

m DEPARTMENT OF
LABOR AND INDUSTRY

August 1, 2018

Sent via First-Class Mail

S.L. Leiva Company
1246 Hardesty Avenue
Kansas City, MO 64127

Re: Administrative Order With Penalty; REG1804-00057/JOR

To Whom It May Concern:

Enclosed and served upon S.L. Leiva Company is an Administrative Order With Penalty. Please contact me if you have any questions about the Order. If Spanish is your only language, please contact our Spanish language line at 651-284-5099.

Sincerely,



Jonathan Reiner
Senior Investigator
Construction Codes and Licensing – Enforcement
Tel: (651) 284-5396
Fax: (651) 284-5746
E-mail: jonathan.reiner@state.mn.us

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of S.L. Leiva Company

**ADMINISTRATIVE ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against S.L. Leiva Company (“Respondent”).

Pursuant to Minn. Stat. § 326B.082, subd. 7 (2016) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby assesses against Respondent a forgivable monetary penalty of \$1,000. This penalty shall be forgiven if Respondent complies with the Commissioner’s April 30, 2018 subpoena by the 31st day after this Administrative Order is issued.

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 building construction or improvement services in Minnesota but does not have any license, registration, or certificate with the Minnesota Department of Labor and Industry (“Department”).
2. Respondent has a Fictitious Name registered with the Missouri Secretary of State. In that registration, Respondent’s business address is 1246 Hardesty Avenue, Kansas City, MO 64127.
3. On April 26, 2018, a Department investigator interviewed individuals performing building construction services at 14151 Territorial Road, Maple Grove, MN 55369. Respondent was a purported subcontractor on the project.
4. On April 27, 2018, the Department opened an investigation of Respondent based on receipt of information that indicated that Respondent may have engaged in violations of the Minnesota statutes governing the classification of workers in the construction industry.
5. As a part of the Department’s investigation, the Commissioner issued a subpoena duces tecum to Respondent on April 30, 2018 via certified and first-class U.S. mail. The Department subsequently sent Respondent additional copies to its address and via email.

6. The Department granted an extension to Respondent to produce documents requested by the subpoena. The Department warned Respondent that failing to respond to the subpoena would result in the Department issuing an order including a monetary penalty against Respondent.
7. As of the date of this Order, Respondent has not complied with the April 30, 2018 subpoena.

III. CONCLUSIONS OF LAW

1. Respondent committed a violation of applicable law. Minn. Stat. § 326B.082, subd. 7 (2016).
2. Respondent failed to cooperate with the Commissioner's request to produce documents. 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. CORRECTIVE ACTION

Within 31 days of issuance of this Administrative Order, Respondent must comply with the Commissioner's April 30, 2018 subpoena.

Failure to comply with the Commissioner's April 30, 2018 subpoena, 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.

If the Commissioner determines that the violation was corrected within the 31-day period for corrective action, the Commissioner shall forgive the penalty. If the Commissioner determines that the violation was not corrected within the 31-day period, the Commissioner shall serve notice of this determination.

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. 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.

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).


If the Commissioner determines that the violation was 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 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: 8/1/18

KEN B. PETERSON
Commissioner


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

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
443 LAFAYETTE ROAD NORTH
ST PAUL, MINNESOTA 55155

AFFIDAVIT OF SERVICE BY U.S. MAIL

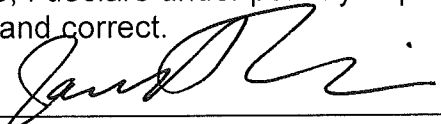
STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

My name is Jonathan Reiner and I am employed by the Minnesota Department of Labor and Industry, Construction Codes and Licensing Division, as a Senior Investigator. On the 1st day of August, 2018, in the City of St. Paul, County of Ramsey, State of Minnesota, I served the attached Administrative Order by first-class mail by depositing the same in the United States Mail, a true and correct copy thereof, properly enveloped, with postage prepaid, and addressed to:

REGULAR FIRST-CLASS MAIL

S.L. Leiva Company
1246 Hardesty Avenue
Kansas City, MO 64127

I am signing this Affidavit in Ramsey County, State of Minnesota, on the 1st day of August, 2018. Pursuant to Minnesota Statutes § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.



Jonathan Reiner