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St. Paul, Minnesota 55155
www.dli.mn.gov



MINNESOTA DEPARTMENT OF
LABOR & INDUSTRY

(651) 284-5000
1-800-342-5353

November 4, 2015

Crescencio Aguirre-Rivera
Elias Drywall LLC
15720 Rockford Rd, Apt 101
Plymouth, MN 55446

Re: Licensing Order
Our Investigative File #REG1506-00018/KBU

Dear Mr. Aguirre-Rivera:

The Department of Labor and Industry has concluded its investigation of the above captioned matter. The purpose of this letter is to inform you of the result of our investigation and the disciplinary action that we have determined is appropriate in light of the violations we have discovered.

The Department has prepared a Licensing Order by which your company's registration is suspended and a monetary penalty of \$1,000 is assessed. Enclosed you will find a copy of the Licensing Order containing the basis for the Department's action.

As provided by law and noted in the Order, you have the right to appeal this Order by requesting a hearing. A request for hearing must be made in writing as explained in the Order. However, you should be aware that if an administrative law judge finds that the hearing was requested solely for purposes of delay or that the request was frivolous, the Department may add to the amount of the penalty the costs charged to the agency by the Office of Administrative Hearings for the hearing.

If you have any questions, please contact me directly.

Sincerely,

A handwritten signature in cursive script that reads "Karen Bugar".

Karen Bugar
Senior Investigator
Construction Codes and Licensing Division
Tel: (651) 284-5374
Fax: (651) 284-5749
E-mail: DLI.register@state.mn.us

Encl: Licensing Order

Cc: 3800 62nd Avenue N., Brooklyn Center, MN 55429

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of the Construction Contractor
Registrations of Elias Drywall LLC

**LICENSING ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Elias Drywall LLC (“Respondent”).

Pursuant to Minn. Stat. §§ 181.723, subd. 4(a)(1); 326B.082, subd. 12(b); and 326B.083 (2014), the Commissioner hereby assesses against Respondent a monetary penalty of \$1,000.

Pursuant to Minn. Stat. § 326B.082, subs. 11(b) and 12 (2014) and Minn. Stat. § 326B.083 (2014), the Commissioner hereby suspends the Contractor Registrations of Respondent, Nos. IR687890 and IR690985, until such time that Respondent provides a complete answer to the Commissioner’s June 17, 2015 subpoena and pays the monetary penalty imposed herein.

Pursuant to Minn. Stat. § 326B.082, subd. 12 (b) (2014), the Commissioner also hereby orders Respondent and its principal(s), during the period of contractor registration suspension, to cease and desist from performing public or private sector commercial or residential building construction or improvement services for which registration in the Minnesota Construction Contractor Registration Program (“Registration Program”) is required.

The Commissioner takes the above action based upon the following Findings of Fact and Conclusions of Law:

II. FINDINGS OF FACT

1. Respondent is engaged in the business of providing building construction or improvement services and holds two construction contractor registrations; No. IR687890, issued by the Commissioner on November 20, 2014, and No. IR690985 issued by the Commissioner on February 27, 2015. In both registrations, Respondent provided a business address of 15720 Rockford Rd. Apt. 101, Plymouth, MN 55446.
2. As a registered construction contractor, Respondent must adhere to the Minnesota statutes and regulations governing Contractor Registration, Minn. Stat. §§ 181.723, 326B.701, and 326B.081 to 326B.085 (2014) and Minn. R. Chapter 5224 (2013).
3. Respondent’s filing with the Minnesota Secretary of State shows a registered office address of 15720 Rockford Rd., Apt. 101, Plymouth, MN 55446.
4. On June 8, 2015, the Minnesota Department of Labor and Industry (“Department”) opened an investigation of Respondent based on information that Respondent may have engaged in misclassification of its workers.

5. On June 17, 2015, a Department investigator sent Respondent a subpoena duces tecum via first-class mail and certified mail requiring the production of records and other information relating to Respondent's contractors, subcontractors and employees. The subpoena required a response within 20 days. The certified letter was returned as "Unable to Forward."
6. A search of the Minnesota Workers' Compensation Insurance Verification webpage provided an additional address of 3800 62nd Avenue N., Brooklyn Center, MN 55429, which was effective February 28, 2015.
7. On September 8, 2015, the investigator sent Respondent a subpoena duces tecum via first-class mail and certified mail to the Brooklyn Center address. The certified letter was returned on October 5, 2015 as "Unclaimed."
8. On October 5, 2015, a warning letter was sent via first class mail to Respondent requiring a response to the subpoena duces tecum.
9. As of the date of this order, Respondent has not responded to the subpoena.

III. CONCLUSIONS OF LAW

1. Respondent committed a violation of applicable law. Minn. Stat. §§ 181.723 (2014) and 326B.082, subd. 11 (b)(1) (2014).
2. Respondent failed to comply with a subpoena issued by the Commissioner. Minn. Stat. § 326B.082, subd. 11 (b)(6) (2014).

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 Respondent 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. 12(c) (2014), Respondent shall have 30 days after issuance of this Licensing 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. 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. Respondent's review rights are more thoroughly described in Minn. Stat. § 326B.082, subs. 4 and 12(c) (2014).

If Respondent submits to the Commissioner a timely request for hearing, this Licensing 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 the Minnesota Statutes, and the Rules of the Office of Administrative Hearings, Minn. Rules 1400.5010 to 1400.8400 (2013), and Minn. Stat. § 326B.082, subd. 12(c) (2014). 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 Respondent does not request a hearing or Respondent's request for a hearing is not served on or faxed to the Commissioner by 30 days after issuance of this Licensing Order, this Licensing 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. 12(c) (2014).

Respondent is prohibited from reapplying for registration in the Registration Program for at least two years from the date this Licensing Order becomes final.


The monetary penalty assessed against the Respondent by this Licensing Order is due and payable on the date the Licensing Order becomes final. *See* Minn. Stat. § 326B.083, subd. 3(a) (2014). When this Licensing 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 (2014) and 326B.083, subd. 2 (2014). 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 (2014). Also, pursuant to Minn. Stat. § 16D.13 (2014), Respondent is hereby notified that thirty (30) days after the date this Licensing Order becomes final, simple interest computed in accordance with Minn. Stat. § 16D.13, subd. 2 (2014) will begin to accrue on the unpaid portion of the penalty.

Dated: _____

11/4/15

KEN B. PETERSON
Commissioner

BY: _____


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