

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Department of Commerce
(Agency or Board)

Regulation No. CS 1-19 new

Subject: Rules of Contested Cases

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

DEC 21 1973 3:30 pm

BY Eda Staudenmaier
AUTH. SIGNATURE EJ

Stamped and filed with the Secretary of State 12-21-73

Rev. 9-72

Adopted

CHAPTER 1 (CS 1 - 19)

Rules of Contested Case Procedures

CS 1 Introduction, Definitions.

(a) Introduction. No person before this Agency shall have his rights, privileges, or duties determined without regard for fundamental fairness. To that end, these rules are intended to assure that all parties to contested cases before this agency are provided a speedy and just hearing. Such hearing shall include:

(1) Adequate notice of involvement to all interested persons;

(2) The opportunity to consult with the Agency informally to attempt to resolve conflicts on issues;

(3) Notice at each stage of the proceedings sufficient to provide the opportunity to prepare therefor;

(4) An objective decision supported by substantial evidence from the record.

(b) Definitions.

(1) Agency. Agency means Consumer Services Section, Department of Commerce, or the head thereof.

(2) Contested Case. Contested case means a proceeding before the Agency in which the legal rights, duties or privileges of specific parties are required by law or constitutional right to be determined after an Agency hearing.

(3) Party. Party means any person whose legal rights, duties or privileges may be determined in a contested case. The term "party" shall include the Agency except when the Agency participates in the contested case in a neutral or quasi-judicial capacity only.

(4) Person. Person means any individual, partnership, corporation, joint stock company, unincorporated association or society, municipal corporation, or any government or governmental subdivision, unit or agency, other than a court of law.

(5) Hearing Officer. Hearing officer means the person or persons appointed by the Agency pursuant to Minn. Reg. CS 2 hereof, to hear and determine the contested case.

(6) Service; Serve. Service or serve means service by registered or certified United States mail, postage prepaid and addressed to the party at his last known address, unless some other manner of service is required by law. An affidavit of mailing shall be attached to a list of the parties to the contested case, which list shall be incorporated in the affidavit by reference. (See exhibit B.)

(7) Initiation. Initiation means the application, complaint or Agency order providing for or requesting commencement of a contested case.

(8) Commencement. Commencement means the beginning of a contested case before the Agency.

CS 2 Hearing Officers.

(a) Appointment. The Agency shall appoint a hearing officer before commencing a contested case.

(b) Qualifications.

(1) Cases to Which the Agency is a Party. In cases to which the Agency is a party, the hearing officer shall not at the time of appointment be an employee of nor on retainer to the Agency, but he may be employed as a hearing examiner by the Minnesota Commerce Commission at the time of his appointment by the Agency. He shall be an attorney at law unless an attorney at law is not obtainable or unless some other individual is agreed upon by all parties. After appointment, the hearing officer shall be considered an employee of the Agency for the sole purposes of (1) compensation, if any, and (2) authorization to conduct the hearing and decide the issues. In all other respects, he shall be independent of the Agency. All appointments hereunder shall be consistent with the purpose of this Rule, which is to secure, as objective and impartial, a decision-maker as is legally and financially possible.

(2) Cases to Which the Agency is not a Party. In cases to which the Agency is not a party, the Agency may appoint any person, including an employee of the Agency or a member of members thereof, as the hearing officer.

(c) Authority of Hearing Officer.

(1) Cases to Which the Agency is a Party. In cases to which the Agency is a party, the appointment of the hearing officer shall, to the extent permitted by law, authorize the hearing officer to hear and decide the case, subject only to the rehearing provisions of Minn. Reg. CS 13. (See exhibit A-1.)

(2) Cases to Which the Agency is not a Party. In cases to which the Agency is not a party, the appointment of the hearing officer shall, to the extent permitted by law, grant the hearing officer such authority as the Agency deems necessary and appropriate to hear and decide the case and reserve unto the Agency such authority to decide the case as it deems necessary and appropriate. (See exhibit A-1.)

(d) Function. Consistent with law and the terms of his appointment, the hearing officer shall hear and decide the contested case. His functions shall include, but not be limited to, the following: Hear and rule on preliminary motions, conduct the hearing, make impartial findings of fact upon the evidence presented, make a final or preliminary determination, and make such preliminary interlocutory or final orders as he deems appropriate.

CS 3 Initiating a Contested Case.

(a) Initiation by Application. Any person authorized by law to have his rights, privileges or duties determined after an Agency hearing may initiate a contested case by making application. An application shall contain:

(1) The name and address of the applicant;

(2) A statement of the nature of the determination requested and the reasons therefor;

(3) The names and addresses of all persons known to the applicant who will be directly affected by such determination; and

(4) The signature of the applicant or his attorney. (See exhibit C.)

(b) Initiation by Complaint. Any person authorized by law to submit to the Agency a complaint that his rights are being abridged, that his privileges are being denied, or that duties owed him are being defaulted upon may initiate a contested case by filing a complaint. A complaint shall contain:

(1) The name and address of the complainant;

(2) The name or names of those against whom the complaint is made;

(3) The relief sought and the grounds therefor; and

(4) The signature of the complainant or his attorney. (See exhibit D.)

(c) Initiation by Agency Order. Where authorized by law, the Agency may order a contested case commenced to determine the rights, duties and privileges of specific parties.

