

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of the Construction Contractor Registration
of Fox Valley Co

**LICENSING ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry ("Commissioner") issues this Order against Fox Valley Co. ("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, subds. 11(b) and 12, and 326B.083 (2014), the Commissioner hereby suspends the construction contractor registration of Respondent, No. IR681446, until such time that Respondent provides to the Commissioner a complete and accurate response to the Commissioner's September 28, 2015 subpoena and pays the monetary penalty assessed above.

Pursuant to Minn. Stat. § 326B.082, subd. 12 (b) (2014), the Commissioner also hereby orders Respondent and its principal(s), during the period of the 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 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 a construction contractor registration, No. IR681446, issued by the Commissioner on May 22, 2014. In its registration, Respondent provided a business address of 1061 N Raddant Rd, Batavia, WI.
2. As a registered construction contractor, Respondent must adhere to the Minnesota statutes and to 326B.085 (2014) and Minn. R. Chapter 5224 (2013), regulations governing Contractor Registration, Minn. Stat. §§ 181.723, 326B.701, and 326B.081
3. Respondent is not registered with the Minnesota Secretary of State.
4. On March 26, 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 April 8, 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.

6. On August 26, 2015, a Department investigator sent Respondent a second request letter to the Respondent.
7. On September 3, 2015, Edward Mamalat from Fox Valley Contractors LLC sent an email to the Department investigator requesting a copy of the subpoena duces tecum be emailed to him. The investigator emailed a copy of the subpoena duces tecum that day.
8. On September 14, 2015, Respondent returned the first subpoena duces tecum. The response did not include information on projects the Department was already aware of involving the Respondent.
9. On September 28, 2015, a second subpoena duces tecum was sent requesting information on specific projects the Department was aware of involving the Respondent.
10. As of the date of this order, Respondent has not responded to the second subpoena duces tecum.

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, subds. 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

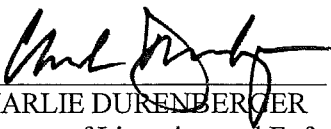
If Respondent does not request a hearing or Respondent's request for a hearing is not served on or faxed to the Commissioner by 30 days after issuance of this Licensing Order, this Licensing Order shall become a final order of the Commissioner and will not be subject to review by any court or agency. *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: 12/18/15

KEN B. PETERSON
Commissioner

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