

December 17, 2015

Aurora Castellanos Gomez
7908 June Ave N
Brooklyn Park, MN 55443

Re: Our File Number: REG. 1411-00004/KBU

Dear Ms. Castellanos Gomez:

The Minnesota Department of Labor and Industry, Construction Codes and Licensing Division, has received evidence that your company has engaged in violations of Minn. Stat. § 181.723(2014) and Minn. Stat. §326B.081 to 326B.085 (2014).

Enclosed is an Administrative Order we issued today by which you are ordered to pay a monetary penalty of \$2,000. The \$2,000 penalty for failure to provide a complete response to the subpoena duces tecum is due and payable 10 days after the date the Administrative Order becomes final.

You have the right to contest the Administrative Order by requesting a hearing within 30 days of the issuance of the Order. In the event a hearing is requested, the hearing would be held before an Administrative Law Judge ("ALJ") who, after hearing the evidence, would make a determination of whether or not violations have occurred.

The ALJ would then issue a recommendation to the Commissioner as to whether the violations were proven and the penalty reasonable. If the ALJ finds that the violation occurred and the penalty is reasonable, the Order will become final and the monetary penalty will become due and owing. Once the Order becomes final, the monetary penalty will be reduced to a judgment in Ramsey County District Court and any other appropriate district court, and collection procedures will commence. You would have the right to be represented by legal counsel throughout these proceedings, but you are not required to have one.

If you have any questions or concerns regarding this letter, or the enclosed Order, feel free to contact the undersigned investigator directly.

Sincerely,



Karen Bugar
Senior Investigator
Tel: 651-284-5374
Fax: 651-284-5749
E-mail: karen.bugar@state.mn.us

Enclosure: Administrative Order

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of Aurora Castellanos Gomez

**ADMINISTRATIVE ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Aurora Castellanos Gomez (“Respondent”).

Pursuant to Minn. Stat. §§ 326B.701 (2014); 326B.082, subd. 7 (2014) and 326B.083 (2014) the Commissioner hereby assesses against Respondent a monetary penalty of \$2,000.

The Commissioner also hereby orders Respondent to cease and desist from violating the laws cited in the “Conclusions of Law” section of this Administrative Order. Specifically, the Commissioner orders Respondent, individually or doing business in any business name, to cease and desist from performing public or private sector commercial or residential building construction or improvement services for which licensure or registration in the Construction Contractor Registration Program (“Registration Program”) is required in the state of Minnesota.

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

II. FINDINGS OF FACT

1. Respondent is a principal of Mega Remodeling, LLC (“Mega”), a contractor registered in the Registration Program, registration No. IR654932.
2. According to the records of the Minnesota Secretary of State, Respondent filed Mega as a limited liability company on November 12, 2010.
3. On November 18, 2014, the Minnesota Department of Labor and Industry (“Department”) opened an investigation of Respondent and Mega based on information that indicated Respondent and Mega may have engaged in violations of the Minnesota statutes and rules governing worker classification in the construction industry.
4. On November 20, 2014, a Department investigator mailed a copy of a subpoena duces tecum to Respondent and Mega. The subpoena required the production of documentation relating to Respondent’s and Mega’s subcontractors, contractors, and employees, including bids, invoices, and evidence of payments made to subcontractors.
5. In response to the subpoena, Respondent provided copies of Mega’s 2012 and 2013 tax forms, bank statements, and copies of checks from September 2012 through December 2013. Its 2013 Federal Tax Form 1040 Schedule C reported \$261,730 in Contract Labor (Part II, Line 11). Respondent’s bank checks totaled \$114,105 and the difference of \$147,625 in Contract

Labor has not been accounted for by Respondent which indicates “ghost workers” or misclassified persons. According to the Minnesota Department of Revenue, there is no record of Respondent’s or Mega’s individual or business tax filing since 2010.

6. Respondent did not provide copies of bids or invoices received from subcontractors, nor receipts for cash paid in lieu of checks to said subcontractors.

III. CONCLUSIONS OF LAW

1. Respondent committed a violation of applicable law. Minn. Stat. §§ 181.723, 326B.701, and 326B.082, subd. 7 (2014).
2. Respondent failed to cooperate with the Department’s investigation by providing false or misleading information including copies of Federal and Minnesota tax returns for 2012 and 2013. Minn. Stat. § 326B.082, subd. 2 (3) (2014).
3. By failing to provide copies of bids, invoices, or evidence of all payments made to subcontractors, Respondent provided an incomplete response to 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. 8 (2014), Respondent 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. Respondent’s review rights are more thoroughly described in Minn. Stat. § 326B.082, subds. 4 and 8 (2014).

If Respondent submits 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 (2013), and Minn. Stat. § 326B.082, subd. 8 (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 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 (2014).

The monetary penalty assessed upon Respondent by this Administrative Order is due and payable on the date the Administrative Order becomes final. *See* Minn. Stat. § 326B.083, subd. 3(a) (2014).

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 (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 Administrative 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: 12/17/15

KEN B. PETERSON
Commissioner

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