CS 4 Commencement of Contested Case. Within ten days following receipt of a complaint or application or the adoption of an order by the Agency initiating a contested case, the Agency shall appoint a hearing officer and commence the contested case by serving upon all known parties a copy of the document of initiation and a notice stating:

(a) The commencement of the contested case;

(b) The time and place of the prehearing conference, if any;

(c) The purpose of the prehearing conference;

(d) The name of the hearing officer;

(e) The rights of the parties to counsel and to a formal hearing;

(f) That failure to attend may prejudice the party's right in this and subsequent proceedings; and

(g) These rules or a citation thereto.

If the hearing officer decides that no prehearing conference will be held, notice of hearing pursuant to Minn. Reg. CS 13 shall be given. (See exhibits E-1, E-2, E-3.)

CS 5 Answer. Within twenty days after service (excluding the day of service), an adverse party may interpose an answer to the initiating complaint, application or order. A copy of such answer shall be served on all parties to the contested case. The original, together with an attached affidavit of service, shall be filed with the Agency within five days after service is completed.

CS 6 Right to Counsel. Any party may be represented by legal counsel throughout the proceedings in a contested case before this Agency.

CS 7 Informal Disposition. Informal disposition may be made of any contested case or any issue therein by stipulation, agreed settlement, or consent order at any point in the proceedings.

CS 8 Default. The hearing officer may dispose of a contested case adverse to a party which defaults. Disposition by default shall occur only after the party against whom default is proposed, having notice, fails to appear.

CS 9 Intervention. Upon timely application any person shall be permitted to intervene in a contested case upon a showing that his legal rights, duties or privileges may be determined or affected in the contested case, unless in the discretion of the hearing officer such person's interest is adequately represented by one or more parties participating in the case.

CS 10 Consolidation.

(a) Authority. Whenever, before hearing on any contested case, the Agency, either on its own motion or upon petition by any party, determines (a) that separate contested cases present substantially the same issues of fact or law; (b) that a holding in one case would affect the rights of parties in another case; and (c) that consolidation would not substantially prejudice any party, the Agency may order such cases consolidated for a single hearing on the merits. Notwithstanding the requirements of this rule, the parties may stipulate and agree to such consolidation.

(b) Notice. Within five days following an order for consolidation the Agency shall serve on all parties a Notice of Consolidation. Such Notice shall contain:

(1) A description of the cases for consolidation;

(2) The reasons for consolidation;

(3) Cancellation of all prehearing conferences for the cases consolidated (see exhibit F); and

(4) Notification of the consolidated prehearing conference in the same fashion prescribed for notice of prehearing conferences. (Minn. Reg. CS 3).

(c) Objection to Consolidation.

(1) Petition for Severance. Any party may object to consolidation by filing with the Agency prior to final determination a Petition for Severance from Consolidation, setting forth petitioner's name and address, the designation of his case prior to consolidation, and the reasons for his petition. (See exhibit G.) Briefs may be filed, evidence received and oral argument heard at such time as the hearing officer deems proper.

(2) Determination. When such a petition is filed, the hearing officer shall set aside a time for receiving evidence and oral argument, and determining, as a part of the record in the case, whether consolidation prejudices petitioner. If the hearing officer finds that consolidation would prejudice petitioner, he may order such severance or other relief as he deems necessary.

CS 11 Disqualification. A hearing officer shall withdraw from participation in a contested case at any time prior to the final determination if he deems himself disqualified for any reason. Upon the filing in good faith of a timely and sufficient Petition of Prejudice (see exhibit H) the hearing officer shall determine the matter as a part of the record and decision in case.

CS 12 Prehearing Conference.

(a) Purpose. The purposes of the prehearing conference are to simplify the issues to be determined and to reach a settlement on those issues without the necessity for further hearing.

(b) Procedure. A prehearing conference may be held at the discretion of the hearing officer preparatory to each contested case hearing. The prehearing conference shall be an informal proceeding conducted fairly and expeditiously by the hearing officer. Agreements on the simplification of issues shall be put in the form of stipulations and entered on the record. Any final settlement shall be set forth in a settlement agreement or consent order and made a part of the record.

(c) Dismissal. The hearing officer may, at any stage of the proceedings, including the prehearing conference, after all parties have had an opportunity to present their views, dismiss any sham, capricious or frivolous case or any case not within the Agency's jurisdiction.

(d) Consolidated Prehearing Conference. When cases before the Agency are consolidated pursuant to Minn. Reg. CS 10, a consolidated prehearing conference may be held in lieu of separate conferences for each case and notice thereof given as provided in Minn. Reg. CS 3.

CS 13 Notice of Hearing. Not less than thirty days prior to the hearing date the Agency shall serve a notice of hearing on all parties to the case. Such notice shall contain:

(a) The time and place of the hearing;

(b) The purpose and procedure for the hearing;

(c) The issues to be determined; and

(d) The name of the hearing officer who will preside. (See exhibit K-1.)

CS 14 The Hearing.

(a) Right to Hearing. All parties shall have the right to a hearing before the Agency, at which hearing the parties may cross-examine witnesses, and present evidence, rebuttal testimony and argument with respect to the issues.

(b) Witnesses. Any party may be a witness or may present witnesses on his behalf at a hearing. All testimony at a hearing shall be under oath or affirmation. Every party shall have the right of cross-examination of witnesses who testify.

(c) Rules of Evidence.

(1) General Rules. The hearing officer may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable prudent men in the conduct of their affairs. The hearing officer shall give effect to the rules of privilege recognized by law. Evidence which is incompetent, irrelevant, immaterial or reptitious may be excluded.

