

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

In the Matter of Segal Bennett and
Associates

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND RECOMMENDATION
UPON DEFAULT**

This matter came on for a prehearing conference before Administrative Law Judge LauraSue Schlatter on June 6, 2014.

Michael J. Tostengard, Assistant Attorney General, appeared on behalf of the Minnesota Department of Commerce (Department). There was no appearance by, or on behalf of Segal Bennett & Associates (Respondent).

STATEMENT OF THE ISSUES

Whether Respondent should be subject to censure or a civil penalty as provided in Minn. Stat. § 45.027, subds. 6 and 7 based on unlicensed loan collection activity in Minnesota as alleged on pages 2 and 3 of the Notice and Order for Hearing, Order to Show Cause and Statement of Charges (Notice and Order for Hearing).

SUMMARY OF RECOMMENDATION

The Administrative Law Judge concludes that Respondent is in default and recommends that the allegations in the Notice and Order for Prehearing Conference and Hearing be accepted as true and deemed proven.

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On April 10, 2014, a Notice of and Order for Hearing, Order to Show Cause, Order for Prehearing Conference, and Statement of Charges (Notice and Order for Hearing) in this matter was mailed to Respondent at its last known address.¹

¹ See Attachment A at Affidavit of Service.

2. The Notice and Order for Hearing indicated that a Prehearing Conference would be held in this matter on June 6, 2014, at 9:30 a.m., at the Office of Administrative Hearings, 600 Robert Street North, St. Paul, Minnesota.²

3. In conformity with Minn. R. 1400.5700, the Notice and Order for Hearing requires that any party intending to “appear at the prehearing conference and hearing must file a Notice of Appearance form and return it to the Administrative Law Judge within 20 days of the date of service” of the Notice and Order for Hearing.³

4. In conformity with Minn. R. 1400.6000, the Notice and Order for Hearing in this matter also includes the following statement:

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 for Prehearing Conference and Hearing may be accepted as true, and its proposed action may be upheld.

5. Respondent did not file a Notice of Appearance with the undersigned.

6. No one appeared at the June 6, 2014 Prehearing Conference on behalf of Respondent. No request was made for a continuance, nor was any communication received by the undersigned from Respondent prior to the June 6, 2014 Prehearing Conference.

7. Respondent’s failure to appear at the Prehearing Conference was without consent of the Administrative Law Judge.

8. Because Respondent failed to appear at the Prehearing Conference, Respondent is in default.

9. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice and Order for Hearing, a copy of which is attached as Attachment A, are taken as true, deemed proven without further evidence, and incorporated by reference into these Findings of Fact.

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

CONCLUSIONS OF LAW

1. The Department of Commerce and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50 and Minn. Stat. § 45.027, subd. 7(b).

² Attachment A at 1.

³ *Id.* at four.

2. The Respondent received timely and proper notice of the Prehearing Conference in this matter when the Department sent the Notice and Order for Hearing to its last known address.

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

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

5. Under Minn. R. 1400.6000, when a party defaults by failing to appear at a prehearing conference without the prior consent of the judge, the allegations and the issues set out in the Notice and Order for Hearing may be taken as true and deemed proven. The Administrative Law Judge therefore deems the allegations to be true.

6. Minnesota Statutes section 45.027 and provides that the Department may discipline an unlicensed person who engages in conduct that requires a license.

7. The Department has grounds to take disciplinary action against the Respondent's license based upon the allegations set forth in the Notice and Order for Hearing.

8. An order by the Department taking disciplinary action against the Respondent's license is in the public interest.

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

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Commissioner take disciplinary action against the license of Segal Bennett and Associates.

Dated: June 17, 2014

s/LauraSue Schlatter

LAURASUE SCHLATTER
Administrative Law Judge

Reported: Default

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Commerce (Commissioner) will make the final decision after a review of the record. Under Minn. Stat. § 14.61, the Commissioner shall not make a final decision until this Report has been made available to the parties for at least ten calendar days. The parties may file exceptions to this Report and the Commissioner must consider the exceptions in making a final decision. Parties should contact Michael Rothman, Commissioner, Department of Commerce, Attn: Heidi Retterath, Suite 500, 85 Seventh Place East, St. Paul, MN 55101, (651) 539-1445, to learn the procedure for filing exceptions or presenting argument.

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 Administrative Law Judge of the date the record closes. 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. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within ten working days to allow the Judge to determine the discipline imposed.

Under Minn. Stat. § 14.62, subd. 1, the Commissioner 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.