

REG1404-00017/WWH

STATE OF MINNESOTA  
Department of Labor and IndustryIn the Matter of the Contractor Registration of  
Top Siding of Lakeville LLC**LICENSING ORDER  
WITH PENALTY****I. ORDER**

The Commissioner of the Minnesota Department of Labor and Industry ("Commissioner") issues this Order against Top Siding of Lakeville LLC ("Respondent").

Pursuant to Minn. Stat. §§ 181.723, subds. 7 and 8a; 326B.082, subd. 12 (b) and 326B.083 (2012), the Commissioner hereby assesses against Respondent a monetary penalty of \$1,000.

Pursuant to Minn. Stat. §§ 326B.082, subds. 11(b) and 12 (2012) and 326B.083 (2012), the Commissioner hereby suspends the contractor registration of Respondent, No. IR678411, until such time that Respondent provides a complete answer to the Commissioner's April 30, 2014 subpoena and the penalty assessed by this Order is paid. During the term of the registration suspension, Respondent and its principals shall cease and desist from performing commercial or residential building construction or improvement services 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 engaged in the business of performing public or private sector commercial or residential building construction or improvement services and holds a contractor registration issued by the Commissioner, No. IR678411. Respondent's registration was completed by Joel Hernandez Escalante.
2. The business address Respondent provided in its contractor registration is: 13001 Pennock Avenue #57, Apple Valley, MN 55124.
3. Respondent, as a registered contractor, must adhere to the Minnesota statutes and regulations governing contractor registration and worker classification, Minn. Stat. §§ 181.723 and 326B.081 to 326B.085 (2012).
4. On April 30, 2014, a representative of the Commissioner sent Respondent a subpoena duces tecum requiring the production of records and other information relating to Respondent's contractors, subcontractors and employees. The subpoena required a response within 20 days. The subpoena was mailed via certified and first class mail to the

address listed on Respondent's contractor registration. The certified letter was accepted on May 12, 2014. The first class letter was not returned.

5. On June 12, 2014, a representative of the Commissioner sent a second request for information to Respondent at the Apple Valley address. The letter was not returned by the USPS.
6. Respondent failed to respond to the subpoena duces tecum.

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

1. Respondent committed a violation of applicable law. Minn. Stat. §§ 181.723 and 326B.082, subd. 11 (b) (1) (2012).
2. Respondent failed to respond to a subpoena issued by the Commissioner. Minn. Stat. § 326B.082, subd. 11 (b) (6) (2012).

### **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) (2012), 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) (2012).

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 (2011), and Minn. Stat. § 326B.082, subd. 12(c) (2012). 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) (2012).

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) (2012). 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 (2012) and 326B.083, subd. 2 (2012). 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 (2012). Also, pursuant to Minn. Stat. § 16D.13 (2012), 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 (2012) will begin to accrue on the unpaid portion of the penalty.

Dated: 8/4/14

KEN B. PETERSON  
Commissioner

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