

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

In the Matter of Charles (Chuck) Caya

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

The above-entitled matter came on for a hearing before Administrative Law Judge Barbara L. Neilson on January 5, 2005, at 9:30 a.m. at the Office of Administrative Hearings in Minneapolis, Minnesota. Michael J. Tostengard, Assistant Attorney General, 445 Minnesota Street, Suite 1200, St. Paul, Minnesota 55101-2130, appeared on behalf of the Department of Commerce ("the Department"). There was no appearance by or on behalf of the Respondent, Charles (Chuck) Caya, 108 Serra Street, Mankato, MN 56001. The OAH record closed on January 5, 2005.

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 Kevin Murphy, Deputy Commissioner, Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101-2198, to ascertain the procedure for filing exceptions or presenting argument.

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. 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 the Administrative Law Judge of the date on which the record closes.

STATEMENT OF ISSUES

The issues presented in this case are whether the Respondent, Charles (Chuck) Caya, violated Minn. Stat. §§ 326.84, subds. 1 and 1a, and 326.91, subd. 1(5), by seeking a building permit in July of 2004 as a general contractor for a job consisting of

construction of a garage and deck even though he was not licensed as a building contractor and had previously entered into a Consent Cease and Desist Order with the Department of Commerce in 2000 prohibiting unlicensed building contractor activity and, if so, what, if any, penalty is appropriate.

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

FINDINGS OF FACT

1. The Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges initiating this contested case proceeding was served on the Respondent, Charles (Chuck) Caya, via first class mail on September 27, 2004, at the following address: 108 Serra Street, Mankato, MN 56001.^[1]

2. The Respondent appeared for the prehearing conference on November 18, 2004. During that prehearing conference, the hearing was set for January 5, 2005, at 9:30 a.m.

3. The Respondent did not make any request prior to the January 5, 2005, hearing for a continuance or any other relief. The Respondent did not personally appear at the hearing in this matter scheduled for January 5, 2005, or have an appearance made on his behalf.

4. Because the Respondent failed to appear at the hearing in this matter, he is in default.

5. Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of and Order for Hearing, Notice of Prehearing Conference and Statement of Charges 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 Administrative Law Judge and the Commissioner of Commerce have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 45.027, and 326.91.

2. The Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges issued by the Department was proper and the Department has fulfilled all relevant substantive and procedural requirements of law and rule.

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

4. By engaging in unlicensed activity, the Respondent has violated Minn. Stat. §§ 326.84, subds. 1 and 1a, and 326.91, subd. 1(5). The Respondent is subject to

sanctions pursuant to Minn. Stat. §§ 45.027, subds. 6 - 7, and 326.91, subd. 1, 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 RECOMMENDED that the Commissioner of Commerce impose appropriate sanctions against the Respondent, Charles (Chuck) Caya.

Dated: January 6, 2005

/s/ Barbara L. Neilson
BARBARA L. NEILSON
Administrative Law Judge

Reported: Default.

NOTICE

Pursuant 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.

^[1] Affidavit of Service by First Class Mail of Jean-Anne Gates attached to Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges.