

STATE OF MINNESOTA  
Department of Labor and Industry

In the Matter of the Metz Framing Inc.

**LICENSING ORDER  
WITH PENALTY**

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**I. ORDER**

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Metz Framing Inc. (“Respondent”).

Pursuant to Minn. Stat. § 326B.082, subds. 11(b) and 12 (2014) and Minn. Stat. § 326B.083 (2014), the Commissioner hereby suspends the construction contractor registration of Respondent, Registration No. IR688032, until such time that Respondent provides a complete answer to the Commissioner’s February 21, 2014 subpoena and pays the monetary penalty assessed in the Administrative Order issued to Respondent on October 24, 2014.

Pursuant to Minn. Stat. § 326B.082, subd. 12 (b) (2014), the Commissioner also hereby orders Respondent and its principals, during the period of registration suspension, to cease and desist from performing public or private sector commercial or residential building construction or improvement services for which registration with the Commissioner 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, though it did not register with the Minnesota Construction Contractor Registration Program (“Registration Program”) until November 24, 2014.
2. According to invoices Respondent issued to Country Joe Homes, Respondent has a business address of 1815 Industrial St #6, Hudson, Wisconsin 54016.
3. According to the records of the Wisconsin Secretary of State, Metz Framing, Inc., was owned by Eric P. Metz and was administratively dissolved November 10, 2010.
4. Since September 15, 2012, Minn. Stat. § 181.723, subd. 4 (2014) requires all contractors who intend to provide commercial or residential building construction or improvement services in Minnesota to be registered with the Department’s Construction Contractor Registration Program (“Registration Program”) if they are not required to hold a license issued by the Department.

5. On January 3, 2014, the Minnesota Department of Labor and Industry (“Department”) opened an investigation of Respondent based on information that indicated Respondent may have engaged in violations of the Minnesota statutes and rules governing worker classification in the construction industry.
6. On February 21, 2014, a Department investigator mailed a subpoena duces tecum via first-class and certified mail to Respondent at the Hudson, Wisconsin address listed on its invoices. The subpoena required the production of documentation relating to Respondent’s subcontractors, contractors, and employees. The certified letter was accepted February 24, 2014 at a new address, 795 McCutcheon Road, Hudson, Wisconsin. The first-class letter was not returned by the United States Postal Service (“USPS”).
7. When Respondent failed to respond to the subpoena, the Department investigator mailed a second request for information to Respondent at the McCutcheon Road address on June 3, 2014. This letter was not returned by the USPS.
8. On June 11, 2014, Eric Metz called the Department investigator and asked that a copy of the original subpoena duces tecum be mailed to the McCutcheon Road address. The Department investigator mailed the copy to the McCutcheon Road address.
9. When Respondent failed to respond to the subpoena and failed to register, the Commissioner issued an Administrative Order to Respondent on October 24, 2014 for failing to comply with the subpoena and failing to register. The Order assessed a monetary penalty of \$7,000, of which \$2,000 was forgivable if Respondent registered within 30 days.
10. On November 24, 2014 Eric Metz called the Department investigator and asked what he could do to comply with the Administrative Order. The investigator told him he could submit a request for hearing to contest the Order, but that he should register his business as quickly as possible.
11. On November 24, 2014 Respondent registered with the Registration Program.
12. Both the subpoena and supplemental request for information required a response from Respondent within 30 days of the Commissioner’s service of the same.
13. The Commissioner has received no reply from Respondent as of the date of this Order.

### **III. CONCLUSIONS OF LAW**

1. Respondent committed a violation of applicable law. Minn. Stat. §§ 181.723 (2012) and 326B.082, subd. 11 (b) (1) (2014).
2. Respondent failed to fully 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](http://www.revisor.mn.gov).

#### **VI. EFFECT OF FINAL ORDER**

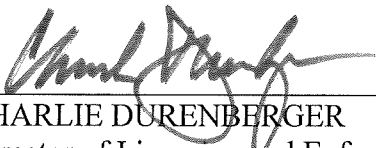
If Respondent does not request a hearing or Respondent's request for a hearing is not served on or faxed to the Commissioner by 30 days after issuance of this Licensing Order, this Licensing Order shall become a final order of the Commissioner and will not be subject to review by any court or agency. *See* Minn. Stat. § 326B.082, subd. 12(c) (2014).

Respondent is prohibited from applying for reinstatement of its contractor registration until such time full compliance with the terms of this Licensing Order has been achieved.

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: 1/16/15

KEN B. PETERSON  
Commissioner

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