

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of the Contractor Registration of
Klyn Heber Butchereit, dba Forever Drywall

**LICENSING ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Klyn Heber Butchereit, dba Forever Drywall (“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, subs. 11(b) and 12 (2016) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby suspends the Contractor Registration of Respondent, No. IR726105, until such time that Respondent provides a complete answer to the Commissioner’s December 3, 2015 subpoena issued to Forever Drywall LLC and pays the monetary penalty imposed herein and the \$1,000 penalty assessed against him in the Administrative Order issued by the Commissioner on July 1, 2016.

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 to cease and desist from registering in the Registration Program under the business name Forever Drywall, Forever Drywall 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, and most recently registered in the Registration Program as an individual doing business as Forever Drywall on June 15, 2017 and was automatically assigned registration No. IR726105.

2. Klyn Heber Butchereit (“Butchereit”) filed “Forever Drywall” as an assumed name with the Minnesota Secretary of State (“SOS”) on June 23, 2017. In that filing, Butchereit provided a registered office address and principal executive office address of: 288 Burnsville Cir., Burnsville, Minnesota.
3. Prior to his 2017 registration, Respondent registered with the Registration Program on August 30, 2013 as the principal of Forever Drywall LLC (“FDL”), which Respondent had filed as a limited liability company with the SOS in 2012. FDL was assigned registration No. IR671700. When Respondent registered FDL, he provided a business address of 288 Burnsville Cir., Burnsville, Minnesota.
4. In October 2015, the Department opened an investigation of FDL based on information that indicated the company and Butchereit may have engaged in violations of the statutes and rules governing the classification of workers in the construction industry.
5. As a result of its investigation, the Department issued a Licensing Order to FDL on July 1, 2016. The Licensing Order suspended FDL’s registration until it provided a complete response to a subpoena issued by the Commissioner on December 3, 2015 and paid a \$5,000 monetary penalty. As of the date of this Order, the July 2016 Licensing Order is final and FDL has not paid the \$5,000 monetary penalty or provided a response to the December 3, 2015 subpoena.
6. On the same day the Licensing Order was issued, the Department also issued an Administrative Order to Butchereit, ordering him to cease and desist from performing building construction or improvement services until he provided a complete response to the December 2015 subpoena and he paid a \$1,000 monetary penalty. As of the date of this Order, the Administrative Order is final and Butchereit has not paid the \$1,000 monetary penalty or provided a complete response to the December 2015 subpoena.
7. In an apparent effort to continue to provide building construction services in Minnesota despite the Orders issued against him and FDL, Respondent submitted his June 2017 registration, which was automatically granted based on the nature of the Registration Program.

III. CONCLUSIONS OF LAW

1. Respondent committed violations of applicable law. Minn. Minn. Stat. §§ 181.723, 326B.701, and 326B.082, subd. 11(b)(1) (2016).
2. Respondent has unresolved violations and unpaid monetary penalties. Minn. Stat. § 326B.082, subd. 11 (a) (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

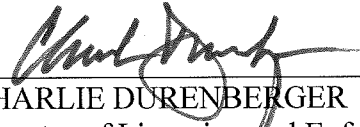
If Respondent does not request a hearing or Respondent's request for a hearing is not served on or faxed to the Commissioner by 30 days after issuance of this Licensing Order, this Licensing Order shall become a final order of the Commissioner and will not be subject to review by any court or agency. See Minn. Stat. § 326B.082, subd. 12(c) (2016).

Respondent is prohibited from applying for reinstatement of his current contractor registration or submitting a new registration application 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: 8/18/17

KEN B. PETERSON
Commissioner

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