

Claims Regarding Conduct between April 1, 1994 and November 30, 2007

TO: Applicants to the Contractor's Recovery Fund

FROM: Recovery Fund Administrator

SUBJECT: Application for Payment of Compensation from the Contractor's Recovery Fund when **the INCIDENT OR CONDUCT of the licensed residential contractor OCCURRED ON OR AFTER APRIL 1, 1994 and ON OR BEFORE NOVEMBER 30, 2007.**

This packet contains the information, forms and instructions that are necessary to apply to the Contractor's Recovery Fund ("Fund") when the incident or conduct of the licensed contractor occurred on or before November 30, 2007. Unless noted otherwise, references to the Minnesota Statutes in this packet are to the 2006 statutes.

The purpose of the Fund is to compensate certain owners or lessees of residential property (located in Minnesota) who have suffered a direct and out-of-pocket loss due to a licensed residential contractor's fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance that arose directly out of a transaction that occurred when the residential contractor was licensed and performing any of the special skills enumerated under Minn. Stat. § 326.83 subdivision 19. Subcontractors and materials suppliers are not eligible for compensation from the Fund. Homeowners and lessees are not able to receive compensation from the Fund for loss due to a subcontractor.

Specific rules and requirements determine whether you qualify for reimbursement from the Fund and which losses may be eligible. (See Minn. Stat. § 326.975, Subd. 1-3) This statute directs that the Contractor's Recovery Fund be administered in the same manner as the Real Estate Recovery Fund, Minn. Stat. § 82.43 The law also describes the correct procedure for filing a claim to the Fund. We recommend that you review the statute pertaining to the Contractor's Recovery Fund before you submit an application.

HOW THE FUND WORKS

The Commissioner of Labor and Industry is responsible for administering the Fund. Each residential building contractor licensed by the Department of Labor and Industry (the "Department") must pay a fee into the Fund each year, which is held in the state treasury. The Fund pays compensation to the homeowners or lessees that have submitted an application for compensation from the Fund and are eligible to receive such compensation. The Department reviews each application to determine if it meets the requirements for compensation from the Fund.

The Fund is considered the remedy of last resort. In all cases, applicants to the Fund must exhaust all attempts to collect from the residential contractor. This means they must attempt to collect from the residential contractor or their insurance company before applying to the Fund.

Applicants may be paid any amount up to \$50,000, depending on a number of factors. **There is no guarantee that you will receive money from the Fund. Whether you will receive payment from the Fund depends on the specific facts of your case. We recommend that you read the attached information carefully to determine whether you may be entitled to compensation from the Fund.**

Generally, you can apply to the Fund to recover the amount of actual and direct out-of-pocket loss on the Applicant's residential real estate that occurs as a result of a transaction with your licensed residential contractor. The following costs are NOT eligible for compensation: attorney's fees, interest on the loss, sweat equity, statutory costs awarded under Minn. Stat. § 549.02, and pre-judgment and post-judgment interest.

BEFORE YOU APPLY TO THE FUND

Contact the Recovery Fund Administrator, the Administrator will assist you with the following:

- Verify the name of the residential contractor and whether they were licensed at the time the work was performed. (Only licensed residential contractors pay into the Fund.)
- Make certain there are funds available to cover losses caused by your residential contractor. (Multiple claims against the same contractor may reduce the amount of available funds.)
- Determine the dollar amount of your loss. If your loss is \$7,500 or less, you may go to Conciliation Court (Small Claims Court) to obtain a judgment. If your loss is more than \$7,500, you will need to go to District Court to obtain a judgment.
- Make certain your judgment has been obtained against the licensed residential contractor. **Your judgment must be against the licensed individual and/or entity to be eligible for compensation from the Fund.**

For example, if your contractor is incorporated, obtain a judgment against the corporation. If your contractor is an individual proprietor, (Joe Doe, doing business as (d/b/a) Doe Construction) obtain your judgment against the individual and their assumed (d/b/a) name. If your contractor is a partnership, obtain your judgment against each partner and the partnership name.

