

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA DEPARTMENT OF COMMERCE

In the Matter of the Real Estate Broker's  
License of Mickey Fulton, d/b/a Fulton  
Properties

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

The above-entitled matter came on for a Prehearing Conference before Administrative Law Judge (ALJ) Richard C. Luis, commencing at 3:00 p.m. on November 16, 2000 at the Office of Administrative Hearings in Minneapolis.

Jennifer S. Kenney, Assistant Attorney General, 445 Minnesota Street, Suite 1200, St. Paul, MN 55101-2130, appeared on behalf of the Minnesota Department of Commerce (Department). There was no appearance by or on behalf of Mickey Fulton or Fulton Properties (Respondent). The record closed at the conclusion of the Prehearing Conference on November 16, 2000.

**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 James C. Bernstein, Commissioner, Minnesota Department of Commerce, 121 Seventh Place East, Suite 200, St. Paul, MN 55101 for information regarding the procedures for filing exceptions or presenting argument.

**STATEMENT OF ISSUE**

Whether disciplinary action should be taken against the Real Estate Broker's License of Mickey Fulton, d/b/a Fulton Properties, in accordance with Minn. Stat. § 45.027, subds. 6 & 7 (Supp. 1999), for failing to account for or remit trust funds and for failure to appear as ordered by the Department in connection with the alleged failure to account for or remit.

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

## **FINDINGS OF FACT**

1. On October 13, 2000, a Notice of and Order for Hearing, Notice of Prehearing Conference and Statement of Charges in this matter was mailed to the Respondent, via first class mail to his last known address at 3405½ Nicollet Avenue South, Minneapolis, Minnesota 55408. On the same day, the same Notice was sent to Mr. Fulton at that address by certified mail (receipt No. 7000 0520 0016 0927 9008). Also on October 13, 2000, service was made by leaving a copy of the Notice of and Order for Hearing, Notice of Prehearing Conference and Statement of Charges and a Notice of Service of Process in the Office of the Commissioner of Commerce (Ex.2).

2. The Notice of and Order for Hearing, Notice of Prehearing Conference and Statement of Charges in this matter reads, at page 5:

If Respondent fails to attend or otherwise appear at any prehearing conference or settlement conference or the 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 shall be deemed proved and Respondent's Real Estate Broker's License may be revoked or suspended, Respondent may be censured, and/or a civil penalty may be opposed against Respondent without further proceedings.

3. The Respondent did not appear at the Prehearing Conference on November 16, 2000, nor did anyone appear on his behalf. The Respondent made no prehearing request for a continuance, nor did he file a Notice of Appearance.

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

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

## **CONCLUSIONS**

1. The Administrative Law Judge and the Commissioner of Commerce have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 45.027, subds. 6 & 7 (Supp. 1999) and 82.27.

2. Any of the above Findings of Fact more properly termed Conclusions are hereby incorporated as such.

3. The Respondent was given timely and proper notice of the Prehearing Conference in this matter. The Department has complied with all relevant substantive and procedural requirements of law and rule.

4. Under Minn. Rule 1400.6000, the 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 issues set out in the Notice of and Order for Hearing, Notice of Prehearing Conference and Statement of Charges 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, Notice of Prehearing Conference and Statement of Charges, the Respondent has violated Minn. Stat. §§ 45.027, subds. 1a and 2, 82.27, subds. 1 (b) and 1 (f) and Minn. Rule 2805.2000, subp. 1.

7. Disciplinary action against the Respondent is in the public interest within the meaning of Minn. Stat. § 45.027, subd. 7 (1).

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

### **RECOMMENDATION**

IT IS RECOMMENDED that disciplinary action be taken against that Real Estate Broker's License of Mickey Fulton, d/b/a Fulton Properties, License No. 20075225.

Dated this 7<sup>th</sup> day of December, 2000.

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RICHARD C. LUIS  
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.