

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

In the Matter of the Unlicensed Debt  
Collection Activities of Brooks, Newman &  
Stone, Inc.

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

This matter came on before Administrative Law Judge Manuel J. Cervantes (ALJ) pursuant to a Notice and Order for Prehearing Conference, filed December 9, 2010.

Christopher M. Kaisershot, Assistant Attorney General, represents the Department of Commerce (Department). No one responded or appeared on behalf of Brooks, Newman & Stone, Inc. (Respondent).

**STATEMENT OF ISSUES**

1. Did Respondent violate Minn. Stat. §§ 45.027, subd. 7(a)(2) and 332.33, subd. 1,<sup>1</sup> by conducting business within the State as a collection agency and collecting claims for others without having first applied for and obtaining a collection agency license.

2. Did Respondent violate Minn. Stat. §§ 45.027, subd. 7(a)(4) and 332.37(8) by showing itself to be incompetent, untrustworthy, or financially irresponsible when it refused or intentionally failed to account for all money collected within 30 days from the last day of the month in which the same was collected.

3. Did Respondent violate Minn. Stat. § 45.027, subs. 1a and 7(a)(3) by failing to respond to the Department's request for information.

4. If the answer is in the affirmative to any issue referenced above, should Respondent be subjected to discipline and/or civil penalty?

Based upon all the files records, and proceedings herein, the ALJ makes the following

**FINDINGS OF FACT**

1. Respondent is not licensed by the Department in any capacity, nor is Respondent exempt from licensure as a collection agency.

---

<sup>1</sup> Unless noted otherwise, citations to Minnesota Statutes refer to the 2010 Edition.

2. On or about October 5 and October 29, 2009, Respondent faxed debt collection solicitations to Intelligent Touch Dental (“ITD”), located in South Saint Paul, Minnesota. Respondent held itself out as a “dental lab collection specialist.” Respondent indicated that it did not charge any fee if it could not collect, and that its rates were 20% on accounts over \$1,000 and 33% on accounts less than \$1,000. Respondent indicated it collected over \$800 million dollars in the previous year, and that it serviced all 50 states, plus the District of Columbia and Puerto Rico. Respondent indicated that “all we need is an invoice or statement faxed or e-mailed to us.”

3. ITD hired Respondent to collect on at least one account for a debtor located in Lakeland, Minnesota. On February 5, 2010, the debtor sent Respondent a \$2,030 check in settlement of the account due and owing to ITD; however, Respondent failed to forward any money to ITD.

4. On July 19, 2010, the Department sent Respondent an information request, which asked for a written explanation to ITD’s complaint.

5. Respondent received the certified mail, signature required, on July 26, 2010, but to date, has failed to submit any response to the Department.

Based upon all the files records, and proceedings herein, the ALJ 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 and 45.027.

2. The Notice and Order for Prehearing Conference was proper, and the Department has complied with all relevant procedural legal requirements.

3. Pursuant to Minn. R. 1400.6000, a contested case may be decided adversely to a party who defaults. Upon default, the allegations and claims set forth in the Notice and Order for Prehearing Conference, and Statement of Charges may be taken as true or deemed proved without further evidence.

4. Respondent engaged in unlicensed collection agency or collector activities.

5. Respondent contracted with a Minnesota business to collect at least one past due account against a Minnesota debtor.

6. Based upon the facts set forth in the Statement of Charges, Respondent violated Minn. Stat. §§ 45.027, subd. 7(a)(2) and 332.33, subd. 1, by conducting business within the State as a collection agency and collecting claims for others without having first applying for and obtaining a collection agency license.

7. Based upon the facts set forth in the Statement of Charges, Respondent violated Minn. Stat. §§ 45.027, subd. 7(a)(4) and 332.37(8) by showing itself to be incompetent, untrustworthy, or financially irresponsible when it refused or intentionally failed to account for all money collected within 30 days from the last day of the month in which the same was collected.

8. Based upon the facts set forth in the Statement of Charges, Respondent violated Respondent violated Minn. Stat. § 45.027, subds. 1a and 7(a)(3) by failing to respond to the Department's request for information.

9. Based upon the facts set forth in the Statement of Charges, Respondent should be subjected to discipline and/or civil penalty.

10. This Order is in the public interest.

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

### **RECOMMENDATION**

The Administrative Law Judge recommends that the Commissioner of Commerce impose an appropriate civil penalty against Respondent.

Dated: February 9, 2011

s/Manuel J. Cervantes  
\_\_\_\_\_  
MANUEL J. CERVANTES  
Administrative Law Judge

Reported: No Digital Recording

### **NOTICE**

This report is a recommendation, not a final decision. The Commissioner of the Minnesota Department 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 Michael Rothman, Commissioner, Department of Commerce, 85 Seventh Place East, Suite 500, St. Paul, MN 55101 to learn about 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.

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.