

STATE OF MINNESOTA  
Department of Labor and Industry

In the Matter of the Construction Contractor  
Registration of M and A Elite Services, 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 M and A Elite Services, LLC (“Respondent”).

The Administrative Order issued to M & A Elite Services, LLC and Jeremy R. Mitchell, individually, dated March 14, 2016 is hereby VACATED.

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. IR699268, until such time that Respondent provides a complete response to the Commissioner’s December 17, 2015 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 December 17, 2015 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. IR699268, issued by the Commissioner on September 215, 2015 in the name of M and A Elite Services, LLC. In its registration, Respondent asserted that it is owned by Jeremy Mitchell and that its business address is 7325 – 167<sup>th</sup> Street West, Rosemount, MN.

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 result of a review of the records of Legacy Contracting LLC, the Minnesota Department of Labor and Industry (“Department”) opened an investigation of Respondent on December 11, 2015 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, M & A Elite Services, LLC had a registered address of 14392 Genesee Avenue, Apple Valley, MN. The company’s business registration is inactive.
5. On December 17, 2015, a Department investigator mailed a subpoena duces tecum via first-class and certified mail to Respondent at its Apple Valley address and also sent a copy to the Rosemount address.
6. The subpoena required the production of documentation relating to Respondent’s subcontractors, contractors, and employees. The subpoena sent via certified mail was returned marked “Attempted – Not Known” by the United States Postal Service (“USPS”). Neither of the first-class letters was returned.
7. Further investigation revealed an address for the owner, Jeremy Mitchell, of 7325 – 167<sup>th</sup> Street, Rosemount, MN.
8. On January 21, 2016, the Department investigator mailed a second request for information to Respondent at the Rosemount address. The letter was not returned by the USPS.
9. On January 26, 2016, the Department investigator received a call from Jeremy Mitchell claiming that he had not received a copy of the subpoena. The investigator mailed him a copy of the subpoena.
10. On March 14, 2016 an Administrative Order was issued against both M&A Elite Services, LLC and Jeremy Mitchell for failure to register and failure to respond to the subpoena.
11. The Department investigator then learned that the business had been registered as M and A Elite Services, LLC.
12. Both the subpoena and supplemental requests for information required a response from Respondent within 30 days of the Commissioner’s service of the same.
13. 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](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 full compliance with the terms of this Licensing Order is achieved, including the submission of a complete response to the Commissioner's December 17, 2015 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: 6/29/16

KEN B. PETERSON  
Commissioner

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