

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of the Contractor Registration of
J&T Construction, LLC

**LICENSING ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against J&T 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 \$5,000.

Pursuant to Minn. Stat. § 326B.082, subds. 11(b) and 12 (2014) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby suspends the Contractor Registrations of Respondent, Nos. IR695271 and IR717630, until such time that Respondent provides a complete answer to the Commissioner’s June 7, 2016 subpoena and pay the monetary penalty imposed herein.

Pursuant to Minn. Stat. § 326B.082, subd. 12 (b) (2016), the Commissioner also hereby orders Respondent, 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 officers, Junior Vega and Saul Ibarra Calderon, to cease and desist from registering in the Registration Program under the business name J&T 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 has registered with the Registration Program twice: registration No. IR695271 was submitted on June 5, 2015 and registration No. IR717630 was submitted on December 8, 2016. In its registrations, Respondent listed its business address as: 5 Washburn Ave., Inver Grove Heights, MN.
3. Respondent’s registration with the Minnesota Secretary of State (“SOS”) is active, though in its business registration with the SOS, Respondent listed its registered office address as: 1226 4th Ave E, STE 110, Shakopee, MN.
4. Respondent, as a registered contractor, must adhere to the Minnesota statutes and regulations governing contractor registration, Minn. Stat. §§ 181.723; 326B.701; and 326B.081 to 326B.085 (2016), and Minn. R. Chapter 5224 (2015).

5. On June 11, 2015, the Minnesota Department of Labor and Industry (“Department”) opened an investigation of Respondent based on information that suggested that Respondent may have engaged in violations of the laws and rules governing the classification of workers in the construction industry.
6. On June 7, 2016, 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 to the Inver Grove Heights address.
7. On June 29, 2016, the letter sent via certified mail was returned as it was “unclaimed.” The letter sent via first-class mail was not returned by the USPS.
8. On September 29, 2016, the Commissioner sent Respondent a letter requesting an answer to the subpoena duces tecum. The letter was sent to both the Inver Grove Heights and the Shakopee addresses.
9. On June 2, 2016, the letter sent to the Shakopee address was returned by the USPS. The letter sent to the Inver Grove Heights address was not returned.
10. Respondent failed to provide an answer to the subpoena.

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) (2016).
2. Respondent failed to respond to a subpoena issued by the Commissioner. Minn. Stat. § 326B.082, subd. 11 (b)(6) (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, subs. 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 Respondents do 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 registrations 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