What is a judgment? A judgment is the result of filing a successful lawsuit. A judgment from the court legally verifies the offense committed by the licensed residential contractor and the dollar value of your loss. This judgment may be obtained in Conciliation Court, District Court, or any other court of competent

jurisdiction, (such as Bankruptcy Court). The judgment must be based on a claim of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance that arose directly out of a transaction that occurred when the residential contractor was licensed and performing any of the special skills enumerated in Minn. Stat. § 326.83 (Supp. 2007). The cause of action must have occurred on or after April 1, 1994 and before December 1, 2007, and the residential contractor must have been licensed at the time the work was performed and have paid into the Fund.

- After you obtain your judgment you must “docket” and formally “enter” your judgment in District Court, this makes your judgment a legal collectable document. Contact the Clerk of District Court of the county in which you obtained your judgment for instructions.
- Once you have a docketed judgment, you may file an application for payment from the Fund. The Fund Administrator will review your application to determine eligibility, your actual and direct and out-of-pocket loss, and the amount available in the Fund to pay claims against your contractor.
- Your application must be made no more than one year after the judgment becomes final, or no more than one year after the termination of any review or appeal of the judgment.

INFORMATION ABOUT FILING AN APPLICATION

There are several steps to the application process that you must complete for the process to work successfully.

All applications to the Fund require the applicant to have obtained a Final Judgment against the licensed residential contractor.

If the Commissioner pays compensation to an Applicant, the Commissioner shall be subrogated to all of the rights, title, and interest in the Applicant’s final judgment in the amount of the compensation paid from the Fund. This requires the Applicant to assign all rights, title, and interest in the final judgment in the amount of compensation paid to the Commissioner.

Pursuant to Minn. Stat. §§ 82.43, subd. 14, and 326.975, subd. 1(a), applications to the Fund are subject to allocation.

Two ways to file a claim

You can file an application via the **accelerated** procedure or the **standard** procedure. Which method you use depends upon the amount of your actual and direct out-of-pocket loss. If your actual and direct out-of-pocket loss is \$7,500 or less, you may use the accelerated procedure. If your actual and direct out-of-pocket loss is more than \$7,500 you must use the standard procedure.

Accelerated Procedure

The **accelerated** application limit is determined by the conciliation court limit – which is currently \$7,500. If you are pursuing action in conciliation court, the Attorney General's Office brochure entitled, "Conciliation Court: A User's Guide to Small Claims Court," can be downloaded using the following link:

<https://www.ag.state.mn.us/Brochures/pubConciliationCourt.pdf>

Each contractor has \$15,000 of the Fund set aside to pay claims filed under the Accelerated procedure. Once claims totaling \$15,000 have been made, you will have to apply via the standard procedure, which requires a hearing in District Court, even if your actual and direct out-of-pocket loss is \$7,500 or less.

Effective May 1, 2010, the Fund is delaying accelerated payments of compensation. However, you may still apply to the Fund using the Accelerated Procedure if your actual and direct out-of-pocket loss is \$7,500 or less. If you are eligible for compensation from the Fund, any payment will be made by the July 15th deadline for payments under the Standard Procedure.

Standard Procedure

The **standard** procedure is for applicants who are applying for more than \$7,500 in compensation, or who are otherwise not able to apply using the accelerated procedure.

Under this procedure, you are required to have a post-judgment hearing, at the post judgment hearing the judge will order the Fund to pay the claimant an amount of money the Fund and Claimant have previously stipulated to. Claims filed under the standard procedure cannot be processed without a court order directing payment from the Fund. **This order is separate from and in addition to the original court judgment** (which forms the basis for the claim). The order can only be issued following a post-judgment hearing conducted before a District Court Judge. It is important that this court hearing be scheduled before the end of the calendar year if you want to receive your payment on schedule (July 15th of the following year). This hearing is also necessary in order for the defendant (contractor) to have the opportunity to appear. In addition, you **must** give the Fund 30 days notice prior to the scheduled date of the hearing.

IMPORTANT: The last day the Fund will accept an application under the standard procedure is **December 1st** of each calendar year. Applications will not be accepted unless a copy of the Court's Notice of Docketing accompanies them. Applications received after December 1st will be processed the next calendar year, which will result in a one-year delay in any payment.