(2) Evidence must be Offered to be Considered. All evidence to be considered in the case, including all records and documents (except tax returns and tax reports) inthe possession of the Agency, shall be offered and made a part of the record in the case. No other factual information or evidence (except tax returns and tax reports) shall be considered in the determination of the case.

(3) Documentary Evidence. Documentary evidence in the form of copies or excerpts may be received or incorporated by reference in the discretion of the hearing officer or upon agreement of the parties.

(4) Notice of Facts. The hearing officer may take notice of judicially cognizable facts and, in addition, may notice technical facts within his specialized knowledge. Where final determination rests on official notice of material facts not appearing in the evidence in the record (see exhibit 1), a party is entitled, upon timely request (see exhibit J), to an opportunity to rebut such facts.

(5) The Standard and Burden of Proof. The party initiating the contested case must prove the facts at issue by a preponderance of the evidence.

(d) The Record.

(1) Agency Prepares Record. The Agency shall prepare an official record in each contested case.

(2) What the Record Shall Contain. The record in a contested case shall contain:

(aa) All pleadings (including documents of initiation and commencement and the answers thereto), motions and intermediate rulings;

(bb) Evidence received or considered;

(cc) A statement of matters officially noticed (see exhibit I);

(dd) Questions and offers of proof, objections and rulings thereon;

(ee) Proposed findings and exceptions;

(ff) Any decision, opinion or report by the hearing officer; and

(gg) All memoranda or data other than advice of legal counsel submitted to the hearing officer by the Agency staff in connection with the case.

(3) Transcript.

(aa) Reporter or Mechanical Device. A verbatim record of the hearing shall be taken by court reporter or recording equipment. A court reporter shall be used if demanded by any party. Unless the Agency agrees to bear the expense of the court reporter, such expense shall be paid by the demanding party.

(bb) Transcript. The verbatim record will not be transcribed unless requested by a party. If a transcript is requested, the Agency may require the requesting party to pay the reasonable cost of preparing the transcript.

(e) Hearing Procedure.

(1) Hearing Officer Conduct. The hearing officer shall take no part in any preliminary investigation or inquiry into the facts or issues involved in the contested case except as provided in Minn. Reg. CS 12. He shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, including the Agency, its employees or agents, not in connection with any issue of law, with any party, including the Agency, its employees or agents, or his representative, except upon notice and opportunity for all parties to participate.

(2) Sequence of Events. The hearing shall be conducted in the following manner:

(aa) After opening the hearing, the hearing officer shall indicate the following procedural rules:

(i) All parties may present evidence and argument with respect to the issues;

(ii) All witnesses must be sworn and identify the party they represent, if any. They are subject to cross-examination by all parties;

(iii) The rules of evidence as set forth in Minn. Reg. CS 14(c);

(iv) All parties who wish to introduce written matter may have it marked as an exhibit and offer it into evidence.

(bb) A representative of the Agency shall introduce the following exhibits on behalf of the Agency:

(i) Notice of Initiation of Proceedings, supporting documents, if any, and affidavits of service;

(ii) If consolidation has occurred, Notice of Consolidation, supporting documents, if any, and affidavits of service;

(iii) Notice of Hearing, supporting documents, if any, and affidavits of service;

(iv) Any stipulations, settlement agreements or consent orders entered into by any of the parties prior to the hearing.

(cc) The party who initiated the contested case may make an opening statement. All other parties may make such statements in a sequence determined by the hearing officer.

(dd) After any opening statements, the party who initiated the contested case shall begin the presentation of evidence. He shall be followed by the other parties in a sequence determined by the hearing officer.

(ee) Cross-examination of witnesses shall be conducted in a sequence determined by the hearing officer.

(ff) When all parties and witnesses have been heard, opportunity shall be offered to present rebuttal evidence and final argument, in a sequence determined by the hearing officer. Such rebuttal and final argument may be in the form of written memoranda, oral argument, or both.

(gg) After final argument, the hearing shall be closed or continued at the discretion of the hearing officer. If continued, it shall be either (a) continued to a certain time and day, announced

at the time of the hearing and made a part of the record, or (b) continued to a date to be determined later which must be upon not less than five days written notice to the parties.

(f) Disruption of Hearing.

(1) Cameras. No television, newsreel, motion picture, still or other camera may be operated in the hearing room while the hearing is in progress. No lights or other devices used in connection with such cameras (other than those employed to light the hearing room) and no mechanical recording devices other than those provided by the Agency or at its direction shall be operated in the hearing room during the course of the hearing.

(2) Other Conduct. Pursuant to and in accordance with the provisions of M.S. 1969, Section 624.72, no person shall interfere with the free, proper and lawful access to or egress from the hearing room. No person shall interfere with the conduct of, disrupt or threaten interference with or disruption of the hearing. In the event of such interference or disruption or threat thereof, the hearing officer shall read this rule to those persons causing such interference or disruption and thereafter proceed as he deems appropriate.

(g) Cases to Which Agency is Not a Party. In cases which the Agency has initiated pursuant to Minn. Reg. CS 3(c), but to which the Agency is not a party, the hearing procedure shall be conducted in a sequence determined by the hearing officer in accordance with law or Agency statute or rule. In such cases the burden of proof shall be as the hearing officer determines in accordance with law or Agency statute or rule. In all such cases the hearing procedure sequence and the burden of proof shall be determined by the hearing officer and stated in a prehearing order noticed to all parties.

CS 15 The Agency Decision.

(a) Basis for Determination.

(1) The Record. No factual information or evidence, except tax returns and tax reports, which is not a part of the record shall be considered by the hearing officer or the Agency in the determination of a contested case.

