

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of the Contractor Registration of
Coronado Construction LLC

**LICENSING ORDER
WITH PENALTY**

I. ORDER

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

Pursuant to Minn. Stat. §§ 326B.701, subd. 6; 326B.082, subd. 12 (b); and 326B.083 (2016), the Commissioner hereby assesses against Respondent a monetary penalty of \$4,000.

Pursuant to Minn. Stat. § 326B.082, subds. 11(b) and 12 (2016) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby suspends the Contractor Registration of Respondent, No. IR679246, until such time that Respondent provides a complete answer to the Commissioner’s December 3, 2015 subpoena and pays the monetary penalty imposed herein.

Pursuant to Minn. Stat. § 326B.082, subd. 12 (b) (2016), the Commissioner also hereby orders Respondent and its principal, 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.

Pursuant to Minn. Stat. § 326B.082, Subd. 11(a) (b)(5) (2016), the Commissioner also hereby orders Respondent and its principal to cease and desist from registering in the Registration Program under the business name Coronado Construction LLC or any other business name.

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. IR679246. In its registration, Respondent identified its business address as: 12720 Garland Ave, Apple Valley, MN 55124.

3. Respondent, as a registered contractor, must adhere to the Minnesota statutes and rules governing contractor registration and worker classification, Minn. Stat. §§ 181.723(2016); 326B.701; and 326B.081 to 326B.085 (2016), and Minn. Rules Chapter 5224 (2015).
4. On October 16, 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 December 3, 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. The subpoena required a response within 20 days and was mailed via first-class and certified mail.
6. On December 17, 2015, Respondent sent a partial answer to the subpoena including its 2016 business tax returns and payment information regarding its subcontractors.
7. On April 18, 2016 the Department investigator sent Respondent a letter requesting a complete answer to the subpoena duces tecum including its receipts to verify expenses as shown on its 2016 tax returns.
8. Respondent failed to provide a complete answer to the subpoena.
9. After reviewing the partial response to the subpoena that Respondent provided, the Department investigator determined that :
 - Respondent hired Navarro Company Drywall, LLC (NCDL) and paid it in cash for the performance of building construction or improvement services. NCDL listed the same address on its Registration as Respondent’s address. Respondent signed for NCDL’s subpoena. NCDL failed to respond to the subpoena and failed to maintain a separate business with its own office. NCDL doesn’t meet the 9 factor test and is considered an employee of Respondent.
 - Respondent hired Norita Drywall, LLC (NDL) and paid it for the performance of building construction or improvement services. NDL listed the same address on its Registration as Respondent’s address. Respondent signed for NDL’s subpoena. NDL failed to provide a complete response to the subpoena and failed to maintain a separate business with its own office. NDL’s Registration with the Minnesota Secretary of State has been administratively dissolved on June 10, 2015. NDL doesn’t meet the 9 factor test and is considered an employee of Respondent.
 - Respondent hired El Tejon Drywall, LLC (ETDL) and paid it for the performance of building construction or improvement services. ETDL listed the same address on its Registration as Respondent’s address. Respondent signed for ETDL’s subpoena. ETDL failed to respond to the subpoena and failed to maintain a separate business with its own office. ETDL doesn’t meet the 9 factor test and is considered an employee of Respondent.

- Respondent hired and paid Vaqueros Drywall, LLC (VDL) and paid it for the performance of building construction or improvement services. VDL's subpoena was returned because it was not deliverable as addressed. VDL failed to maintain a separate business with its own office. VDL doesn't meet the 9 factor test and is considered an employee of Respondent.
 - Respondent provided a handwritten notebook where it listed its weekly expenses, on it Respondent listed payments for "Navarro". Respondent also listed miles from 400 to 647 each week for each of its SUV and its Cargo van. It is impossible for Respondent to drive both vehicles that many miles in one week.
10. NDL provided a partial response to the subpoena and after reviewing the response, a Department investigator determined that:
- NDL hired and paid Quintero Drywall, LLC (QDL) for the performance of building construction or improvement services in 2015 before it was registered. QDL registered on August 4, 2015. QDL stated on its registration that it had workers compensation insurance. QDL doesn't have workers compensation insurance but provided a certificate of insurance showing coverage from August 29, 2015 through August 29, 2016. QDL registered with Minnesota Secretary of State on August 3, 2015. The subpoena sent to QDL was signed by Jose F. Coronilla. QDL didn't respond to the subpoena.
 - NDL hired and paid Jose Drywall, LLC (JDL) for the performance of building construction or improvement services. The subpoena sent to JDL was signed by Jose F Coronilla. JDL didn't respond to the subpoena.
 - NDL hired and paid Marcos Drywall, LLC (MDL) for the performance of building construction or improvement services. The subpoena sent to MDL was signed by Jose F Coronilla. MDL didn't respond to the subpoena.
 - QDL, JDL and MDL listed the same address as their business address yet a different person signed for receipt of the subpoenas sent to the address. QDL, JDL and MDL failed to maintain a business address, therefore they failed to meet the nine factor test.
 - NDL received miscellaneous payments from other contractors in 2015 for the amount of \$41,204. NDL received a total of \$196,816 from Respondent; of that amount NDL only received 59,286 between August 2015 and December 2015. NDL's subcontractors all registered in August 2015 and received a total of \$178,645 in 2015. NDL failed to provide a complete answer to the subpoena but looking at the payments it received it appears that at least some of the subcontractors NDL hired were paid before they were registered.
 - NDL's biggest portion of its gross receipts for 2015 \$196,816 of a total of \$238,020 were received from Respondent. From February 27, 2015 till April 24, 2015 NDL received weekly and bi-weekly from Respondent in the amount of \$9,000 each. NDL's subcontractors have mostly worked on Respondent's projects and are considered employees of Respondent.

III. CONCLUSIONS OF LAW

1. Respondent committed violations of applicable law. Minn. Stat. §§ 181.723, 326B.701, and 326B.082, subd. 11(b)(1) (2016).
2. Respondent failed to provide a complete answer to a subpoena issued by the Commissioner. Minn. Stat. §§ 326B.082, subds. 2 and 11 (b)(6) (2016).
3. Respondent misclassified employees. Minn. Stat. § 181.723, subd. 7(a)(1)(3) and 7(b)(3)(2016).

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) (2016), 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) (2016).

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) (2016). 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) (2016).

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) (2016). 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 (2016) and 326B.083, subd. 2 (2016). 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 (2016). Also, pursuant to Minn. Stat. § 16D.13 (2016), 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 (2016) will begin to accrue on the unpaid portion of the penalty.

Dated: 1/5/17

KEN B. PETERSON
Commissioner

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