ADDITIONAL INFORMATION

If a contractor has filed for bankruptcy...

You may still be able to file a lawsuit solely for the purpose of recovering your actual

and direct out-of-pocket loss from the Fund. You will need to petition the Judge of Bankruptcy Court to lift the Automatic Stay and explain that your lawsuit is solely for the purpose of obtaining compensation from the Fund, and that you understand that you will not be able to collect the judgment from the contractor directly. You may want to consult an attorney for additional information regarding how to lift an Automatic Stay in a bankruptcy proceeding.

If you are a subsequent homeowner...

If the homeowner who obtains a judgment was not the owner at the time the contract was signed and the work was done, he or she will not qualify for payment from the Recovery Fund –unless the subsequent homeowner obtained a Final Judgment specifically based on the breach of the statutory warranty enumerated in Minn. Stat. chapter 327A., The homeowner would then meet the statutory requirements to qualify for payments from the Fund. The state’s home warranty law requires builders to warrant their homes to be free from major construction defects for 10 years. Minn. Stat. § 327A.02. A major construction defect is defined in the statute as “actual damage to the load-bearing portion of the dwelling (home)...including damage due to subsidence (sinking), expansion, or lateral movement of the soil, which affects the load-bearing function and which vitally affects, or is imminently likely to vitally affect, use of the dwelling for residential purposes.” Minn. Stat. § 327A.01, subd. 5.

Note about collecting money: If the Contractor’s Recovery Fund makes payment to you, the Fund will attempt to collect this money from the contractor. In order for the Fund to collect the money, you need to assign to the Commissioner your rights to collect from the contractor the amount of money you have received from the Recovery Fund. You will receive an “assignment” form from the Department that you will need to sign and have notarized. If your judgment was for an amount greater than the payment you received from the Fund, you may still attempt to collect the balance of the judgment directly from the contractor.

Note about reduction of payment amount: If the Department is required to pay you from the Fund, there are two circumstances that would reduce the amount of any payment to you. First, if the Commissioner determines at the end of the calendar year that claimants are entitled to payment in a total amount greater than the funds available for payment, then the Commissioner must allocate the available funds among all claimants. Second, if at the end of the calendar year, the total amount of approved claims against one contractor exceeds \$75,000, the Commissioner will prorate the available funds among the claimants. This means that if there are multiple claims against your contractor, your payment may be less, since the available dollars in the Fund for that contractor will have to be prorated among the applicants. The Commissioner will mail a notice of the allocation to all affected claimants not less than 45 days following the end of the calendar year. Any claimant who objects to the plan of allocation may file a petition in district court of Ramsey or Hennepin County within 20 days of the mailing of notice setting forth the grounds for objection.

**Instructions for Submitting an Application
Using the Accelerated Procedure for Conduct Occurring
On or After April 1, 1994 and On or Before November 30, 2007**

This application is for Owners/Lessees with claims under \$7,500. To apply using the accelerated procedure, the Applicant must assemble and label all of the following documents:

1. The original completed Application for Accelerated Payment out of the Contractor's Recovery Fund for Conduct Occurring between April 1, 1994 and November 30, 2007. This application is attached. (Sign the Application before a notary public.)
2. A copy of the Judgment Notice (Conciliation Court) or Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment (if Judgment obtained in District Court.)
3. A copy of the Clerk's Notice of Docketing of Judgment in district court.
4. A copy of the Statement of Claim and Summons (if claim was filed in Conciliation Court) or Summons and Complaint (if claim was filed in District Court).
5. A copy of the entire contract between you and the contractor. You must include all change orders and allowance sheets.
6. You **must** provide proof of payment to the contractor. When providing this information it must be **clear** on exactly how payment was made and the total amount paid. This information **must** be provided in chart format:

Sample:

Check #	Date Paid	Paid to:	Amount	Exhibit #
1011	1/5/03	Joe's Construction	\$5,000.00	6A

In addition, provide as exhibits (as indicated in order on chart) copies of the cancelled checks along with the bank statements that would support that check(s) had cleared.