(2) Experience, Technical Competence and Specialized Knowledge. The hearing officer may use his experience, technical competence, and specialized knowledge in the evaluation of the evidence presented in the case.

(b) Proposal for Decision.

(1) Need for Proposal, Exceptions and Argument. Whenever in a contested case the Agency has retained the authority to render a final decision, intends to make such final decision and has not heard or read the evidence, the decision, if adverse to a party to the proceeding other than the Agency, shall not be made until a Proposal for Decision has been served, and an opportunity has been afforded each party adversely affected to file exceptions and present argument, whether written or oral, or both, to the Agency.

(2) Service and Contents. The Proposal for Decision shall be served on all parties to the case. The Proposal shall contain:

(aa) A statement of the proposed decision;

(bb) The reasons for such decision. Each reason shall consist of a concise statement of the conclusions upon each contested issue of fact necessary to the decision;

(cc) A final date for the filing of exceptions by parties adversely affected;

(dd) A statement of the right of parties adversely affected to present argument. (See exhibit L.)

(c) Decisions and Orders.

(1) Formal Decision or Order with Reasons Required. Every decision or order rendered by the hearing officer or the Agency in a contested case shall be in writing or stated in the record and shall be accompanied by a statement of the reasons therefor. The statement of reasons shall include a concise statement of the conclusions upon each contested issue of fact necessary to the decision.

A decision or order on a petition for severance, petition for intervention, petition of prejudice, on noticed facts which are challenged, or on a petition for rehearing shall be rendered in accordance with this rule.

(2) Service and Contents. Every decision or order shall be served on all parties to the case. It shall contain:

(aa) A statement of the decision or order in the case;

(bb) A statement of the reasons therefor;

(cc) An affidavit of service. (See exhibits M and N.)

(d) Default. When a party with adequate notice fails to plead or otherwise appear within the time allowed therefor by these rules or by statute, judgment by default may be entered against him.

CS 16 Rehearing.

(a) Agency Right to Hear. The Agency may upon request or its own motion and for good cause shown, reopen, rehear and redetermine a contested case after a final decision adverse to a party to the contested case other than the Agency has been rendered. This right may be exercised until it is lost by appeal or the granting of a writ of certiorari or until a reasonable time has run, but in no event shall the time exceed the time allowed by statute for appeal or six months, whichever is shorter.

(b) Obtaining a Rehearing.

(1) Parties other than the Agency. At any time prior to the Agency's loss of the right to rehear a contested case any party to that case may request a rehearing by filing a petition for rehearing. Such petition shall contain:

(aa) The name and address of the petitioner;

(bb) The Agency designation for the case;

(cc) The reasons for the petition. (See exhibit O.) (Further provisions may be added to assure the submission of information needed by the Agency or required by statute.)

(2) The Agency. The Agency may, on its own motion, for good cause stated in the record, reopen, rehear and redetermine a contested case if the decision in that case was adverse to a party to that case other than the Agency.

(3) Default Judgments. A party against whom a default has been adjudged pursuant to Minn. Reg. CS 15(d) may obtain a rehearing upon a timely showing of good cause for his failure to appear or plead;

(4) Determination. The Agency shall grant or deny a petition for rehearing as a part of the record in the case. Such petition shall be granted if there appears on the face of the petition and the record irregularities in the proceedings, errors of law occurring during the proceedings, newly discovered material evidence, a lack of substantial evidence to support the decision or good cause for failure to

appear or plead. Evidence and argument may be presented at the discretion of the Agency in written or oral form, or both, by any party to the contested case with respect to the petition.

(c) Notice of Rehearing. Notice of rehearing must be provided in the same manner prescribed for notice of hearing.

(d) Rehearing Procedure. A rehearing in a contested case shall be conducted in the same manner prescribed for a hearing.

(e) Decision after Rehearing. The decision after rehearing shall be made in the same manner prescribed for the decision after a hearing.

CS 17 Appeal by Agency. The Agency may appeal pursuant to M.S., Sec. 15.0424 any adverse decision. The Agency shall be deemed a "person" for such purposes.

CS 18 Emergency Procedures. Nothing contained in these rules is intended to pre-empt, repeal or be in conflict with any rule, regulation or statute which provides for acts by the Agency in an emergency or procedure for conduct by the Agency in such a situation.

CS 19 Severability. If any provision of these rules is held invalid, such invalidity shall not affect any other provision of the rules which can be given effect without the invalid provision, and to this end the provisions of these rules are declared to be severable.

Exhibit A-1

APPOINTMENT OF

HEARING EXAMINER

Pursuant to authority vested in me by M.S., Sec._____ I hereby appoint John Doe as hearing officer in the matter of _____(here insert the Agency designation for the contested case or cases involved) a contested case to be heard before this Agency.

He is authorized and empowered to hear the case, to perform any and all acts incidental thereto, including the signing of any interlocutory orders or other documents, in the name of the (Agency) and to recommend findings of fact to the (Agency) and recommend a final decision to the (Agency).

For the sole purposes of compensation and the authority to finally decide the issues in said case, John Doe is and shall be deemed an employee of the (Agency). In all other respects he shall be independent of the (Agency). He shall remain impartial and render an objective decision herein free from any direction from or collusion with the (Agency) and shall use and comply with the (Agency's Rules for Contested Cases.

