

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of Jendro Contracting LLC
and John Joseph Jendro, individually

**ADMINISTRATIVE ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Jendro Contracting LLC and John Joseph Jendro, individually (“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 \$5,000.

The Commissioner also hereby orders Respondents to cease and desist from violating the laws cited in the “Conclusions of Law” section of this Administrative Order. Specifically, the Commissioner orders Respondents 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 (2016), until such time as the Respondents comply with: all terms of the Commissioner’s Licensing Order with Penalty (“Licensing Order”) issued against Jendro Contracting LLC on December 2, 2013; all the terms of the Commissioner’s Administrative Order with Penalty (“2015 Administrative Order”) issued against Jendro Contracting LLC and John Joseph Jendro, individually, on October 19, 2015; and the terms of this Order.

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

II. FINDINGS OF FACT

1. According to the records of the Minnesota Secretary of State, Respondent Jendro Contracting LLC (“JCL”) has two inactive registrations with registered offices at 3800 American Blvd. West, Suite 1500 #300-030, Bloomington, Minnesota and 30516 – 147th Street, Princeton, Minnesota.
2. On February 2, 2018, the Minnesota Department of Labor and Industry (“Department”) opened an investigation of Respondents based on information indicating that Respondents may have engaged in violations of the Minnesota statutes governing contractors in the construction industry and prior Department Orders.

3. Department records show that Respondent JCL secured a Residential Building Contractor (“RBC”) license, No. BC647869, from the Department on April 11, 2012. This RBC license was revoked pursuant to a Licensing Order issued by the Commissioner on December 2, 2013. The Qualifying Builder for this RBC license was John J. Jendro, No. QB646745, a status that expired on March 7, 2014. The Licensing Order also assessed against JCL a monetary penalty of \$5,000, which has not been paid.
4. As a result of a 2015 Department investigation of Respondents (REG1506-00035/WWH), the Commissioner issued an Administrative Order against JCL and John Joseph Jendro, individually, based on evidence that Respondents violated applicable laws including Minn. Stat. §§ 181.723; 326B.701, subs. 2 and 5(b) and 326B.082, subd. 7 (2014).
5. The 2015 Administrative Order assessed a \$2,000 monetary penalty that was forgivable if Respondents registered in the Minnesota Construction Contractor Registration Program (“Registration Program”) within 30 days. The Order further required Respondents to to cease and desist from performing public or private sector commercial or residential building construction or improvement services for which registration is required. Respondents did not contest the 2015 Administrative Order and they have not registered in the Registration Program. Consequently the \$2,000 monetary penalty is due and owing as of the date of this Order.
6. Based on evidence gathered in its 2018 investigation, the Department determined that Respondents engaged in the business of providing commercial or residential building construction or improvement services in 2016 and 2017 in Minnesota even though they were not licensed by the Department or registered in the Registration Program.
7. In 2016, Respondents performed commercial work for GSD Construction, J.S. CATES CONSTRUCTION, INC. and UNIVERSAL SPRAY & DRYWALL, INC. (“USDI”) in Minnesota under the name “Jendro Contracting.”
8. In 2017, Respondents performed commercial work for USDI in Minnesota under the name “Jendro Contracting” until September 1, 2017 at which time USDI started to pay a company named “Finishing Touch, LLC” for work performed by Respondents.
9. On November 8, 2017, Respondent John Joseph Jendro and Wendi Nelson registered Finishing Touch, LLC with the Department and were issued registration No. IR732786.

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. §§ 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.
3. Respondent Jendro Contracting LLC violated the terms of the Commissioner's Licensing Order. Minn. Stat. § 326B.082, subd. 11 (b)(5) (2016).
4. Respondents Jendro Contracting LLC and John Joseph Jendro violated the terms of the Commissioner's 2015 Administrative Order. Minn. Stat. § 326B.082, subd. 11(b)(5) (2016).

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.

Because Respondents have a history of past violations, the Commissioner also considered: the similarity of the previous violations to the current violations; the time elapsed since the last violation; the number of previous violations; and the Respondent's response to the most recent previous violation.

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 monetary penalty assessed upon Respondents by this Administrative Order is due and payable on the date the Administrative Order becomes final. *See* Minn. Stat. § 326B.083, subd. 3(a) (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: 3/22/18

KEN B. PETERSON
Commissioner

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