- If loan draws were made, provide a breakdown, in chart format, of the documentation that would connect those draws to the contractor along with the supporting documentation.
 - If payment was made through an insurance company, you must request from the insurance company a copy of the check(s) along with a copy of the endorsed signature.
 - If new construction, you must provide a copy of the HUD statement. This will support the amount paid, along with both the buyer and the seller (contractor).
7. If applicable, provide documents that you have received from your homeowners insurance or your contractor's insurance company concerning damages to your home.

Instructions for Accelerated Procedure – Continued

8. **It is the applicant’s responsibility to provide the documentation supporting the claimed amount.** Provide a breakdown of what work needs to be completed and/or repaired. When providing this information it must be **clear** on exactly what work needs to be done. This information **must** be provided in chart format:

Sample:

Vendor Name	Amount of Estimate/ Bill	Work to be Performed	How does this estimate/bill relate to the original contract? Indicate where it is outlined in the original contract.	Exhibit #
Jane’s Construction	\$3,000	Finish installing railings	Railings were not completed. See item #4 on original contract.	8A

These receipts/estimates must **only** be for work as it relates to the original contract. In addition, the Fund will **not** accept copies of checks for supplies unless accompanied by the receipts from the store showing what was purchased. When applicable, provide copies of any inspections report that will support your claim. The documentation supplied must concur with the Statement of Claim.

- If you are providing copies of liens to be included in the loss you must have them listed and labeled as exhibits. The Fund will **only** consider liens that have officially filed with the court. (provide copies of liens showing the county clerk’s notice of filing.)

Send the application and all supporting documents directly to Recovery Fund Administrator at the address shown on the cover page. Your claim will be considered **incomplete** if you fail to provide all the required information in the format requested. The Fund will contact you once a determination has been made. Before making any payment to you, the Department will attempt to notify the contractor that payment from the Fund will be made unless the contractor makes an attempt to resolve the claim. If you are eligible for compensation from the Fund, any payment will be made by July 15th of the calendar year after the calendar year in which the Department receives your complete application.

Note about reduction of payment amount: If the Department is required to pay you from the Fund, there are two circumstances that would reduce the amount of any payment to you. First, if the Commissioner determines at the end of the calendar year that claimants are entitled to payment in a total amount greater than the funds available for payment, then the Commissioner must allocate the available funds among all claimants. Second, if at the end of the calendar year, the total amount of approved claims against one contractor exceeds \$75,000, the Commissioner will prorate the available funds among the claimants. This means that if there are multiple claims against your contractor, your payment may be less, since the available dollars in the Fund for that contractor will have to be prorated among the applicants. The Commissioner will mail a notice of the allocation to all affected claimants not less than 45 days following the end of the calendar year. Any claimant who objects to the plan of

allocation may file a petition in district court of Ramsey or Hennepin County within 20 days of the mailing of notice setting forth the grounds for objection.

STATE OF MINNESOTA
COMMISSIONER OF LABOR AND INDUSTRY

In the Matter of the Building
Contractor or Remodeler
License of _____
License No. _____

**APPLICATION FOR ACCELERATED
PAYMENT OUT OF THE
CONTRACTOR'S RECOVERY FUND
FOR CONDUCT OCCURRING
BETWEEN APRIL 1, 1994 AND
NOVEMBER 30, 2007**

THE APPLICANT, _____, for his/her Application for
(your name)
ACCELERATED Payment Out of the Contractor's Recovery Fund pursuant to
Minnesota Statutes § 326.975, (2006) states as follows:

1. Applicant obtained judgment in _____ Court, _____
(Conciliation or District) County
County against licensee, _____, the terms of which appear in the
(Contractor)
Notice of Judgment/Judgement and Decree dated _____.
(date)

2. For purposes of this Application, the above-mentioned Judgment is based on fraudulent, deceptive, or dishonest practices, the conversion of funds, or failure of performance.

3. Licensee _____ was duly licensed under
(contractor)
Minnesota Statutes §§ 326.83 to 326.991 (2006) at the time it engaged in the above practices.