_____

Director,
Consumer Services Section

Exhibit B

STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)

In the matter of Director of Consumer Services v. John Doe

AFFIDAVIT OF MAILING

_____, being first duly sworn deposes and says:

That on the_____day of_____, 19__, at the City of St. Paul, County of Ramsey, State of Minnesota, (s) he served the attached

... Notice of Initiation of a Contested Case

... Notice of Consolidation

... Notice of Notice of Facts

... Notice of Hearing

by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, registered with postage prepaid and return requested, to all persons at the addresses shown on the attached List of Parties.

_____

Subscribed and sworn to before me
this_____day of _____, 19__.

_____
Notary Public

Exhibit C

STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)

Application for

APPLICATION
FOR HEARING

I,_____residing at _____, do hereby request that the Director of Consumer Services set a hearing to determine whether there is good cause for revoking (suspending, refusing to issue) an agent's license in my name.

On_____, the Consumer Services Section served notice that it intended to revoke (suspend, refuse to issue) a license authorizing me to_____. I am seeking a hearing to determine whether there exists sufficient cause for such action.

State of Minnesota
County of Ramsey

Name of applicant

_____

Subscribed and sworn to before me this_____day of_____ 19__.

being first duly sworn deposes and says that (s) he has read the foregoing application and that the same is true of his (her) own knowledge, information and belief.

_____
Notary Public

_____
Signature of Applicant

Exhibit D

STATE OF MINNESOTA)
) SS
COUNTY OF RAMSEY)

COMPLAINT

I,_____, acting on behalf of _____, in my capacity as_____ charge _____, whose address is _____, with a violation of Minnesota laws regulating collection agencies.

The incident which took place on or about_____ is:

State of Minnesota
County of Ramsey

_____being first duly sworn deposes and says that he has read the foregoing charge and that the same is true of his own knowledge, information and belief.

Subscribed and sworn to before me this_____day of_____ 19__.

_____
Notary Public

_____
Signature of Charging Party

Exhibit E-1

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the application of John Doe for a license_____ in the State of Minnesota.

NOTICE OF APPLICATION

Notice is hereby given that John Doe has filed with the Department of Commerce, Consumer Services Section, an application for a license_____ in the State of Minnesota, a copy of which is attached hereto as Exhibit A and made a part hereof.

All parties to these proceedings are hereby informed of their right to a hearing on the issues presented by this application at which hearing evidence and argument may be presented. All parties may appear in person or by counsel throughout these proceedings.

A prehearing conference on this matter will be held in Room ____of the Metro Square Building on Monday, November 24, 1969, commencing at 9:00 a.m. All persons receiving this notice are urged to attend. Failure to attend may prejudice your rights in this and subsequent proceedings. The purpose of this conference is to simplify the issues to be determined and to attempt to reach a settlement on these issues without the necessity of a hearing.

STATE OF MINNESOTA

_____
Director,
Consumer Services Section

November 5, 1969

Exhibit E-2

STATE OF MINNESOTA
COUNTY OF RAMSEY

In the matter of the complaint by Mr. John Doe of_____ against Mr. Richard Roe.

NOTICE OF COMPLAINT

Notice is hereby given that Mr. John Doe has filed with the Department of Commerce, Consumer Services Section, a complaint against Mr. Richard Roe, a copy of which is attached hereto as Exhibit A and made a part hereof.

All parties to these proceedings are hereby informed of their right to a hearing on the issues presented by this charge at which hearing evidence and argument may be presented. All parties may appear in person or by counsel throughout these proceedings.

A prehearing conference on this matter will be held in Room____ of the Metro Square Building on Monday, November 24, 1969, commencing at 9:00 a.m. All persons receiving this notice are urged to attend. Failure to attend may prejudice your rights in this and subsequent proceedings. Mr. Robert James, who has been appointed hearing officer in this matter will preside. The purpose of this conference is to simplify the issues to be determined and to attempt to reach a settlement on these issues without the necessity of a hearing.

STATE OF MINNESOTA

_____
Director,
Consumer Services Section

Exhibit E-3

STATE OF MINNESOTA
COUNTY OF RAMSEY

In the Matter of the_____

_____

NOTICE OF INITIATION

OF PROCEEDINGS

Notice is hereby given that the Director of Consumer Services has initiated proceedings to determine whether the license of John Doe should be revoked. This proceeding is being undertaken because of information received alleging moral turpitude and violation of M.S., Sec._____on the part of Mr. Doe.

All parties to these proceedings are hereby informed of their right to a hearing on the issues presented by this charge at which hearing evidence and argument may be presented. All parties may appear in person or by counsel throughout these proceedings.

A prehearing conference on this matter will be held in Room _____of the Metro Square Building on Monday, November 24, 1969, commencing at 9:00 a.m. All persons receiving this notice are urged to attend. Failure to attend may prejudice your rights in this and subsequent proceedings. The purpose of this conference is to simplify the issues to be determined and to attempt to reach a settlement on these issues without the necessity of a hearing.

STATE OF MINNESOTA
CONSUMER SERVICES SECTION

_____
Director

November 5, 1969

Exhibit F

STATE OF MINNESOTA
COUNTY OF RAMSEY

In the Matter of the Application of_____
_____

NOTICE OF CONSOLIDATION

_____

Notice is hereby given that the proceedings before the Consumer Services Section with respect to the applications of_____

_____

for licenses to_____

have been consolidated for a single hearing on the merits. Consolidation has been ordered because each application presents substantially the same questions of fact and law and because a decision with respect to one application would affect the rights of the other applicants.

All prehearing conferences referred to in the notices of application in the several cases are hereby canceled. A consolidated prehearing conference in this matter will be held in Room___of the Metro Square Building on Monday, November 24, 1969, commencing at 9:00 a.m. All persons receiving this notice are urged to attend. Failure to attend may prejudice your rights in this and subsequent proceedings. The purpose of this conference is to simplify the issues to be determined and to attempt to reach a settlement on these issues without the necessity of a hearing.

