

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of the Construction Contractor
Registration of MGH Drywall LLC

**LICENSING ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against MGH Drywall LLC (“Respondent”).

Pursuant to Minn. Stat. §§ 181.723, subd. 4(a)(1); 326B.082, subd. 12(b); and 326B.083 (2014), the Commissioner hereby assesses against Respondent a monetary penalty of \$5,000.

Pursuant to Minn. Stat. §§ 326B.082, subds. 11(b) and 12, and 326B.083 (2014), the Commissioner hereby suspends the construction contractor registration of Respondent, No. IR653813, until such time that Respondent provides a complete response to the Commissioner’s February 17, 2016 subpoena and pays the monetary penalty assessed above.

Pursuant to Minn. Stat. § 326B.082, subd. 12 (b) (2014), the Commissioner also hereby orders Respondent and its principal(s) 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 (“Registration Program”) is required until full compliance with this Licensing Order is achieved, including the submission of a complete response to the Commissioner’s February 17, 2016 subpoena and payment of the monetary penalty assessed above.

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 and held a construction contractor registration, No. IR653813, issued by the Commissioner on September 10, 2012. In its registration, Respondent asserted that it is owned by Miguel A. Godinez and that its business address was 4593 Slater Rd. #104, St. Paul, MN. The registration expired on December 31, 2015.
2. As a registered construction contractor, Respondent must adhere to the Minnesota statutes and regulations governing Contractor Registration and construction worker classification, Minn. Stat. §§ 181.723, 326B.701, and 326B.081 to 326B.085 (2014) and Minn. R. Chapter 5224 (2015).

3. As a part of an investigation of another contractor, the Minnesota Department of Labor and Industry (“Department”) obtained evidence of payments totaling \$414,300 made to Sunset Metro Drywall LLC in 2013. Consequently, the Department opened an investigation of Respondent on February 5, 2016 based on information that indicated Respondent may have engaged in violations of the Minnesota statutes and rules governing worker classification in the construction industry.
4. According to the records of the Minnesota Secretary of State, MGH Drywall LLC was owned by Miguel Godinez and had a registered address of 201 McAndrews Rd. #303, Burnsville, MN and a principal address of 4563 Slater Road, #104, Egan, MN.
5. According to the records of the Minnesota Workers Compensation Insurance Association, MGH Drywall LLC has a registered address of 201 McAndrews Rd. #303, Burnsville, MN.
6. Further investigation revealed an additional address for Miguel Godinez of 8996 – 92nd St. S., Cottage Grove, MN.
7. On February 17, 2016, a Department investigator mailed a subpoena duces tecum via first-class and certified mail to Respondent at its 201 McAndrews Rd. #303, Burnsville, MN. address with a copies to Respondent at 4593 Slater Road #104, Egan, MN and 8996 – 92nd Street S., Cottage Grove, MN. The subpoena required the production of documentation relating to Respondent’s subcontractors, contractors, and employees. The subpoena sent via certified mail was returned marked “Unclaimed” by the United States Postal Service (“USPS”). The first-class letter to the Slater Road address was returned marked “Unclaimed” by the USPS. The subpoenas sent via first-class mail to the Burnsville and Cottage Grove addresses were not returned by the USPS.
8. April 1, 2016, the Department investigator mailed a second request for information to Respondent at both its 201 McAndrews Rd. #303, Burnsville, MN. address and a copy to Cottage Grove address. Neither of these letters was returned by the USPS.
9. Both the subpoena and supplemental request for information required a response from Respondent within 30 days of the Commissioner’s service of the same.
10. 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 (2014) and 326B.082, subd. 11 (b)(1) (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. 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 (2015), 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.

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 full compliance with the terms of this Licensing Order is achieved, including the submission of a complete response to the Commissioner's February 17, 2016 subpoena and payment of the \$5,000 monetary penalty assessed in this Order.

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: 5/9/16

KEN B. PETERSON
Commissioner


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