4. Licensee's conduct arose directly out of a transaction for which such a license is required.

5. Judgment against licensee was docketed on _____,
(date)
and the amount of judgment on the date of docketing was \$ _____,
(amount)
which is less than the jurisdiction limit for Conciliation Court matters.

6. There are no reviews or appeals of the above-mentioned judgment in any court.

7. Applicant has/has not (circle one) filed a claim with their homeowners insurance, based upon the facts alleged in their action against the Licensee and has received \$ _____ for any claim(s).
(amount)

8. Applicant has/has not (circle one) filed a claim with the Licensee's insurance and has received \$ _____ for that claim.
(amount)

Instructions for Submitting an Application Using the Standard Procedure for Conduct Occurring Between April 1, 2004 and November 30, 2007

This application is for Claimant(s) with claims over \$7,500 or when the accelerated procedure has been exhausted. As previously noted, under the standard procedure you are required to schedule a post-judgment hearing in District Court. The post-judgment hearing must be scheduled before the end of the calendar year in order for the Fund to pay you on schedule (by July 15 of the following calendar year). In addition, the Fund **must** be given **30** days notice prior to the scheduled date of the hearing. Please note that the statute allows the Department of Labor and Industry to request an additional 60 days continuance, if needed, in order to complete review of the claim. **The last day the Fund will accept applications for the calendar year is December 1st.**

Before you schedule your post judgment hearing, be sure to assemble and label all documents needed to make application to the Fund, as described below. When requesting payment from the Fund under the standard procedure, the applicant **must assemble and label all** of the following documents:

1. Provide a copy of the verified Application for Order Directing Payment out of the Contractor's Recovery Fund for Conduct Occurring between April 1, 1994 and November 30, 2007, and Notice of Hearing as described above.
2. A copy of the Judgment Notice (Conciliation Court) or Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment (if Judgment obtained in District Court.)
3. A copy of the Clerk's Notice of Docketing of Judgment in district court.
4. You **must** make an honest effort to collect the judgment from the contractor. You should contact the County Clerk's Office for instructions on getting your judgment executed (Writ of Execution). Then, contact your Sheriff's office and request a Demand for Payment (also called a Sheriff's Return). The sheriff will go to the last known address of the contractor and attempt to deliver the demand for payment. The Fund will **not** accept an "asset search" as an effort to collect. If the contractor has filed for Bankruptcy, provide information that the licensee is in Bankruptcy.
5. A copy of the Statement of Claim and Summons (if claim was filed in Conciliation Court) or Summons and Complaint (if claim was filed in District Court).
6. Provide documents that you have received from your homeowners insurance or your contractor's insurance company concerning damages to your home. **If applicable**, the homeowner must go to their homeowners insurance and/or the liability insurance of the contractor before applying to the Fund.
7. A copy of the entire contract between you and the contractor. You must include all change orders and allowance sheets.

8. You **must** provide proof of payment to the contractor. When providing this information it must be **clear** on exactly how payment was made and the total amount paid. This information **must** be provided in chart format:

Sample:

Check #	Date Paid	Paid to:	Amount	Exhibit #
1011	1/5/03	Joe's Construction	\$5,000.00	8A

In addition, provide as exhibits (as indicated in order on chart) copies of the cancelled checks along with the bank statements that would support that check(s) had cleared.

- If loan draws were made, provide a breakdown, in chart format, of the documentation that would connect those draws to the contractor along with the supporting documentation.
 - If payment was made through an insurance company, you must request from the insurance company a copy of the check(s) along with a copy of the endorsed signature.
 - If new construction, you **must** provide a copy of the HUD statement. This will support the amount paid, along with both the buyer and the seller (contractor).
9. It is the applicant's responsibility to provide the documentation supporting the claimed amount. Provide a breakdown of what work needs to be completed and/or repaired. When providing this information it must be **clear** on exactly what work needs to be done. This information **must** be provided in chart format:

Sample:

Vendor Name	Amount of Estimate/Bill	Work to be performed	How does this estimate/bill relate to the original contract? Indicate where it is outlined in the original contract.	Exhibit #
Jane's Construction	\$3,000	Finish installing railings	Railings were not completed. See item #4 on original contract.	9A

These receipts/estimates must **only** be for work as it relates to the original contract. In addition, the Fund will **not** accept copies of checks for supplies unless accompanied by the receipts from the store showing what was purchased. When applicable, provide copies of any inspections report that will support your claim. The documentation supplied must concur with the Statement of Claim.

