ, assist, or enable an unlicensed person to practice dentistry within the meaning of Minn. Stat. §§ 150A.08, subd 1(11) and 150A.11, subd. 1?

3. Did the Respondent fail to submit an annual professional corporation report and fee to the Board, in violation of Minn. Stat. § 319B.11, subd. 4, and Minn. R. 3100.6350?

4. Did the Respondent fail to make or maintain adequate dental records on each patient, in violation of Minn. R. 3100.9600?

Based upon all of the files, records and proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On January 29, 2008, the Notice of and Order for Hearing, Order for Prehearing Conference Statement of Charges, and Notice of Appearance was sent by first class and certified mail to Jeffrey J. Soule at his last known address. It was not returned to the Board. The Board has contacted the Arizona Department of Motor Vehicles to confirm the address. The Arizona DMV confirmed the address on file with the Board as the current address for Jeffrey J. Soule. The Board has also confirmed the address with Respondent by telephone.

2. The Respondent failed to appear at the prehearing conference, did not obtain the ALJ's prior approval to be absent from the prehearing conference, did not file a Notice of Appearance, and did not request a continuance or any other relief.

3. The Notice of and Order for Hearing and Notice of Prehearing Conference contained the following informational warning:

Respondent's failure to appear at the prehearing conference, settlement conference or hearing may result in a finding that the Respondent is in default, that the allegations contained in this Notice and Order may be accepted as true, and its proposed action may be upheld.

4. Because Respondent failed to appear, he is in default.

5. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Hearing and Notice of Prehearing Conference are taken as true and incorporated by reference into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Administrative Law Judge and the Board of Dentistry are authorized to consider the charges against Respondent under Minn. Stat. §§ 150A.08, 214.103, and 14.50 (2004).

2. Respondent received due, proper and timely notice of the charges against him, and of the time and place of the prehearing conference. This matter is, therefore, properly before the Board and the Administrative Law Judge.

3. The Board has complied with all relevant substantive and procedural legal requirements.

4. Under Minn. R. 1400.6000, a contested case may be decided adversely to a party who defaults. On default, the allegations of and the issues set out in that Notice of and Order for Hearing or other pleading may be taken as true or deemed proved without further evidence.

5. The Respondent is in default herein as a result of his failure, without the ALJ's prior consent, to appear at the prehearing conference.

6. Respondent engaged in conduct unbecoming a person licensed to practice dentistry and conduct contrary to the best interests of the public in violation of Minn. Stat. §§ 150.08, subd. 1(6), (13), and 144.291 to 144.298.

7. The Respondent employed, assisted, or enabled an unlicensed person to practice dentistry in violation of Minn. Stat. §§ 150A.08, subd. 1(11) and 150A.11, subd. 1.

8. Respondent failed to submit an annual professional corporation report and fee to the Board in violation of Minn. Stat. § 319B.11, subd. 4 and Minn. R. 3100.6350.

8. Respondent failed to make or maintain adequate dental records on each patient, in violation of Minn. R. 3100.9600.

9. Disciplinary action against the Respondent is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that the Minnesota Board of Dentistry impose discipline on Respondent, including revocation of the license of Respondent to practice dentistry.

Dated: March 6, 2008

s/Raymond R. Krause
RAYMOND R. KRAUSE
Chief Administrative Law Judge

Reported: Default (no recording)

NOTICE

This Report is a recommendation, not a final decision. The Board of Dentistry will make the final decision after reviewing the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the Board's decision shall not be made until this Report has been available to the parties to the proceeding for at least ten (10) days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Board. Parties should contact the Board, to ascertain the procedure for filing exceptions or presenting argument to the Board.

If the Board fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Board, or upon the expiration of the deadline for doing so. The Board must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.