

m DEPARTMENT OF
LABOR AND INDUSTRY

August 4, 2017

Troy Hatch
Pride Pro Painting, LLC
2010 Cardinal Lane
Stewartville, MN 55976

**RE: Administrative Order with Penalty
Our Investigative File No. REG1609-00028/TWI**

Dear Mr. Hatch:

As you know, the Minnesota Department of Labor and Industry, Construction Codes and Licensing Division, has received evidence that your company has engaged in violations of Minn. Stat. § 181.723 (2016). The Department has concluded its investigation into this matter. This letter is to inform you of the results of that investigation.

Enclosed is an Administrative Order we issued today by which you are ordered to pay a civil penalty of \$7,000; however, \$2,000 of the penalty will be forgiven if, within 30 days, you register or secure licensure for your company in accordance with the law. Go to www.dli.mn.gov/register to complete the required application.

As provided by Minnesota law and stated in the attached Order, you have the right to appeal this Order by requesting a hearing. A request for hearing must be made in writing as explained in the Order. In the event a hearing is requested, the hearing would be held before an Administrative Law Judge ("ALJ") who, after hearing the evidence, would make a determination of whether or not violations have occurred. Please note that, if an ALJ finds that a hearing request was frivolous or made solely for the purposes of delay, the Department may add to the amount of the penalty the costs charged to the agency by the Office of Administrative Hearings for the hearing. If the ALJ finds that the violation occurred and the penalty is reasonable, the Order will become final and the civil penalty will become due and owing. Once the Order becomes final, the civil penalty will be reduced to a judgment in Ramsey County District Court and any other appropriate district court, and collection procedures will commence.

If you have any questions or concerns regarding this letter, or the enclosed Order, feel free to contact the undersigned investigator directly.

Sincerely,



Tammy Wilde
Senior Investigator
Construction Codes and Licensing Division
Tel: (651) 284-5106
E-mail: tammy.wilde@state.mn.us

Enclosure: Administrative Order

Equal Opportunity Employer

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of Pride Pro Painting, LLC
and Troy Hatch, individually

**ADMINISTRATIVE ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Pride Pro Painting, LLC and Troy Hatch (“Respondents”).

Pursuant to Minn. Stat. § 326B.082, subd. 7 (2016) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby assesses against Respondents, jointly and severally, a monetary penalty of \$7,000, of which \$2,000 shall be forgiven if Respondents demonstrate to the Commissioner by the 31st day after this Administrative Order their full compliance with the Construction Contractor Registration requirements of Minn. Stat. § 326B.701, subd. 2 (2016).

The Commissioner also hereby orders Respondent Pride Pro Painting and Respondent Troy Hatch to cease and desist from violating the laws cited in the “Conclusions of Law” section of this Administrative Order. Specifically, the Commissioner orders Respondent Pride Pro Painting, LLC and Respondent Troy Hatch to cease and desist from performing public or private sector commercial or residential building construction or improvement services in the state of Minnesota as defined in Minn. Stat. § 181.723, subds. 1 and 2 until such time as the Respondents:

1. fully respond to the Commissioner’s September 28, 2016 Subpoena Duces Tecum;
2. register with or secure licensure from the Minnesota Department of Labor and Industry (“Department”), as required by law; and
3. otherwise comply with Minnesota statutes referenced below in the “Conclusions of Law” paragraph below.

The Commissioner takes the above action based upon the following Findings of Fact and Conclusions of Law:

II. FINDINGS OF FACT

1. Respondents are engaged in the business of providing commercial or residential building construction or improvement services but are neither licensed by the Commissioner nor are they registered in the Minnesota Construction Contractor Registration Program (“Registration Program”) administered by the Commissioner.

