

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of Jesus Rebollar

**ADMINISTRATIVE ORDER
WITH PENALTY PURSUANT
TO MINN. STAT. § 181.723**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Jesus Rebollar (“Respondent”).

Pursuant to Minn. Stat. §§ 181.723, subds. 7 and 8a; 326B.082, subd. 7 and 326B.083 (2014), the Commissioner hereby assesses against Respondent a monetary penalty of \$5,000.

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 registration in the Construction Contractor 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 the principal and chief manager of Sparta Construction, LLC, a contractor registered with the Minnesota Department of Labor and Industry (“Department”) through its Construction Contractor Registration Program, registration Nos. IR678270 and IR678393.
2. Respondent is also the principal and chief manager of Fargo Roofing, Inc. (“Fargo Roofing”). Fargo Roofing is registered with the Registration Program, registration Nos. IR651620 and IR659516.
3. On September 19, 2014, the Commissioner issued a Licensing Order suspending Fargo Roofing’s registration and assessing a \$5,000 civil penalty for failure to respond to a subpoena issued by the Commissioner. Fargo Roofing did not request a hearing to contest the Order, therefore the Order became final on October 22, 2014. The civil penalty assessed in the Licensing Order has not been paid to date.

4. In June 2014, the Minnesota Department of Labor and Industry (“Department”) opened an investigation of Respondent, Fargo Roofing, and Sparta Roofing based on information that indicated that Respondent may be misclassifying his workers.
5. On July 24, 2014, a Department investigator sent Respondent a subpoena duces tecum requiring the production of records and other information relating to the contractors, subcontractors and employees of his company, Sparta Construction, LLC. The subpoena required a response within 20 days.
6. On July 31, 2014, Respondent submitted an answer to the subpoena duces tecum stating “New Company we start this year.”
7. After further investigation, the Department investigator obtained evidence that Respondent did perform building construction or improvement services in 2014 and received \$154,665.47 from at least three other contractors between April 28, 2014 and July 27, 2014.

III. CONCLUSIONS OF LAW

1. Respondent committed violations of applicable law. §§ 181.723 and 326B.082, subd. 11(b)(1) (2012).
2. By falsely claiming in his response to the Department’s subpoena that he had not yet performed building construction or improvement services, Respondent submitted false information to the Department in connection with its response to the subpoena. Minn. Stat. §§ 326B.082, subd. 11(b)(2) and 326B.84 (1) (2014).

IV. DETERMINATION OF PENALTY AMOUNT

In determining the amount of the penalty, the Commissioner considered: the extent of deviation from compliance; whether the violations were willful; the gravity of the violations; 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 or notice. 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 the 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: 1/28/15

KEN B. PETERSON
Commissioner

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