

TUESDAY, JANUARY 10, 2006
10:00 A.M.

NO. 2

#23715

RAYMOND E. MELIGAN,
Plaintiff and Appellee,

vs.

SOUTH DAKOTA DEPARTMENT OF REVENUE
AND REGULATION,
Defendant and Appellant.

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(FOR APPELLANT)

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(FOR APPELLEE)

20-20-10

STATEMENT OF LEGAL ISSUES

I

WHETHER THE CIRCUIT JUDGE (ON APPEAL), NOT HAVING HEARD ANY TESTIMONY, CAN SUBSTITUTE HIS OWN FACTUAL FINDINGS FOR THOSE OF THE HEARING EXAMINER AND THE DEPARTMENT OF REVENUE AND REGULATION?

The trial court did not rule on this issue.

II

WHETHER THE FACTUAL FINDINGS OF THE HEARING OFFICER AND THE DEPARTMENT WERE CLEARLY ERRONEOUS?

The trial court ruled in the affirmative.

III

WHETHER THERE WAS SUFFICIENT EVIDENCE TO SUPPORT THE DETERMINATION THAT MELIGAN'S APPRASIAL WAS INCOMPETENT?

The trial court ruled in the affirmative.

IV

WHETHER THE SANCTIONS IMPOSED BY THE DEPARTMENT OF REVENUE AND REGULATION ARE IN VIOLATION OF SDCL 1-26-36?

The trial court ruled in the affirmative.

V

WHETHER THE CIRCUIT COURT HAS THE AUTHORITY TO MODIFY THE DISCIPLINARY ACTION IMPOSED BY THE DEPARTMENT?

The trial court did not rule on this issue.