- If you are providing copies of liens to be included in the loss you must have them listed and labeled as exhibits. The Fund will **only** consider liens that have been officially filed with the court. (provide copies of liens showing the county clerk's notice of filing.)

Completing your Standard Application

Now that you have assembled and labeled all of your documents, you will need to contact the District Court in which you received your Judgment and request a post-judgment hearing. Make certain that the Clerk of Courts understands that you must provide the Fund 30 days notice of the hearing. (Take into account that you still have a few steps to take before you can submit your paperwork to the Fund Administrator).

Once you have the date, now you can complete the Application for Order Directing Payment out of the Contractor's Recovery Fund for Conduct Occurring between April 1, 1994 and November 30, 2007, and the Notice of Hearing. (These forms are attached.)

Once you have received your hearing date, you must notify the contractor and the Department of Labor and Industry and file the Application for Order Directing Payment out of the Contractor's Recovery Fund and Notice of Hearing with the District Court.

Follow these steps:

1. Once completed: Make three (3) copies of the Application for Order Directing Payment out of the Contractor's Recovery Fund for Conduct Occurring between April 1, 1994 and November 30, 2007, and the Notice of Hearing. (A copy for your records, a copy to the Contractor and a copy to the Recovery Fund Administrator)
2. Serve a copy of the Application for Order Directing Payment out of the Contractor's Recovery Fund for Conduct Occurring between April 1, 1994 and November 30, 2007, and the Notice of Hearing on the contractor. If you have questions about how this can be accomplished, contact the Clerk of Courts or your attorney. You will need an Affidavit of Service to file with the court.
3. Take the **original** Application for Order Directing Payment out of the Contractor's Recovery Fund for Conduct Occurring between April 1, 1994 and November 30, 2007, and the Notice of Hearing along with the **original** Affidavit of Service to the District Court and file them with the court (you do this so the Judge understands what the post judgment hearing is about).
4. Send a copy of the Application for Order Directing Payment out of the Contractor's Recovery Fund for Conduct Occurring between April 1, 1994 and November 30, 2007, the Affidavit of Service, the Notice of Hearing and all other assembled documents to the Recovery Fund Administrator at the Department of Labor and Industry either by certified mail or personal service.

Send the application and all supporting documents directly to the Recovery Fund Administrator at the address shown on the cover page. **Your claim will be considered incomplete if you fail to provide all the required information in the format requested. Failure to provide all the required information may delay review and/or approval of the application.**

After a formal file is opened, the Department will then contact the contractor, notifying them that payment from the Fund will be made unless the contractor makes an attempt to resolve the claim.

When the Claimant and Fund have reached an agreement about the amount to be paid by the Recovery Fund, we will prepare documents for you to take with you to the hearing. If we cannot agree, you may be requested to reschedule for a contested hearing, and the District Court Judge will decide your claim.

Payments from the Fund that are ordered by the Court under the standard procedure during a calendar year will be made by July 15th of the following calendar year. Although the Department makes every effort to accomplish payment prior to that time, we cannot guarantee an earlier date.

Note about reduction of payment amount: If the Department is required to pay you from the Fund, there are two circumstances that would reduce the amount of any payment to you. First, if the Commissioner determines at the end of the calendar year that claimants are entitled to payment in a total amount greater than the funds available for payment, then the Commissioner must allocate the available funds among all claimants. Second, if at the end of the calendar year, the total amount of approved claims against one contractor exceeds \$75,000, the Commissioner will prorate the available funds among the claimants. This means that if there are multiple claims against your contractor, your payment may be less, since the available dollars in the Fund for that contractor will have to be prorated among the applicants. The Commissioner will mail a notice of the allocation to all affected claimants not less than 45 days following the end of the calendar year. Any claimant who objects to the plan of allocation may file a petition in district court of Ramsey or Hennepin County within 20 days of the mailing of notice setting forth the grounds for objection.