STATE OF MINNESOTA

_____
Director,
Consumer Services Section

November 5, 1969

Exhibit H

STATE OF MINNESOTA
COUNTY OF RAMSEY

In the Matter of the Revocation of the License of E. Z. Doe

PETITION OF PREJUDICE

On September 18, 1969, the petitioner, E. Z. Doe, 126 Wall Street, Minneapolis, Minnesota, received notice that the Consumer Services Section had ordered a hearing to determine whether his license to engage in the collection agency business should be revoked and that a prehearing conference was to be held on October 16, 1969, before the hearing officer in the case, Mr. Jeffery Jones.

Petitioner hereby files a petition of prejudice against the hearing officer appointed in the case, Mr. Jeffery Jones, on the ground he is a competitor located at 128 Wall Street, Minneapolis, Minnesota, next door to petitioner and is petitioner's chief competitor. Further, on the ground that Mr. Jeffery Jones is a partner with Mr. John Jones in a firm which petitioner is informed will be the principal complainant against petitioner herein. See supporting affidavits attached hereto as Exhibits A and B.

Joseph Dokes
Attorney for Petitioner

September 21, 1969

Exhibit G

STATE OF MINNESOTA
COUNTY OF RAMSEY

In the Matter of the Application of _____

PETITION FOR A SEPARATE HEARING

_____

On September 1, 1969, (Petitioner), 126 Warwick Street, Duluth, Minnesota 55999, made application for a license to _____

_____.

On September 9, 1969, (Petitioner) received a Notice of Application stating that its application had been received and setting a time and place for a prehearing conference. On September 25, 1969, (Petitioner) received a Notice of Application stating that its application had been received and setting a time and place for a prehearing conference. On September 25, 1969, (Petitioner) received a Notice of Consolidation in the present proceeding.

(Petitioner) feels substantial prejudice will result if its application for a collection agency license is considered at a consolidated hearing because: _____

_____.

Therefore, (Petitioner) hereby petitions the Consumer Services Section for a separate hearing in this matter.

(Petitioner)

_____
Charles E. Bell
Attorney for Petitioner

October 7, 1969

Exhibit I

STATE OF MINNESOTA
COUNTY OF RAMSEY

In the Matter of_____

_____

NOTICE OF FACTS

Notice is hereby given that the Consumer Services Section has taken notice of the following facts on the basis of the authority outlined herein:

1. That John Doe has been convicted of fraud in fourteen states in connection with his collection practices. Judicially noticed on the basis of Casey v. Burns, 1001 Minn. 222, 55 N.W. 3rd 444 (1959).

2. That XYZ Collection Agency has had its license as a collection agency suspended in 10 states for failure to comply with record-keeping requirements. Judicially noticed on the basis of Burns v. Casey, 1002 Minn. 111, 56 N.W. 3rd 666 (1960).

All parties who wish to contest the above noticed facts must file a Petition for Permission to Contest Noticed Facts with the Public Service Commission prior to the consolidated prehearing conference.

STATE OF MINNESOTA
CONSUMER SERVICES SECTION

_____
Director

October 1, 1969

Exhibit J

STATE OF MINNESOTA
COUNTY OF RAMSEY

In the Matter of_____

_____

PETITION FOR PERMISSION TO CONTEST NOTICED FACTS

On October 4, 1969, petitioner, John Doe, of 621 Warwick Street, Minneapolis, Minnesota 55414, received notice that the Consumer Services Section had taken notice of certain facts in___

---

to which petitioner is a party.

Petitioner takes issue with noticed facts (1) and (2) and requests permission to contest said facts through the presentation of evidence and argument.

(Petitioner)

By:_____
Ralph E. Lewis
Counsel for Petitioner

October 7, 1969

Exhibit K-1

STATE OF MINNESOTA
COUNTY OF RAMSEY

In the Matter of_____

_____ NOTICE OF HEARING

_____

Notice is hereby given that a hearing in this matter will be held in Room___of the Metro Square Building on Monday, January 6, 1970, commencing at 9:00 a.m. All persons receiving this notice are urged to attend. Failure to attend may prejudice your rights in this and subsequent proceedings.

The issues to be determined at this hearing are:

(1) Whether on May 10, 14 and 20, 1969, John Doe employed a county sheriff to serve legal papers in connection with the collection of a claim.

(2) Whether John Doe has violated Minnesota Statutes, Sec.____.

(3) Whether the license of John Doe should be suspended or revoked.

All persons shall be given an opportunity to be heard orally to present witnesses and to submit written data, statements or arguments.

Mr. Richard Roe will preside as hearing officer at the hearing.

STATE OF MINNESOTA
CONSUMER SERVICES SECTION

_____
Richard Roe, Hearing Officer

December 12, 1969

Exhibit L

STATE OF MINNESOTA
COUNTY OF RAMSEY

In the Matter of_____

_____ PROPOSAL FOR DECISION

The Hearing Examiner proposes the following decision in this case:

> After full and open hearing, the Director of the Consumer Services Section finds the charges of violation of M.S., Sec.____brought against John Doe to be true and hereby revokes his license to engage in the collection agency business pursuant to the power of this agency under M.S., Sec._____.