2. Respondent Pride Pro Painting, LLC was registered with the Minnesota Secretary of State on January 29, 2009 with File No. 3187802-2. Respondent Troy Hatch is named as the Registered Agent and 2010 Cardinal Lane, Stewartville, MN is listed as the company's Registered Office Address. This registration became inactive on January 1, 2012 due to failure to renew.
3. On September 26, 2016, the Department opened an investigation of Respondents based on information indicating that Respondents may have engaged in violations of the Minnesota statutes governing the classification of workers in the construction industry.
4. A Department investigator mailed a Subpoena Duces Tecum via first-class and certified mail to Respondents at their Stewartville, Minnesota address on September 28, 2016. The first-class mailing was not returned to the Commissioner by the U.S. Postal Service ("USPS"). The certified mailing sent to this address on the same date was returned to the Commissioner by the USPS as "unclaimed."
5. On December 1, 2016, the Department investigator mailed a Subpoena Duces Tecum via first-class and certified mail to Respondent Pride Pro Painting at 1216 – 5th Street, Rochester, MN 55904. Said address is on Respondent Hatch's Minnesota driver's license, the Certificates of Liability Insurance American Family Mutual Insurance Company issued to Respondents and all internet listings for Respondents. This first class mailing was not returned to the Commissioner.
6. On December 15, 2016, Respondent Hatch accepted service of certified mail containing the Commissioner's September 28, 2016 Subpoena Duces Tecum sent to the Rochester, Minnesota address.
7. Respondents did not reply to the Subpoena Duces Tecum by the December 21, 2016 deadline and still have not responded to the Commissioner as of the date of this Order.
8. Respondents failed to register with the Commissioner under the Construction Contractor Registration Program. The Commissioner has no record showing that either Respondent has ever been licensed by the Department.
9. Respondent Pride Pro Painting submitted a proposal on custom-printed "Pride Pro Painting" forms to Todd Eidem Construction for an exterior painting jobs on:
 - a. the Justin Mcnielus home on March 12, 2014; and
 - b. 0642 Donnington PI NE Somerby Byron MN on December 1, 2015.
10. Respondent Troy Hatch executed subcontractor agreements with Todd Eidem Construction, Inc. on behalf of Respondent Pride Pro Painting on May 19, 2014 and January 6, 2015.
11. At the request of Todd Eidem, Respondent Troy Hatch provided Todd Eidem Construction, Inc. with certificates of liability insurance in the name of "Troy Hatch

DBA Pride Pro Painting” dated April 27, 2015 and “Pride Pro Painting Llc” dated May 1, 2013.

12. After completing work for Todd Eidem Construction, Inc., Respondents submitted a Contractor Invoice on a custom “Pride Pro Painting” form to “Todd Eidem Constr” in the amount of \$7,206.00 for painting done on the Byron Somerby house.
13. As of the date of this Order, Respondent Pride Pro Painting, LLC out of Stewartville, Minnesota, is listed on the internet at Angie’s List and findthecompany.com, describing the painting, staining, dry walling and wallpaper hanging services it offers.
14. The current online listings for Respondent Pride Pro Painting LLC include the same address as the inactive Secretary of State registration.

III. CONCLUSIONS OF LAW

1. Respondents committed violations of applicable law. Minn. Stat. § 326B.082, subd. 7 (2016).
2. Respondents committed a violation of Minn. Stat. § 326B.082, subd. 2(b) (2016) by failing to respond to a written request for production of documents from the Commissioner.
3. Respondents committed a violation of Minn. Stat. §§ 181.723, subd 2 and 326B.701, subd. 2 (2016) by providing building construction or improvement services in Minnesota without being licensed by the Commissioner or registered in the Registration Program.

IV. DETERMINATION OF PENALTY AMOUNT

In determining the amount of the penalty, the Commissioner considered: the extent of deviation from compliance; whether the violations were willful; the gravity of the violations; the number of violations; whether there is a history of past violations; whether Respondents 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. 8 (2016), Respondents shall have 30 days after issuance of this Administrative Order to request a hearing. In addition, if the Commissioner determines that Respondents have not corrected or taken appropriate steps toward correcting the violations within the 31-day period for corrective action, Respondents have the right to a review of the Commissioner’s determination by requesting a hearing within 20 days after the Commissioner issues notice of this determination. 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. The request for hearing must specifically state the reasons for seeking review of the order or notice. 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. Respondents' review rights are more thoroughly described in Minn. Stat. § 326B.082, subs. 4 and 8 (2016).

If the Respondents submit to the Commissioner a timely request for hearing, the Administrative 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 Minnesota Statutes, the Rules of the Office of Administrative Hearings, Minn. Rules 1400.5010 to 1400.8400 (2015), and Minn. Stat. § 326B.082, subd. 8 (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 Respondents' request for a hearing is not served on or faxed to the Commissioner by the deadline specified in the "Request for Hearing" section of this Administrative Order, this Administrative 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. 8 (2016).


The penalty imposed upon Respondents by this Administrative Order, other than the forgivable portion, is due and payable ten days after the date the Administrative Order becomes final. If the Commissioner determines that the violations were not corrected within the 31-day period for corrective action, then the forgivable portion of the penalty is due and payable 20 days after the Commissioner serves notice of this determination or on the date this Administrative Order becomes final, whichever is later. *See* Minn. Stat. § 326B.083, subd. 3 (2016).

When this Administrative 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 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), Respondents are hereby notified that thirty (30) days after the date this Administrative 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: 8/4/17

KEN B. PETERSON
Commissioner

BY: 

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