Updated 5/9/11

STATE OF MINNESOTA _____ DISTRICT COURT

COUNTY OF _____ JUDICIAL DISTRICT

Case Number: _____

_____,
PLAINTIFF,

**NOTICE OF HEARING FOR ORDER
DIRECTING PAYMENT OUT OF
CONTRACTOR'S RECOVERY FUND
FOR CONDUCT OCCURRING BETWEEN
APRIL 1, 1994 AND NOVEMBER 30, 2007**

VS.

_____,
DEFENDANT.

The above entitled matter is set for hearing on the _____ day of _____,
20____, at _____ a.m./p.m. (circle) before
referee/Judge _____ in Room _____ of the
_____ (building).

This hearing is on the Application for Order Directing Payment out of the
Contractor's Recovery Fund for Conduct Occurring Between April 1, 1994 and
November 30, 2007, pursuant to Minnesota Statutes § 82.43, subd. 9 (2006).

Dated this ____ day of _____, 20_____.

PLAINTIFF

STATE OF MINNESOTA
COUNTY OF _____

_____ COURT
_____ JUDICIAL DISTRICT

Case Type: Other Civil

File No.: _____

Plaintiff,
v.

Defendant.

**APPLICATION FOR ORDER
DIRECTING PAYMENT OUT OF THE
CONTRACTOR'S RECOVERY FUND
FOR CONDUCT OCCURRING
BETWEEN APRIL 1, 1994 AND
NOVEMBER 30, 2007**

COMES NOW THE PLAINTIFF, _____ and for their Application for Order Directing Payment Out of the Contractor's Recovery Fund pursuant to Minn. Stat. § 326.975 (2006), states and alleges as follows:

1. Plaintiff obtained judgment against Defendant _____ (hereinafter, "Defendant") and the exact terms of which appear in the Judgment and Decree dated _____, in this Court's file and incorporation herein by reference.
2. For purposes of this Application, the above-mentioned Judgment and Decree contains findings that Defendant engaged in fraudulent, deceptive and dishonest practices, the conversion of trust funds, or failure of performance.
3. Defendant was duly licensed under Minnesota Statutes §§ 326.83 to 326.991 (2006) at the time he/she engaged in the above practices.
4. Defendant's conduct arose directly out of a transaction for which such a license is required.
5. Final judgment against Defendant was entered on _____, and docketed on _____, and the amount of judgment as of the date of docketing was \$_____.
6. There are no reviews or appeals of the above-mentioned judgment pending in any court.
7. Plaintiff has made extensive search for assets of Defendant in an attempt to satisfy the above judgment, but has been unable to locate any such assets.

- 8. Plaintiff knows of no other party who would be liable to him in the transaction for which he seeks recovery from the Contractor's Recovery Fund.
- 9. Plaintiff has properly served the Defendant with a verified copy of this application.
- 10. Plaintiff is not a spouse of the debtor, or the personal representative of such spouse.
- 11. Applicant has/has not (circle one) filed a claim with their homeowners insurance, based upon the facts alleged in their action against the Defendant and has received \$ _____ for any claim(s).
- 12. Applicant has/has not (circle one) filed a claim with the Defendant's insurance and has received \$ _____ for that claim.
- 13. Plaintiff has complied with all the requirements of Minn. Stat. § 326.975 (2006).

NOW, THEREFORE, Plaintiff prays this Court for the following relief:

For an Order directing payment from the Contractor's Recovery Fund to Plaintiff herein in the amount of \$ _____, said amount being equal to Plaintiff's judgment against Defendant, but excluding attorney's fees, any costs and disbursements incurred in obtaining the judgment and applying to the Fund, costs awarded under Minn. Stat. § 549.02 (2010), and any pre and post judgment interest.

Dated: _____ by: _____
Attorney for Plaintiff

STATE OF MINNESOTA)
) ss.
 COUNTY OF _____)

VERIFICATION

_____, being first duly sworn on oath, states that he has read the foregoing application, and the same is true and correct to the best of his knowledge and belief.

Applicant

Day Time Telephone

Subscribed and sworn to before me
 This _____ day of _____, 20_____.

Notary Public