

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

In the Matter of Greg Devaan, d/b/a  
Call One Handyman Services,  
Residential Building Contractor License  
No. 9024

FINDINGS OF FACT,

CONCLUSIONS AND RECOMMENDATION

The above-captioned matter came on for hearing before Administrative Law Judge Jon L. Lunde, commencing at 9:30 a.m., May 23, 1995 at the Offices of the Minnesota Department of Commerce in St. Paul, Minnesota. The hearing was held pursuant to a Notice of and Order for Hearing and Order to Show Cause dated April 5, 1995. The record closed on May 24, 1995 when the Department requested a default adjudication.

Maya K. Howlett, Assistant Attorney General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of the Minnesota Department of Commerce (Department ). The Respondent, Greg Devaan, d/b/a Call One Handyman Services, 4174 Highwood Road, Orono, Minnesota 55364 did not appear at the scheduled hearing.

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 and may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to 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 James E. Ulland, 133 East 7th Street, St. Paul, Minnesota 55101, telephone 612/296-6694, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issues in this case are whether the Respondent violated the provisions of Minn. Stat. §§ 45.027, subds. 1a and 2 and 326.91, subd. 1 by failing to comply with departmental requests for information and the Commissioner's orders for Respondent to appear at the Commissioner's office and by failing to satisfy a civil judgment against him.

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

### FINDINGS OF FACT

1. On April 6, 1995, a Notice of and Order for Hearing and Order to Show Cause were served upon the Respondent, Greg Devaan, d/b/a Call One Handyman Services at his last known address. On the same date, a copy of the hearing order was served on the Commissioner of Commerce pursuant to Minn. Stat. § 45.028 (1994).

2. The Notice of and Order for Hearing and Order to Show Cause contains the following informational notice:

If Respondent fails to attend or otherwise appear at the hearing in this matter after having been served with a copy of this Order, it shall be deemed in default and the allegations or issues set forth herein may be deemed proved and Respondent's residential building contractor license may be revoked or suspended and/or civil penalties may be imposed on Respondent without further proceedings.

3. The Respondent failed to appear at the hearing on May 23, 1995 without the Judge's prior consent and did not make any prehearing request for a continuance or any other relief.

4. On October 25, 1994, the Department of Commerce received a complaint against Respondent from Mr. Son Duong. Mr. Duong alleged that Respondent had been hired to install a storm door and that the installation was unsatisfactory. Mr. Duong further alleged that Respondent has been unwilling to correct the problem.

5. Based on Mr. Duong's complaint, the Department initiated an investigation. On October 28, 1994, the Department requested that Respondent provide a written response to the complaint. Respondent failed to respond.

6. On November 6, 1994, a second request for information was mailed by regular and certified mail. The letter sent by certified mail was signed for the following day. Respondent failed to respond to the second request.

7. Based on Respondent's failure to respond to two requests for information, on December 5, 1994, an Order to Appear was issued by the Commissioner. The Order to Appear was sent by regular and certified mail. Respondent was ordered to appear at 10 a.m. on December 14, 1994. The Order to Appear that had been sent by certified mail was returned unclaimed.

8. On the morning of December 14, 1994, Respondent notified the Department that he was unable to appear. Respondent agreed that, in lieu of appearing, he would provide a written response to the complaint by December 15, 1994.

9. Respondent failed to provide a written response. On January 6, 1995, a second Order to Appear was issued by the Department. Respondent was required to appear at the Department of Commerce at 10 a.m. on January 17, 1995. The second

Order to Appear was also sent by regular and certified mail. The Order to Appear that had been sent by certified mail was returned unclaimed.

10. Once again, Respondent failed to comply with the Order to Appear.

11. On May 26, 1994, a civil judgment was entered in Hennepin County District Court against Respondent by Mr. Duong. Respondent has not satisfied the judgment.

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

### CONCLUSIONS

1. The Commissioner of the Minnesota Department of Commerce and the Administrative Law Judge have statutory authority to consider the charges made against the Respondent under Minn. Stat. §§ 326.91, subd. 1; 45.027, subd. 5 and 14.50 (1994), and the Commissioner of Commerce has authority to deny, suspend, or revoke the Respondent's license, censure the Respondent, and impose a civil penalty upon him under Minn. Stat. §§ 326.91, subd. 1 and 45.027 (1994).

2. The Respondent received proper notice of the charges against him and the time and place of the hearing.

3. The Department of Commerce has complied with all relevant substantive and procedural requirements of statute and rule.

4. Under Minn. Rules pt. 1400.6000, a default occurs when a party fails to appear at a hearing without prior consent of the Administrative Law Judge.

5. Under Minn. Rules pt. 1400.6000, upon default by a party, the allegations of or the issues set out in the Notice of and Order for Hearing may be taken as true or deemed proved without further evidence.

6. The Respondent's failure to comply with departmental requests for information and his failure to comply with the Orders to Appear issued by the Commissioner violated Minn. Stat. § 45.027, subs. 1a and 2 (1994).

7. Respondent's failure to satisfy the judgment against him shows him to be financially irresponsible in violation of Minn. Stat. § 326.91, subd. 1(6) (1994).

8. As a result of the Respondent's statutory violations, adverse licensing action 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 deny, suspend, or revoke the Respondent's residential building contractor license, censure the Respondent, and/or impose a civil penalty upon him as provided for in sections 326.91, subd. 1 and 45.027, subd. 6 (1994).

Dated this 24th of May, 1995

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JON L. LUNDE  
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.