

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT of COMMERCE

In the Matter of Real Estate Broker  
License of Charles Ogiaga Sado and  
Real Estate Company License of Crystal  
Realty, LLC

**ORDER DENYING RESPONDENTS'  
MOTION TO DISMISS**

This matter came before Administrative Law Judge Amy J. Chantry for a Pre-Hearing Conference on April 16, 2013, pursuant to Respondents' Motion to Dismiss.

Oliver J. Larson, Assistant Attorney General, appeared on behalf of the Minnesota Department of Commerce (Department). Charles Ogiaga Sado, appeared on behalf of the entities captioned above (Respondents).

During the Pre-Hearing telephone conference the Administrative Law Judge first addressed the procedural issue that a signed copy of the Amended Statement of Charges had not been filed with the Office of Administrative Hearings. Only an unsigned copy was attached to the Department's Response to Motion on Pleadings that was filed on February 19, 2013. Mr. Larson indicated that a signed copy was previously served on Mr. Sado and Mr. Sado acknowledged receipt of the signed copy of the Amended Statement of Charges. Mr. Larson indicated that he would file a signed copy of the Amended Statement of Charges with the Office of Administrative Hearings today.

Based upon the discussions during the Pre-Hearing Conference, and upon all of the files, the Administrative Law Judge makes the following:

**IT IS HEREBY ORDERED THAT:**

1. Respondents' Motion to Dismiss is **DENIED**.
2. This matter shall proceed to hearing as previously scheduled for April 17, 2013, at 9:30 a.m.

Dated: April 16, 2013

s/Amy J. Chantry  
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AMY J. CHANTRY  
Administrative Law Judge

## MEMORANDUM

In a letter dated April 9, 2013, Respondent Sado requested that the ALJ dismiss his case because: (1) the Department did not timely respond to his discovery requests; (2) the Department is violating his Fifth Amendment right against double jeopardy by bringing this proceeding against him; and (3) the Department has misrepresented the condition of a well on a property at issue in this matter. After reviewing Mr. Sado's letter, the Department's response, and Mr. Sado's response to the Department's response, and the oral argument of the parties at today's hearing, the ALJ determined that the Respondents' requests lack merit.

First, the Department did try and comply with Judge Manual Cervantes' February 1, 2013, Scheduling Order by making discovery available to Mr. Sado. Mr. Larson telephoned Mr. Sado on two separate occasions, leaving messages that Mr. Sado could review and copy the documents he wanted. Mr. Sado did not return either telephone call. The Department then went above what was required and redacted sensitive personal information from all 1,792 pages of discoverable documents and then copied the entire set of materials onto a CD. The CD containing the entire production was mailed to Mr. Sado on April 9, 2013. The Department also previously served Mr. Sado with its exhibits in this matter on April 5, 2013. Mr. Sado acknowledged receipt of those exhibits. During the hearing today, Mr. Sado requested dismissal of the case against him, because of his perceived belief that the Department failed to comply with Judge Cervantes' Scheduling Order. The Department was willing to allow the ALJ to continue the hearing that is scheduled for tomorrow to allow Mr. Sado additional time to review the discovery documents that he recently received from the Department. However, Mr. Sado objected to the Department's proposal and requested dismissal instead. Mr. Sado acknowledged that he could be prepared for tomorrow's hearing, if the ALJ denied his dismissal request. The ALJ finds that it was because of Mr. Sado's own inaction in failing to return Mr. Larson's two telephone messages that he was unable to receive the Department's discovery before he did. As a result, his claim lacks merit and is denied.

Next, Mr. Sado maintains that the case against him should be dismissed because it violates his Fifth Amendment right against double jeopardy.<sup>1</sup> There is no dispute that the present case against Mr. Sado involves a civil cause of action. Double jeopardy only applies in criminal cases. As a result, his claim lacks merit and is denied.

Finally, Mr. Sado argues that the Department misrepresented the status of a well located on one of the properties at issue in this case. This is an issue that must be addressed at a hearing. It is not an issue that the ALJ has the legal authority to address as part of a Motion to Dismiss. As a result, the claim lacks merit and is denied.

**A. J. C.**

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<sup>1</sup> Double jeopardy is a procedural defense that prohibits a defendant from being tried again on the same or similar charges following an acquittal or conviction. See *State v. Sahr*, 812 NW 2d 83 (Minn. 2012).