

	7-1902-21645-2

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Licensing Order Issued to Kory Glover Roofing, LLC, and Kory Glover, Individually	<b>FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATION</b>
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This matter came on for a Prehearing Conference before Administrative Law Judge (ALJ) Richard C. Luis on December 14, 2010 at the Office of Administrative Hearings in St. Paul. The OAH record closed the same day.

Christopher M. Kaisershot, Assistant Attorney General, appeared on behalf of the Department of Labor and Industry (Department). There was no appearance by or on behalf of Respondents Kory Glover Roofing, LLC and/or Kory Glover, Individually. The Respondents did not request a continuance or contact the Administrative Law Judge for other relief. The Department requested a Default Recommendation.

**STATEMENT OF ISSUES**

1. Did the Respondents fail to reasonably supervise employees, agents, or subcontractors, or perform negligently or in breach of contract, in violation of Minn. Stat. §§ 326B.082, subd. 11(b)(1) and 326B.84(4)?

2. Did the Respondents engage in an act or practice that demonstrates that they are untrustworthy, financially irresponsible, or otherwise incompetent to act under the license granted by the Commissioner or by taking approximately seven months to pay for building permits, in violation of Minn. Stat. §§ 326B.082, subd. 11(b)(9) and 326B.84(15)?

3. Have the Respondents failed to comply with requests for information from the Commissioner in violation of Minn. Stat. §§ 326B.082, subd. 11(b)(1) and 326B.84(16)?

Based on the proceedings herein record, the Administrative Law Judge makes the following:

## **FINDINGS OF FACT**

1. On October 25, 2010, the Department mailed the Notice and Order for Prehearing Conference in this matter to the Respondents at their last known address.

2. The Notice and Order for Prehearing Conference noted, at page three:

Respondents' failure to appear at the hearing or at any prehearing conference, or any failure to comply with an order of the Administrative Law Judge, may result in a finding that Respondents are in default, and the Department's allegations contained in this Notice and Order may be accepted as true, and its proposed action may be upheld.

The Notice also specified that requests to delay the prehearing conference must be made in writing to the Administrative Law Judge.

3. The Respondents failed to appear at the Prehearing Conference without obtaining prior approval from the Administrative Law Judge, did not file a Notice of Appearance, and did not request a continuance or any other relief.

4. Because the Respondents failed to appear at the Prehearing Conference or contact the Administrative Law Judge prior to the Prehearing Conference, the Respondents are in default.

5. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice and Order for Prehearing Conference are taken as true and incorporated by reference into these Findings of Fact.

6. The Notice of Prehearing Conference was issued in this matter because the Respondents filed notice of their intention to contest a Licensing Order issued on August 27, 2010, which Order revoked the Residential Building Contractor License of Kory Glover Roofing, LLC, and assessed a civil penalty against Respondents of \$1,000.00. The Licensing Order also required the Respondents to cease and desist from acting or holding themselves out as a residential building contractor, residential remodeler, or residential roofer in the State of Minnesota.

As noted above, the Respondents failed to appear at the Prehearing Conference that was ordered after their filing a Request for Hearing.

7. The Licensing Order issued August 27, 2010 is incorporated by reference into the Notice and Order for Prehearing Conference and into these Findings of Fact.

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

## CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Labor and Industry are authorized to consider the charges against the Respondents under Minn. Stat. §§ 14.50, 45.027, 326B.082 and 326B.84.

2. The Respondents received proper and timely notice of the allegations against them and of the time and place of the Prehearing Conference. Therefore, this matter is properly before the Administrative Law Judge.

3. The Department has complied with all procedural requirements.

4. Under Minn. R. 1400.6000, a contested case may be decidedly adversely against a party who defaults. On default, the allegations of and the issues set out in the Notice of and Order for Hearing, Prehearing Conference, or other pleading may be taken as true or deemed proved without further evidence. The Respondent is in default in this matter as a result of failure, without prior consent of the Administrative Law Judge, to appear at the Prehearing Conference.

5. The Respondent has violated Minn. Stat. §§ 326B.02, subds. 11(b)(1) and 11(b)(9), and 326B.84(4), .84(15), and .84(16).

6. Disciplinary action against the Respondents is in the public interest within the meaning of Minn. Stat. § 45.027, subd. 7.

Based on the Conclusions, the Administrative Law Judge makes the following:

## RECOMMENDATION

**IT IS RECOMMENDED** that the Commissioner of Labor and Industry take appropriate disciplinary action against the Residential Building Contractor License of Kory Glover Roofing, LLC, and Kory Glover, Individually. It is appropriate for the Commissioner to enforce the Licensing Order against the Respondents issued October 27, 2010, which vacated a prior Licensing Order dated July 13, 2010, revoked the Residential Building Contractor License of Kory Glover Roofing, LLC, assessed a civil penalty of \$1,000.00, and ordered that the Respondents cease and desist from acting or holding themselves out as residential building contractors, residential remodelers, or residential roofers in the State of Minnesota.

Dated: January 10th, 2011

/s/ Richard C. Luis  
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RICHARD C. LUIS  
Administrative Law Judge

Reported: Default

## 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. 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 Ken Peterson, Commissioner, Attn: Wendy Willson Legge, Director of Legal Services, Minnesota Department of Labor and Industry, 443 Lafayette Road, 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.

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.