

RE2500696/PJS

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of Tracy Holland

**CEASE AND DESIST ORDER AND
NOTICE OF RIGHT TO HEARING**

TO: Tracy Holland
5801 SW 128th Street
Ellendale, MN 56026

Minnesota State law prohibits any person from acting or holding themselves out as real estate salesperson or broker without a valid license issued by the Department of Commerce as required by Minn. Stat. § 82.41, subd. 1 (2004), unless such person is exempt from said licensing requirements.

Pursuant to the above-referenced statutes, Commissioner Glenn Wilson has determined as follows:

STATEMENT OF CHARGES

1. Holland is not licensed by the Department as a real estate salesperson or broker.
2. In December 2004, the Department received a complaint concerning Holland's real estate activities. The Department's investigation revealed that Holland, doing business as the Holland Auction Company, offered residences for sale without the supervision of a licensed real estate broker or practicing attorney.
3. This Order is in the public interest.

VIOLATIONS

COUNT I

By engaging in real estate sales activities without a license, Respondent violated Minn. Stat. § 82.41, subd. 1 (2004).

COUNT II

By failing to conduct a real estate transaction without the supervision of a licensed practicing attorney or real estate broker, Respondent violated Minn. Stat. § 82.23(h) (2004).

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Minn. Stat. § 45.027, subd. 5 (2004), that this Order is effective immediately and that Respondent Tracy Holland, d/b/a Holland Auction Company shall cease and desist from engaging in activities requiring a real estate license until compliance with Minn. Stat. Ch. 82 (2004) has been achieved and until further order of the Commissioner.

IT IS FURTHER ORDERED, pursuant to Minn. Stat. § 45.027, subd. 5a (2004), that Respondent may request a hearing in this matter. Such request shall be made in writing and served upon the Commissioner, whereupon the Commissioner shall set a date for hearing within ten (10) days after receipt of the request unless Respondent and the Department by agreement waive the 10-day time period. If no hearing is requested by Respondent within thirty (30) days of service of this Order and none is ordered by the Commissioner, this Order will become permanent and will remain in effect until it is modified or vacated by the Commissioner.

IT IS FURTHER ORDERED, that if a hearing is requested, this Order will remain in effect until it is modified or vacated or made permanent by further order of the Commissioner under Minn. Stat. § 45.027, subd. 5a (2004). The administrative proceeding provided by Minn. Stat. § 45.027, subd. 5a (2004), and subsequent appellate judicial review of that administrative proceeding, constitutes the exclusive remedy for determining whether the Commissioner properly issued this Order and whether this Order should be made permanent.

IT IS FURTHER ORDERED, that notwithstanding the provisions of Minn. Stat. § 45.027, subds. 5 or 5a (2004), if Respondent request a hearing under Minn. Stat. § 45.027, subd. 5a (2004) Respondent may, within 15 days after service of this Order, bring an action in Ramsey County District Court for an injunction to suspend enforcement of this Order pending a final decision of the Commissioner under Minn. Stat. § 45.027, subd. 5a (2004) to vacate or make permanent this Order. The Court shall determine whether to issue such an injunction based on traditional principles of temporary relief.

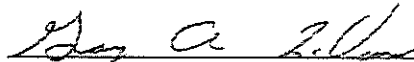
IT IS FURTHER ORDERED, that in the event a hearing is requested in this matter, it will be held before an Administrative Law Judge to be appointed by the Chief Administrative Law Judge for the State of Minnesota, Office of Administrative Hearings, 100 Washington Square, Suite 1700, 100 Washington Avenue South, Minneapolis, MN 55402, Telephone: (612) 341-7600. All parties have the right to represent themselves or be represented throughout the proceedings herein by legal counsel or a person of their choice if not otherwise prohibited as the unauthorized practice of law. The hearing will be conducted pursuant to the contested case procedures as prescribed in Minn. Stat. §§ 14.57-14.69 (2004), and the Rules of the Office of Administrative Hearings, Minn. R. 1400.5100-1400.8401

(2003). Failure to attend a hearing in this matter may result in the allegations of this Order being taken as true. Questions concerning the issues raised in this Order, informal disposition of this proceeding or discovery may be directed to Assistant Attorney General Michael J. Tostengard, 1200 Bremer Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2127, Telephone: (651) 296-9701.

Dated: 06-16-05

GLENN WILSON
Commissioner of Commerce
State of Minnesota

By:


GARY A. LAVASSEUR
Enforcement Director

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St. Paul, Minnesota 55101
(651) 297-7046

AG: #1430385-v1