The charge of violation of M.S., Sec._____rests on the allegation that Mr. Doe did employ a county sheriff to serve legal papers in connection with the collection of a claim on May 10, 1969. The testimony of witnesses substantiates this allegation. The Director finds that Mr. Doe did employ the use of a county sheriff to serve legal papers in connection with the collection of a claim on the above dates.

Any party adversely affected by this decision who wishes to file exceptions must do so on or before January 30, 1970. Any party who may be adversely affected by this proposed decision may present argument on the decision upon request presented to the Board.

STATE OF MINNESOTA
CONSUMER SERVICES SECTION

_____
Hearing Examiner

January 15, 1970

Exhibit M

State of Minnesota,

Complainant,

vs. FINAL ORDER

John Jones,

Respondent,

Based upon the Findings and Conclusions of the Hearing Officer in the above entitled matter which are attached hereto as Exhibit A and made a part hereof, and upon the transcript of the hearing in the above entitled matter held on November 12, 1969.

IT IS HEREBY ORDERED:

1. That Respondent shall have his license to engage in the collection agency business suspended for 60 days from the date of this order.

2. That Respondent shall cease and desist from engaging in the collection agency business until his license is properly reinstated.

Dated at St. Paul, Minnesota, this 1st day of December, 1969.

STATE OF MINNESOTA

Director,
Consumer Services Section

Exhibit N

State of Minnesota,

Complainant,

vs.

John Jones,

Respondent.

AFFIDAVIT

STATE OF MINNESOTA)
) SS.
COUNTY OF RAMSEY)

I, Walter H. Rockenstein II, Special Assistant Attorney General for the State of Minnesota, do hereby swear that the FINAL ORDER in the above entitled matter has been served by mail upon the following parties of interest in the above entitled matter.

1. Mr. John Doe
   2833 Ninth Avenue South
   Minneapolis, Minnesota

2. Mr. John Jones
   2291 - 27th Avenue North
   Minneapolis, Minnesota

WALTER H. ROCKENSTEIN II
Special Assistant
Attorney General
State of Minnesota

Subscribed and sworn to before me

this____day of_____, 1969.

Notary Public

Exhibit O

STATE OF MINNESOTA
COUNTY OF RAMSEY

In the Matter of _____

PETITION FOR

REHEARING

John Doe, 126 Warwick Street, Duluth, Minnesota 55999, hereby petitions the Consumer Services Section for a rehearing in the above entitled matter.

John Doe alleges that the Consumer Services Section erred in failing to grant its Petition for a Separate Hearing, timely presented. John Doe also alleges that newly discovered material evidence, set forth in the affidavits attached hereto as Exhibits A through F and made a part hereof, requires that this matter be reopened.

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

DEC 21 1973

BY Eda Staudenmaier
AUTH. SIGNATURE 3:30 p.m.

JOHN DOE

By: _____
Charles E. Bell
Attorney for Petitioner

February 1, 1970

APPROVED AS TO FORM AND LEGALITY
Dec 19. 1973
WARREN SPANNAUS, ATTORNEY GENERAL
BY Patrick Wilcox
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 21 1973 - 3:15 pm
Arlen I. Erdahl
Secretary of State

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE SHERRY CHENOWETH
DIRECTOR OF CONSUMER SERVICES
DEPARTMENT OF COMMERCE

In the matter of the Proposed Adoption of Rules of the State Consumer Services Section of the Department of Commerce Governing Contested Case Procedures.

ORDER FOR HEARING

To effectively implement the procedures for hearing of contested cases, M.S. 1957, Section 15.0418, the Minnesota Director of the Consumer Services Section of the Department of Commerce deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in me by M.S. 1957, Section 15.0418.

NOW, THEREFORE, IT IS ORDERED this 26th day of September 1973, that a public hearing on the proposed rules captioned above be held in the Department of Commerce Hearing Room, 5th Floor, Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101, October 30, 1973, commencing at 9:30 a.m., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose and all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA
CONSUMER SERVICES SECTION
DEPARTMENT OF COMMERCE

Sherry Chenoweth

SHERRY CHENOWETH
DIRECTOR OF CONSUMER SERVICES

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE SHERRY CHENOWETH
DIRECTOR OF CONSUMER SERVICES
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules of the Consumer Services Section of the Department of Commerce Relating to Contested Case Procedures.

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to M.S. 1971, Section 15.0412, Subdivision 4, in the above entitled matter in the Department of Commerce Hearing Room, 5th Floor, Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota 55101, October 30, 1973, commencing at 9:30 a.m., and continuing until all persons have had an opportunity to be heard concerning the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing.

Copies of the proposed rules are now available and may be obtained by writing to the Director of Consumer Services, 230 State Office Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing.

Dated September 27, 1973

STATE OF MINNESOTA

Sherry Chenoweth

SHERRY CHENOWETH
DIRECTOR OF CONSUMER SERVICES
DEPARTMENT OF COMMERCE

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the Consumer Services Section, Department of Commerce, Governing Contested Case Procedures.

I hereby certify that the 285 labels which constitute the complete list of persons, associations, and other interested groups who as of 3:30 o'clock P.M., this 26th day of September 1973, have requested pursuant to M.S. 1971, Sec. 15.0421, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State

Arlen I. Erdahl

By Gail Dion

Hearing Exhibit 5
R.D.

STATE OF MINNESOTA

COUNTY OF RAMSEY

AFFIDAVIT

Kenneth A. Knudson, being duly sworn on oath deposes and says:

1) That he is an employee of the Consumer Services Section of the State of Minnesota.

2) That on the 26th day of September, 1973, he went to the Secretary of State's Office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412.

