

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE COMMISSIONER OF LABOR & INDUSTRY

In the Matter of Raymond Otto Hable

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

This matter came on for a contested hearing before Administrative Law Judge Steve M. Mihalchick at 1:30 p.m. on August 22, 2006, at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota.

Christopher M. Kaisershot, Assistant Attorney General, 1200 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared for the Department of Labor and Industry (Department). Gerald J. Magee, 337 Oak Grove St., Suite 101, Minneapolis, Minnesota 55403, appeared for the Respondent, Raymond Otto Hable.

STATEMENT OF ISSUES

1. Did the Respondent engage in unlicensed residential building contractor activities on the Melchiones', Grubbs' and Mrosclas' projects in violations of Minn. Stat. §§ 326.84, subds. 1 and 1b, and 326.91, subd 1(5) and 4?

2. Did the Respondent violate the February 13, 2002 Consent Cease and Desist Order by contracting with Melchiones, Grubbs' and Mrosclas in violation of Minn. Stat. § 326.91, subds. 1(5) and 4?

3. Did the Respondent perform negligently or in breach of contract on the Melchiones' Grubbs' and Mrosclas' projects in violation of Minn. Stat. § 326.91, subds 1(4) and 4.

4. By failing to obtain requisite permits and inspections for the Grubbs' project did the Respondent engage in fraudulent, deceptive, or dishonest practices in violation of Minn. Stat. § 326.91, subds 1(2) and 4 and Minn. R. 2891.0040?

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

FINDINGS OF FACT

1. On August 4, 2006, the Notice of and Order for Hearing, Order for Prehearing Conference, and Amended Statement of Charges in this matter was served by first class mail upon Raymond Otto Hable, 2529 County Road H, New Brighton, Minnesota 55112.

2. Following a prehearing conference, the matter was scheduled for a contested case hearing on August 22, 2006.

3. Respondent appeared at the August 22nd hearing where he was represented by counsel. Respondent, through his attorney, admitted the allegations contained in the Amended Statement of Charges and admitted the violations of the statutes and rule set forth in the Amended Statement of Charges.¹

4. Respondent represented that he was in the process of providing restitution to the Melchiones, the Grubbs, and the Mroslas.²

5. Based on Respondent's admission, the allegations contained in the Notice of and Order for Hearing, Order for Prehearing Conference, and Statement of Charges are taken as true and incorporated into these Findings of Fact.

6. Respondent caused injury or harm to the public.

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

CONCLUSIONS

1. The Department of Labor and Industry and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 45.027, and 326.91.

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

3. The Respondent engaged in unlicensed residential building contractor activities in violation of Minn. Stat. §§ 326.84, subds. 1 and 1b, and 326.91, subd 1(5) and 4.

4. The Respondent violated the February 13, 2002 Consent Cease and Desist Order in violation of Minn. Stat. § 326.91, subds 1(5) and 4.

5. The Respondent performed negligently or in breach of contract in violation of Minn. Stat. § 326.91, subds 1(4) and 4.

¹ Hearing record tape.

² Hearing record tape.

6. The Respondent engaged in fraudulent, deceptive, or dishonest practices in violation of Minn. Stat. § 326.91, subds 1(2) and 4 and Minn. R. 2891.0040.

7. Minn. Stat. § 326.91, subd. 4 authorizes the Commissioner to take action against persons required to be licensed.

8. Respondent's conduct constitutes grounds for the Department to take disciplinary action under Minn. Stat. §§ 326.91, subd. 4.

9. Disciplinary action is in the public interest.

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

RECOMMENDATION

IT IS RESPECTFULLY RECOMMENDED that the Commissioner take disciplinary action against the Respondent, Raymond Otto Hable.

Dated: October 2, 2006

s/Steve M. Mihalchick

STEVE M. MIHALCHICK
Administrative Law Judge

Reported: One tape, not transcribed.

NOTICE

This report is a recommendation, not a final decision. The Commissioner of Labor and Industry will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61, the Commissioner shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report and the Commissioner must consider the exceptions in making a final decision. Parties should contact Nancy Leppink, Deputy Commissioner, Minnesota Department of Labor and Industry, 443 Lafayette Road North, St. Paul, MN 55155 to learn 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.

Pursuant to Minn. Stat. § 14.62, subd. 1, the Commissioner is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.