

STATE OF MINNESOTA  
Department of Labor and Industry

In the Matter of the Contractor Registration of  
Zarate Drywall LLC

**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 Zarate Drywall LLC (“Respondent”).

Pursuant to Minn. Stat. §§ 326B.701, subd. 6; 326B.082, subd. 12 (b); and 326B.083 (2014), the Commissioner hereby assesses against Respondent a monetary penalty of \$2,000.

Pursuant to Minn. Stat. § 326B.082, subds. 11(b) and 12 (2014) and Minn. Stat. § 326B.083 (2014), the Commissioner hereby suspends the Contractor Registration of Respondent, No. IR653366, until such time that Respondent provides a complete answer to the Commissioner’s January 19, 2016 subpoena and pays the monetary penalty imposed herein.

Pursuant to Minn. Stat. § 326B.082, subd. 12 (b) (2014), the Commissioner also hereby orders Respondent and its principal(s), during the period of contractor registration suspension, 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 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 for which registration in the Registration Program is required.
2. Respondent is registered with the Registration Program, registration No. IR653366. In its registration, Respondent identified its business address as: 1021 9<sup>th</sup> Ave. S., South St. Paul, MN 55075.
3. Respondent, as a registered contractor, must adhere to the Minnesota statutes and rules governing contractor registration and worker classification, Minn. Stat. §§ 181.723; 326B.701; and 326B.081 to 326B.085 (2014), and Minn. Rules Chapter 5224 (2015).
4. On May 26, 2015, the Minnesota Department of Labor and Industry (“Department”) opened an investigation of Respondent based on information that indicated that Respondent may have engaged in violations of the statutes and rules governing the classification of workers in the construction industry.

5. On June 30, 2015, a Department investigator sent Respondent a subpoena duces tecum requiring the production of records and other information relating to Respondent's contractors, subcontractors and employees.
6. On July 20, 2015, Respondent sent a partial answer to the subpoena, but did submit a copy of its 2014 business tax returns.
7. On July 29, 2015 the Department investigator sent Respondent a letter requesting a complete answer to the subpoena duces tecum including invoices Respondent submitted to its contractors, Contracts between respondent and his contractors, and receipts to verify expenses as shown on his 2013 & 2014 taxes.
8. On August 3, 2015, Respondent came in with original receipts to verify its expenses on his 2014 business tax returns.
9. On August 7, 2015, the Department investigator sent Respondent a letter requesting the production of copies of receipts to verify the business expenses that Respondent claimed on its 2014 business tax returns.
10. The Department has received no further communication from Respondent.

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

1. Respondent committed a violation of applicable law. Minn. Minn. Stat. §§ 181.723, 326B.701, and 326B.082, subd. 11(b)(1) (2014).
2. Respondent failed to provide a complete answer to a subpoena issued by the Commissioner. Minn. Stat. §§ 326B.082, subs. 2 and 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

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) (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](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: 4/17/16

KEN B. PETERSON  
Commissioner

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