

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

In the Matter of Ted Erickson, Individually  
and d/b/a Central Lakes 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 1, 2002, at 2:30 p.m. at the Office of Administrative Hearings, Minneapolis, Minnesota. Michael J. Tostengard, 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 Ted Erickson. Respondent's last known address is 39625 Dear Street, Lot 29, Aitkin, Minnesota 56431. Based upon Respondent's failure to appear, the Department has requested a Default Recommendation.

**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 Ted Erickson, individually and doing business as Central Lakes Construction, engaged in unlicensed building contractor activity by contracting with RC to perform remodeling work on his cabin without a building contractor, remodeler, or roofer license, or certificate of exemption, in violation of Minn. Stat. § 326.84, subds. 1 and 1b; performed negligently or in breach of contract by failing to order and install windows that he had collected money for in violation of Minn. Stat. § 326.91, subd. 1(4); violated an order issued by the Commissioner by contracting with RC to perform remodeling work in violation of Minn. Stat. § 326.92, subd. 1a; and failed to respond to specific requests for information from

the Commissioner requesting responses to RC's allegations in violation of Minn. Stat. § 45.027, subd. 1a.

### **FINDINGS OF FACT**

1. The Notice an Order for Hearing, Notice of Prehearing Conference, and Statement of Charges in this matter was served upon the Respondent by US mail on June 17, 2002 at his last known address.

2. The Notice of an Order for Hearing, Notice of Prehearing Conference and Statement of Charges served on Respondent contain the following informational notice in bold-faced type:

**If Respondent fails to attend or otherwise appear at any prehearing conference, or 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 certificate of authority may be revoked or suspended, and Respondent may be censured and/or a civil penalty may be imposed against Respondent without further proceedings.**

3. 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 1, 2002, and no appearance was made on his behalf.

4. 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 activity by contracting with RC to perform remodeling work on his cabin without a building contractor, remodeler, or roofer license, or a certificate of exemption in violation of Minn. Stat. § 326.84, subds. 1 and 1b.

5. Respondent performed negligently or in breach of contract by failing to order and install windows that he had collected money for on RC's cabin in violation of Minn. Stat. § 326.91, subd. 1(4).

6. Respondent violated an order issued by the Commissioner by contracting with RC to perform remodeling work in violation of Minn. Stat. § 326.92, subd. 1a.

7. Respondent failed to respond to specific requests where information from the Commissioner by failing to respond to the Department's letters regarding his work on RC's cabin in violation of Minn. Stat. § 45.027, subd. 1a.

8. 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 7, 2002

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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.