3) That on the 26th day of September, 1973, in response to the above request, the Secretary of State provided him with 285 mailing labels.

Further affiant sayeth not.

Kenneth A. Knudson

Subscribed and sworn to
before me this 26th
day of September
1973.

NOTARY PUBLIC,

Ramsey County, Minnesota
My Commission expires [illegible].

State's Exhibit 3 N.P.

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

I, Betty Donicht, being first duly sworn, hereby deposes and says:

That at the City of Saint Paul, county and state aforementioned, on the 28th day of September, 1973, she served the attached Notice of Hearing in the matter of adoption of rules and regulations relating to the Safe Toys Act for Consumer Services Section, Dept. of Commerce, State of Minnesota. by depositing in the United States Mail at said City of Saint Paul, a true and correct copy thereof, properly enveloped, with firstclass postage prepaid, and addressed to:

List of names and addresses supplied to me by Kenneth A. Knudson, Consumer Services Section, State of Minnesota, plus the Secretary of State's list of legislators run off by the Addressograph Department, State of Minnesota.

Betty L. Donicht

Subscribed and sworn to before me this 28th day of Sept., 1973.

Notary Public, Ramsey County, Minn.
My commission expires Feb. 27, 1980

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE SHERRY CHENOWETH
DIRECTOR OF CONSUMER SERVICES
DEPARTMENT OF COMMERCE

In the Matter of Proposed
Rules Relating to Contested
Case Procedures.

APPOINTMENT OF
HEARING OFFICER

Pursuant to the authority vested in me by M.S.A. Sec. 15.0412 and M.S.A. Sec. 15.06, I, Sherry Chenoweth, do hereby appoint George Beck as hearing officer for the above-titled matter.

This appointment authorizes and empowers George Beck to conduct such public hearings as are necessary to give all persons, associations and groups interested in the matter of proposed rules relating to contested case procedures.

For the sole purpose of compensation, George Beck is and shall be deemed an employee of the Department of Commerce. In all other respects he shall be independent of the Consumer Services and the Director of Consumer Services.

Dated: September 27, 1973

Sherry Chenoweth

SHERRY CHENOWETH
Director of Consumer Services
Department of Commerce

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE SHERRY CHENOWETH
DIRECTOR OF CONSUMER SERVICES
DEPARTMENT OF COMMERCE

In the Matter of Proposed
Rules Relating to Contested
Case Procedures.

STATEMENT OF NEED

The above captioned rules are not amendments to existing rules of the Consumer Services Section of the Department of Commerce.

Minnesota Statutes 1971, Section 15.0418, requires that all parties involved in a contested case, resulting from an administrative decision, be afforded an opportunity for a hearing. Minnesota Statutes 1971, Section 15.0418, further provides that each agency may adopt rules of procedure relating to contested cases.

These Regulations, now proposed for adoption, are needed to effectively implement procedures for hearing of contested cases, and to carry out the mandate of the above-mentioned statute.

DIRECTOR OF CONSUMER SERVICES
DEPARTMENT OF COMMERCE

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE SHERRY CHENOWETH
DIRECTOR OF CONSUMER SERVICES
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules of the State Consumer Services Section of the Department of Commerce Relating to Contested Case Procedures.

FINDINGS OF FACT

The above-entitled matter came on for hearing before the Director of the Consumer Services Section of the Department of Commerce of the State of Minnesota on the 30th day of October, 1973 at 9:30 a.m. in the Department of Commerce Hearing Room, Fifth Floor, Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota after proper notice required by M. S. 1971, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following:

(1) That Minnesota Statutes 1971, Section 15.0418, requires that all parties involved in a contested case, resulting from an administrative decision, be afforded an opportunity for hearing;

(2) Minnesota Statutes 1971, Section 15.0418, provides further that each agency may adopt rules of procedure relating to contested cases.

(3) That the Consumer Services Section, Department of Commerce, has no existing rules of procedure relating to contested cases;

(4) That regulations are needed to effectively implement procedures for hearing of contested cases and to carry out the mandate of the above-mentioned statute.

STATE OF MINNESOTA
CONSUMER SERVICES SECTION
DEPARTMENT OF COMMERCE

Sherry Chenoweth

SHERRY CHENOWETH
DIRECTOR

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE SHERRY CHENOWETH
DIRECTOR OF CONSUMER SERVICES
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules of the State Consumer Services Section of the Department of Commerce Relating to Contested Case Procedures.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Director of the Consumer Services Section of the Department of Commerce of the State of Minnesota on the 30th day of October, 1973 at 9:30 a.m. in the Department of Commerce Hearing Room, Fifth Floor, Metro Square Building, 7th and Robert Streets, St. Paul, Minnesota after proper notice required by M.S. 1971, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as the Contested Case Procedures for the Consumer Services Section are adopted this 27th day of November, 1973, pursuant to authority vested in me by M.S. 1969, Section 45.021.

STATE OF MINNESOTA
CONSUMER SERVICES SECTION
DEPARTMENT OF COMMERCE

Sherry Chenoweth

SHERRY CHENOWETH
DIRECTOR

Edward J. Driscoll

EDWARD J. DRISCOLL
CHAIRMAN, DEPARTMENT OF COMMERCE

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules of the State Consumer Services Section of the Department of Commerce Relating to Contested Case Procedures.

STATEMENT OF COMPLIANCE WITH MANUAL OF RULE-MAKING PROCEDURES.

I, Special Assistant Attorney General John Arlandson, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

John R. Arlandson

Special Assistant Attorney General

Dated November 27, 1973.