

**m** DEPARTMENT OF  
LABOR AND INDUSTRY

January 16, 2018

VIA U.S. MAIL

Robert A. Ohde  
RAO Construction LLC  
734 Evergreen Court  
Rhineland, WI 54501

Re: Administrative Order; REG1711-00010/JOR

Dear Mr. Ohde,


I am writing to inform you of an Administrative Order against your company in the above-referenced matter for failing to respond to a subpoena.

Minnesota Statute Section 326B.082, subd. 11(b)(6) requires persons to comply with subpoenas issued by the Commissioner of the Minnesota Department of Labor and Industry. The Commissioner issued a subpoena to RAO Construction LLC dated November 15, 2017. After repeated attempts to obtain a response from RAO Construction LLC, the Department has been left to issue the enclosed order against the company.

The order imposes a \$5,000 penalty. \$4,500 of the penalty will be forgiven if RAO Construction LLC responds to the November 15, 2017 subpoena. I have enclosed a copy of the subpoena for your convenience.

If you have any questions, please do not hesitate to contact me at the undersigned.

Sincerely,

  
Jonathan Reiner  
Senior Investigator  
Construction Codes & Licensing – Enforcement  
443 Lafayette Road N  
St. Paul, MN 55155  
P: (651) 284-5396  
F: (651) 284-5746  
jonathan.reiner@state.mn.us

Enclosures: Administrative Order; Subpoena

STATE OF MINNESOTA  
Department of Labor and Industry

In the Matter of the Contractor Registration of  
RAO Construction LLC

**ADMINISTRATIVE ORDER  
WITH PENALTY**

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**I. ORDER**

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

Pursuant to Minn. Stat. § 326B.082, subd. 7 (2016) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby assesses against Respondent a monetary penalty of \$5,000, of which \$4,500 is forgivable. The forgivable portion of this penalty shall be forgiven if Respondent demonstrates to the Commissioner by the 31st day after this Administrative Order is issued that Respondent has corrected the violations or has developed a correction plan acceptable to the Commissioner.

The following corrective actions are required by this Administrative Order:

1. Obtain a contractor registration or appropriate license as applicable from the Minnesota Department of Labor and Industry (“Department”) and
2. Respond fully and completely to the Commissioner’s November 15, 2017 administrative subpoena duces tecum.

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 providing commercial or residential building or improvement services but is neither licensed nor registered as a contractor with the Department. Respondent has performed such services in Minnesota including the Cannon Falls Grandstay in Cannon Falls, MN in 2017, the Uptown Apartments in Rochester, MN in 2016, and Keystone Crossing in Lakeville, MN in 2016, among other projects.
2. Respondent is registered as a limited liability company with the Wisconsin Department of Financial Institutions. Its registered address is 11761 County Road A, Wausau, WI 54401. Respondent’s other apparent business address is 734 Evergreen Court, Rhinelander, WI 54501.

3. Respondent, as a construction contractor that has performed work in Minnesota, must understand and comply with all statutes and rules governing the residential and commercial construction industry, including contractor registration and worker classification. *See* Minn. Stat. §§ 181.723 and 326B.701 (2016).
4. The Department opened an investigation of Respondent in November 2017. The Commissioner issued an administrative subpoena duces tecum to Respondent dated November 15, 2017 with a due date of December 5, 2017.
5. On November 18, 2017, Jerry Ohde signed the certified mail receipt for the subpoena as an addressee.
6. On December 5, 2017, a Department investigator spoke with Respondent's office manager. The office manager said Respondent received the subpoena and that the Wausau address is no longer current, but the Rhinelander address is.
7. The Department investigator left multiple voicemail messages for Mr. Robert Ohde, the registered agent, regarding Respondent's duty to respond to the subpoena.
8. As of the date of this Order, Respondent has not responded to the November 15, 2017 subpoena.

### **III. CONCLUSIONS OF LAW**

1. Respondent has committed violations of applicable law. Minn. Stat. § 326B.082, subd. 7 (2016).
2. Respondent performed construction services for another person without first being registered. Minn. Stat. § 326B.701, subd. 5(b)(1) (2016).
3. Respondent failed to respond to the Commissioner's November 15, 2017 subpoena. Minn. Stat. § 326B.082, subs. 2(a)(4) and 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 violations were willful; the gravity of the violations; 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. CORRECTIVE ACTION

Within 31 days of issuance of this Administrative Order, Respondent must demonstrate, IN WRITING, to the satisfaction of the Commissioner that the violations specified above have been corrected as specified below or that appropriate steps toward correcting the violations have been taken.

Failure to demonstrate to the satisfaction of the Commissioner that the violations have been corrected or that appropriate steps have been taken toward correcting the violations, within the 31-day period, shall be cause for subsequent enforcement action, and the forgivable portion of the penalty assessed in this Administrative Order will become due and payable as described in the "Effect of Final Order" section below. A plan to correct the violations may be submitted to the Commissioner during the 31-day period for corrective action.

If the Commissioner determines that the violations were corrected within the 31-day period for corrective action, or that a written correction plan acceptable to the Commissioner has been submitted within the 31-day period, the Commissioner shall forgive the forgivable portion of the penalty. If the Commissioner determines that the violations were not corrected within the 31-day period and a written correction plan acceptable to the Commissioner was not developed within the 31-day period, the Commissioner shall serve notice of this determination. Failure to fully comply with the approved plan shall also be cause for subsequent enforcement action by the Commissioner.

### **The following corrective actions are required by this Administrative Order:**

1. Obtain a contractor registration or appropriate license as applicable from the Minnesota Department of Labor and Industry.
2. Respond fully and completely to the Commissioner's November 15, 2017 administrative subpoena duces tecum.

## VI. REQUEST FOR HEARING

Pursuant to Minn. Stat. § 326B.082, subd. 8 (2016), Respondent shall have 30 days after issuance of this Administrative Order to request a hearing. In addition, if the Commissioner determines that Respondent has not corrected or taken appropriate steps toward correcting the violations within the 31-day period for corrective action, Respondent has 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. Respondent's review rights are more thoroughly described in Minn. Stat. § 326B.082, subs. 4 and 8 (2016).

If the Respondent submits 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](http://www.revisor.mn.gov).

## VII. 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 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).

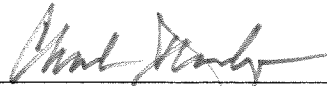
The penalty imposed upon Respondent by this Administrative Order, other than the forgivable portion, is due and payable ten days after the date the Administrative Order becomes final. If the Commissioner determines that the violations were not corrected within the 31-day period for corrective action and a correction plan acceptable to the Commissioner was not developed within the 31-day period, then the forgivable portion of the penalty is due and payable ten 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(b) (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), Respondent is 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: 1/16/18

KEN B. PETERSON  
Commissioner

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