

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

In the Matter of the Mortgage Originator's
License of Nokomis Mortgage
Corporation of Minnesota, License No.
20225428.

REVISED FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION

The above-entitled matter came on for a prehearing conference before Administrative Law Judge George A. Beck commencing at 3:30 p.m. on June 12, 2003, at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401-2138.

Jennifer S. Kenney, Assistant Attorney General, 445 Minnesota Street, Suite 900, St. Paul, MN 55101-2127, appeared on behalf of the Minnesota Department of Commerce ("Department"). Respondent did not appear at the prehearing conference. The record closed on June 12, 2003, upon Respondent's default.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of the Department 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 Glenn Wilson, Commissioner, Minnesota Department of Commerce, 85 Seventh Place E., Suite 500, St. Paul, MN 55101 to ascertain the procedure for filing exceptions or presenting argument.

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 ISSUE

The issue in this case is whether or not the Respondent should be subject to license revocation and/or the imposition of civil penalties.

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

FINDINGS OF FACT

1. On May 8, 2003, a Notice of and Order for Hearing and Notice of Prehearing Conference in the above matter were served on Respondent via U.S. Mail at 5009 Excelsior Boulevard, #146, St. Louis Park, MN 55416.

2. The Notice of and Order for Hearing and Notice of Prehearing Conference served on Respondent contained the following statement:

If Respondent fails to attend or otherwise appear at any prehearing conference, settlement conference, or hearing in this matter without the prior consent of the judge, or fails to comply with any interlocutory order of the judge after having been served with a copy of this Order, Respondent shall be deemed in default and the allegations or issues set forth herein may be deemed proved, and Respondent's license may be revoked or suspended, Respondent may be censured, and/or a civil penalty may be imposed against Respondent without further proceedings.

3. Respondent did not appear at the June 12, 2003 prehearing conference, made no prehearing request for a continuance, and did not file a Notice of Appearance.

4. The allegations of the Notice of and Order for Hearing and Notice of Prehearing Conference are deemed proved and incorporated into these Findings by reference.

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

CONCLUSIONS

1. The Minnesota Commissioner of Commerce and the Administrative Law Judge have subject matter jurisdiction herein pursuant to Minn. Stat. §§ 45.027, 58.12, and 14.50.

2. Respondent was given timely and proper notice of the hearing in this matter.

3. The Department has complied with all relevant and substantial and procedural requirements of statute and rule.

4. Under Minn. Rule 1400.6000, Respondent is in default as a result of his failure to appear at the scheduled prehearing conference.

5. Under Minn. Rule 1400.6000, the allegations and the issues set out in the Notice of and Order for Hearing and Notice of Prehearing Conference may be taken as true or deemed proved when a party defaults.

6. Based upon the facts set out in the Notice of and Order for Hearing and Notice of Prehearing Conference, Respondent has violated Minn. Stat. § § 45.027, subd. 1a and 58.12, subd. 1(b)(2)(v).

7. An order is in the public interest.

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

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that disciplinary action be taken against Respondent and that the Commissioner consider civil penalties.

Dated this 17th day of June 2003.

s/George A. Beck
GEORGE A. BECK
Administrative Law Judge

Reported: Default

NOTICE

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.