

February 4, 2015

Rudy Lebaron
d/b/a Rudy's Drywall
723 Halley Avenue
Rapid City, SD 57701

Re: Our File Number: REG. 1410-00011/KBU

Dear Mr. Lebaron:

As you know, 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 (2012). The Department has concluded its investigation into this matter. This letter is to inform you of the results of that investigation.

Enclosed is an Administrative Order we issued today by which you are ordered to pay a civil penalty of \$5,000. The \$5,000 penalty for failure to respond 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 civil penalty will become due and owing. Once the Order becomes final, the civil 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 Rudy Lebaron, individually
and d/b/a Rudy's Drywall

**ADMINISTRATIVE ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry ("Commissioner") issues this Order against Rudy Lebaron, individually and d/b/a Rudy's Drywall ("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 \$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 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 cease and desist order remains in effect until compliance with the registration requirements of Minn. Stat. § 326B.701, subd. 2 (b) (2014) is achieved.

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, but has not registered with the Registration Program, which is administered by the Minnesota Department of Labor and Industry ("Department").
2. As a part of the Department's investigation of a general contractor, a Department investigator obtained a list of the general contractor's subcontractors and this list included Respondent. According to the general contractor's records, Respondent has a business address of 723 Halley Avenue, Rapid City, South Dakota 57701.
3. On October 15, 2014, a Department investigator mailed a subpoena duces tecum via first-class and certified mail to Respondent at the Rapid City, South Dakota address. The subpoena required the production of documentation relating to Respondent's subcontractors, contractors, and employees. Delivery of the subpoena sent via certified mail was returned by the United States Postal Service ("USPS") as "Unclaimed" on November 14, 2014. The subpoena sent via first-class mail was not returned by the USPS.
4. On October 21, 2014, Rudy Lebaron called the Department investigator and confirmed mailing address. Respondent denied performing construction or improvement services in Minnesota

since 2008. The investigator told Respondent he was required to respond in writing to the subpoena.

5. On November 17, 2014, the Department investigator mailed a second request for information to Respondent at the Rapid City, South Dakota address. This letter was not returned by the USPS.
6. Additional search of the South Dakota Secretary of State records show Rudy Lebaron holds a fictitious name registration for the name Rudy's Drywall, which expired January 19, 2015. The registered business address is 5205 W. 54th St N, Sioux Falls, SD 57107.
7. The Commissioner has not received a 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, 326B.701, and 326B.082, subd. 7 (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. 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, subs. 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: _____

2/4/15

KEN B. PETERSON

Commissioner



BY:

CHARLIE DURENBERGER

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