

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

In the Matter of Bradley Thomas Huff,
Individually and d/b/a M & H Construction

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

The above-entitled matter was scheduled for prehearing conference before Administrative Law Judge Steve M. Mihalchick on August 23, 2001, at 1:30 p.m. by telephone. David Aafedt, Assistant Attorney General, Suite 1200, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, was available by telephone on behalf of the Department of Commerce ("the Department"). There was no appearance by or on behalf of Respondent Bradley Thomas Huff. Respondent's last known address is 821-19th Avenue, St. Cloud, Minnesota 56303. The record closed in this matter on August 23, 2001.

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 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 Commissioner of Commerce, 85 East Seventh Place, St. Paul, Minnesota 55101, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUES

The issues in this case are whether the Respondent Bradley Thomas Huff engaged in unlicensed building contractor, remodeler, or roofer activity by contracting to remodel complainant E.K.'s house without a license or certification of exemption in violation of Minn. Stat. §§ 326.84, subd. 1 and 1b and 326.842; performed negligently or in breach of contract and engaged in fraudulent, deceptive and dishonest practices by failing to perform any work on E.K.'s house, despite receiving an \$8,450.65 down payment for the work in violation of Minn. Stat. § 326.91, subds. 1(2) and (4); and failed to appear at a conference as ordered by the Commissioner in violation of Minn. Stat. § 45.027, subd. 1(a).

FINDINGS OF FACT

1. The Cease and Desist Order and Notice of and Order for Hearing and Notice of Prehearing Conference in this matter was served upon the Respondent by certified U.S. mail on July 16, 2001, at his last known address.

2. The Cease and Desist Order and Notice of and Order for Hearing and Notice of Prehearing Conference in this matter was served on the Commissioner by certified mail on July 16, 2001, pursuant to Minn. Stat. § 45.028.

3. The Cease and Desist Order and Notice of and Order for Hearing and Notice of Prehearing Conference served on Respondent contained the following informational notice in bold-face type:

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 may be deemed proved, the Cease and Desist Order will become permanent, and/or a civil penalty may be imposed against Respondent without further proceedings.

4. Respondent did not file a Notice of Appearance with the Administrative Law Judge or make any request for a continuance or any other relief. Respondent failed to appear at the prehearing conference scheduled on August 23, 2001, and no appearance was made on his behalf.

5. Because Respondent failed to appear at the hearing in this matter, he is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for 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. The Minnesota Department of Commerce and the Administrative Law Judge have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50 and 45.027.

2. The Department has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. Respondent, having made no appearance at the hearing and not requesting any continuance or relief, is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Hearing are hereby taken as true.

4. Respondent engaged in unlicensed building contractor, remodeler, or roofer activity by contracting to remodel complainant E.K.'s house without a license or certification of exemption in violation of Minn. Stat. §§ 326.84, subd. 1 and 1b and 326.842.

5. Respondent performed negligently or in breach of contract and engaged in fraudulent, deceptive and dishonest practices by failing to perform any work on E.K.'s house, despite receiving an \$8,450.65 down payment for the work in violation of Minn. Stat. § 326.91, subds. 1(2) and (4).

6. Respondent failed to comply with a Commissioner's Order to Appear at a conference in violation of Minn. Stat. § 45.027, subd. 1a.

7. Respondent is subject to discipline and civil penalties pursuant to Minn. Stat. § 45.027, subds. 6 and 7, and 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 RESPECTFULLY RECOMMENDED that the Commissioner of Commerce take disciplinary action against the Respondent and impose appropriate civil penalties.

Dated August 29, 2001

S/ Steve M. Michalchick
STEVE M. MIHALCHICK
Administrative Law Judge

Reported: Default.

NOTICE OF AGENCY DECISION

Under 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.