

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF COMMERCE

In the Matter of the Debt Collector's
License of Robin Lynn Davis, License
No. 20044731.

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

The above-entitled matter came on for a prehearing conference before Administrative Law Judge Barbara L. Neilson on June 28, 2006, at 1:30 p.m. at the Office of Administrative Hearings in Minneapolis, Minnesota. Michael J. Tostengard, Assistant Attorney General, 445 Minnesota Street, Suite 1200, St. Paul, Minnesota 55101-2130, appeared on behalf of the Department of Commerce ("the Department"). There was no appearance by or on behalf of the Respondent, Robin Lynn Davis, 3466 Lyndale Avenue North, Minneapolis, MN 55411 (alternative address: 15244 – 40th Avenue North, Plymouth, MN 55446). The OAH record closed at the conclusion of the prehearing conference on June 28, 2006.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact the office of Kevin Murphy, Deputy Commissioner of Commerce, 85 Seventh Place East, Suite 500, St. Paul, Minnesota 55101-2198, to ascertain the procedure for filing exceptions or presenting argument. Pursuant to 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.

If the Commissioner 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 Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

STATEMENT OF ISSUES

The issues presented in this case are whether the Respondent, Robin Lynn Davis, while performing collection services for Pinnacle Finance Group, made three personal bill payments utilizing the credit card and checking account numbers of three different Pinnacle debtors, and thereby falsely obtained financial information from debtors and used that information to make personal bill payments in violation of Minn. Stat. § 332.37(3), and demonstrated untrustworthiness in violation of Minn. Stat. § 45.027, subd. 7 (2004); and, if so, whether the Respondent's debt collector license should be subject to discipline and whether the Respondent should be subject to censure and/or a civil penalty pursuant to Minn. Stat. §§ 45.027, subds. 6 – 7.

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

FINDINGS OF FACT

The Notice of and Order for Hearing, Order for Prehearing Conference, Order to Show Cause, and Statement of Charges ("Notice of Hearing") initiating this contested case proceeding was served on the Respondent, Robin Lynn Davis, via first class mail on May 11, 2006, at the following addresses: 15244 40th Avenue North, Plymouth, MN 55446, and 3455 Lyndale Avenue North, Minneapolis, MN 55411.¹

The Notice of Hearing set a prehearing conference for June 28, 2006, at 1:30 p.m.²

The Notice of Hearing contained the following language:

Respondent's failure to appear at the prehearing conference may result in a finding that Respondent is in default, that the Department's allegations contained in the Statement of Charges may be accepted as true, and that its proposed disciplinary action may be upheld.³

The Respondent did not file a notice of appearance or make any request prior to the June 28, 2006, prehearing conference for a continuance or any other relief. No one appeared at the prehearing conference on June 28, 2006, on behalf of the Respondent.

Because the Respondent failed to appear at the prehearing conference in this matter, she is in default.

Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of Hearing are hereby taken as true and incorporated into these Findings of Fact.

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

CONCLUSIONS

¹ Affidavit of Service by First Class Mail attached to Notice of Hearing.

² Notice of Hearing, p. 1.

³ *Id.*, p. 3.

1. The Administrative Law Judge and the Commissioner of Commerce have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50 and 45.027.

2. The Notice of Hearing issued by the Department was proper and the Department has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The Respondent, having made no appearance at the prehearing conference, and not requesting any continuance or relief, is in default. Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of Hearing are hereby taken as true.

4. By making three personal bill payments utilizing the credit card and checking account numbers of three different debtors the Respondent obtained in the course of representing Pinnacle Finance Group as a debt collector, the Respondent has violated Minn. Stat. §§ 332.37(3) and 45.027, subd. 7 (2004). The Respondent's license is subject to discipline and the Respondent is subject to censure and/or civil penalties pursuant to Minn. Stat. §§ 45.027, subds. 6 – 7. The imposition of sanctions is in the public interest.

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

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Commissioner of Commerce discipline the debt collector license held by the Respondent, Robin Lynn Davis, and/or impose an appropriate civil penalty against the Respondent.

Dated: June 29, 2006

/s/ Barbara L. Neilson
BARBARA L. NEILSON
Administrative Law Judge

Reported: Default.