

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

In the Matter of the Revocation of the  
Securities Agent License of Jacob C.  
Saba; 223 W. Franklin Ave. Apt. 3,  
Minneapolis, MN 55404-2316;  
Minnesota ID #468152394; Securities  
Agent License #2638012

FINDINGS OF FACT  
CONCLUSIONS, AND  
RECOMMENDATION

The above-entitled matter came on for hearing before Administrative Law Judge Phyllis A. Reha commencing at 1:30 PM at the at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, Minnesota.

Wayne L. Sather, Attorney, Minnesota Department of Revenue, Legal Services Division, Mail Station 2220, 600 N. Robert Street, St. Paul, MN 55146-0220, appeared on behalf of the Minnesota Department of Revenue (Department). The Respondent, Jacob C. Saba, 223 W. Franklin Ave., Apt. 3, Minneapolis, MN 55404-2316, did not appear. The record closed on December 22, 2000 upon receipt of a letter from the Department clarifying taxpayer information.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of the Minnesota department of Revenue 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 Matthew G. Smith, Commissioner, 600 N. Robert Street, St. Paul, MN 55146 to ascertain the procedure for filing exceptions or presenting argument.

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STATEMENT OF ISSUE

The issue in this case is whether or not the Commissioner may issue a Notice of License Revocation pursuant to Minnesota Statutes, Section 270.70.

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

### FINDINGS OF FACT

1. The Minnesota Department of Revenue on November 9, 2000 issued the Notice and Order for Hearing with respect to the Respondent. In the Notice and Order for Hearing, the Department alleged as follows:

- 1) Respondent Jacob C. Saba holds a Securities Agent license issued by the Department of Commerce; and
- 2) On September 14, 2000 the Department of Revenue notified the Respondent of its intent to issue a Notice of License Revocation to the Department of Commerce; and
- 3) Respondent has failed to file Minnesota individual income tax returns for the years of 1995, 1996 and 1997.<sup>[1]</sup>

2. The Notice and Order for Hearing contained the following paragraph set forth in bold print:

**SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THIS ORDER WILL BE TAKEN AS TRUE AND ISSUES SET OUT DEEMED PROVED.** If the allegations are taken as true or deemed proved, the Commissioner will issue the Notice of License Revocation. Upon receipt of the notice, the licensing authority will revoke the taxpayer's license. (Emphasis in original).<sup>[2]</sup>

3. The Notice and Order for Hearing was served on Jacob C. Saba, 223 W. Franklin Ave., Apt. 3, Minneapolis, MN 55404-2316 by first class mail on November 13, 2000.<sup>[3]</sup>

4. The Respondent failed to file a Notice of Appearance with the Office of Administrative Hearings, failed to appear on the scheduled hearing date, and did not make a prehearing request for a continuance or any other relief. The Respondent is, therefore, in default.

5. The allegations and issues set forth in the Notice and Order for Hearing are incorporated herein by reference in their entirety.

6. Prior to the close of the hearing record, the Department submitted a document dated June 21, 2000 indicating that the Department made a formal demand on the Respondent to file the required Minnesota individual income tax returns for 1995, 1996 and 1997 by July 21, 1999, or face revocation of a professional license if, after notice, the license holder does not file any required returns or show that the returns are not required to be filed.<sup>[4]</sup>

7. Respondent holds a Securities Agent license issued by the Department of Commerce #2638012.

8. Respondent has failed to file Minnesota individual income tax returns for the years of 1995, 1996 and 1997.

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

### CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Revenue have authority to consider the issues set out in the Notice and Order for Hearing and to take the action proposed under Minn. Stat. §§ 14.50, and 270.72 and 289A.35.

2. The Department gave proper notice of the hearing in this matter to the Respondent and has complied with all relevant substantive and procedural requirements of law and rule.

3. The Respondent is in default under Minn. Rules pt. 1400.6000 as a result of his failure to appear at the hearing.

4. Under Minn. Rules pt. 1400.6000 the allegations of and the issues set out in the Notice and Order for Hearing may be taken as true or deemed proved without further evidence when a party defaults.

5. The Respondent has failed to file Minnesota individual income tax returns for the years of 1995, 1996 and 1997 and as a result has violated Minnesota Statutes. The Respondent is subject to Revocation of his Securities Agent license issued by the Department of Commerce as provided in Minnesota Statutes, Section 270.72.

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

### RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Commissioner of Revenue take appropriate action to revoke the Securities Agent license # 2638012 issued to the Respondent by the Department of Commerce as provided in Minnesota Statutes, Section 270.72.

Dated this 25<sup>th</sup> day of January, 2001.

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PHYLLIS A. REHA

Administrative Law Judge

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.

Reported: Default

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- [\[1\]](#) Exhibit A, page 1-2.
  - [\[2\]](#) Exhibit A, page 2.
  - [\[3\]](#) Exhibit C.
  - [\[4\]](#) Exhibit D, page 1-2.