

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of Basset Cultured Marble and
Granite LLC and Martin Olson, Individually

**ADMINISTRATIVE ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Basset Cultured Marble and Granite LLC and Martin Olson, individually (“Respondents”).

Pursuant to Minn. Stat. §§ 326B.082, subd. 7, 326B.083 and 181.723 (2012) the Commissioner hereby assesses against Respondents, jointly and severally, a monetary penalty of \$5,000.

The Commissioner takes the above action based upon the following findings of fact and conclusions of law:

II. FINDINGS OF FACT

1. According to the records of the Minnesota Secretary of State, Basset Cultured Marble and Granite LLC has a principal executive office at 620 West Fifth Avenue, Shakopee, Minnesota and Respondent Martin Olson is identified as its manager.
2. According to invoices issued by Basset Cultured Marble and Granite LLC, its business address is 620 West 5th Ave., Shakopee, Minnesota.
3. On January 3, 2014 the Minnesota Department of Labor and Industry (“Department”) opened an investigation of Respondent based on information that indicated that Respondents may have engaged in violations of the Minnesota statutes and rules governing worker classification in the construction industry.
4. On February 21, 2014, a Department investigator mailed a subpoena duces tecum via first-class and certified mail to Respondents at their registered address. The subpoena required the production of documentation relating to Respondents’ subcontractors, contractors, and employees. The subpoena sent by certified mail was returned by the United States Postal Service (“USPS”) marked “Unclaimed.” The first-class letter was not returned by the USPS.
5. On June 3, 2014, the Department investigator mailed a second request for information to Respondents at the Shakopee, Minnesota address. This letter was not returned by the USPS.
6. Both the subpoena and supplemental request for information required a response from Respondents within 30 days of the Commissioner’s service of the same. Respondents did not reply to either request.

III. CONCLUSIONS OF LAW

1. Respondents committed a violation of applicable law. Minn. Stat. § 326B.082, subd. 7 (2012).
2. Respondents failed to comply with a subpoena issued by the Commissioner within 30 days of the commissioner's service of the subpoena in violation of Minn. Stat. §326B.082, subd. 11 (b)(6) (2012).

IV. DETERMINATION OF PENALTY AMOUNT

In determining the amount of the penalty, the Commissioner considered: the extent of deviation from compliance; whether the violation was willful; the gravity of the violation; the number of violations; whether there is a history of past violations; whether Respondents gained economic benefit in not complying with the law; and other factors as justice may require.

V. REQUEST FOR HEARING

Pursuant to Minn. Stat. § 326B.082, subd. 8 (2012), Respondents shall have 30 days after issuance of this Administrative Order to request a hearing. A request for hearing must be in writing and must be served on or faxed to the Commissioner at the following address or fax number by the deadline.

Minnesota Department of Labor and Industry
CCLD – Enforcement Services Unit
Attention: Charlie Durenberger
443 Lafayette Road North
St. Paul, MN 55155

Fax number: (651) 284-5746

The date on which a request for hearing is served by mail shall be the postmark date on the envelope in which the request for hearing is mailed. The request for hearing must specifically state the reasons for seeking review of the order. If the request for hearing is served by fax it cannot exceed 15 pages in length and must be received no later than 4:30 p.m. central time on the last day permitted for serving a request. Respondents' review rights are more thoroughly described in Minn. Stat. § 326B.082, subs. 4 and 8 (2012).

If Respondents submit to the Commissioner a timely request for hearing, the Administrative Order shall be stayed unless otherwise ordered by a judge, and a contested case hearing will be conducted. The contested case procedures are set out in chapter 14 of Minnesota Statutes, the Rules of the Office of Administrative Hearings, Minn. Rules 1400.5010 to 1400.8400 (2011), and Minn. Stat. § 326B.082, subd. 8 (2012). These materials may be purchased from the Minnesota Book Store, telephone (651) 297-3000, and are also available at www.revisor.mn.gov.

VI. EFFECT OF FINAL ORDER


If Respondents do not request a hearing or Respondents' request for a hearing is not served on or faxed to the Commissioner by the deadline specified in the "Request for Hearing" section of this Administrative Order, this Administrative Order shall become a final order of the Commissioner and will not be subject to review by any court or agency. *See* Minn. Stat. § 326B.082, subd. 8 (2012).

The monetary penalty assessed upon Respondents by this Administrative Order is due and payable on the date the Administrative Order becomes final. *See* Minn. Stat. § 326B.083, subd. 3(a) (2012).

When this Administrative Order becomes final, the Commissioner may file and enforce any unpaid portion of the penalty as a judgment in district court without further notice or additional proceedings. *See* Minn. Stat. §§ 16D.17 and 326B.083, subd. 2 (2012). Failure to pay a monetary penalty owed may result in the revocation, suspension, or denial of any or all licenses, permits, certificates, and registrations issued by the Commissioner. *See* Minn. Stat. § 326B.082, subd. 17 (2012). Also, pursuant to Minn. Stat. § 16D.13 (2012), Respondent is hereby notified that thirty (30) days after the date this Administrative Order becomes final, simple interest computed in accordance with Minn. Stat. § 16D.13, subd. 2 (2012) will begin to accrue on the unpaid portion of the penalty.

Dated: 8/15/14

KEN B. PETERSON
Commissioner


BY: CHARLIE DURENBERGER
Director of Licensing and Enforcement Services
Construction Codes and Licensing Division
Department of Labor and Industry