

m DEPARTMENT OF
LABOR AND INDUSTRY

September 28, 2018

SENT VIA U.S. MAIL

Fabian Construction LLC
2026 Bradley Street
Apt. 208
Maplewood, MN 55117

Re: Licensing Order; Fabian Construction LLC REG1806-00023/JOR

To Whom It May Concern:

Enclosed is a Licensing Order issued against Fabian Construction LLC regarding the above-referenced investigation. Please contact the undersigned if you have any questions.

Sincerely,



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

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of the Contractor Registration
of Fabian Construction LLC

**LICENSING ORDER
WITH PENALTY**

I. ORDER

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

Pursuant to Minn. Stat. § 326B.082, subd. 12 (b) (2016) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby assesses against Respondent a monetary penalty of \$1,000.

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. IR735352, from the date that this Order becomes final until Respondent produces the documents requested in the Commissioner’s subpoena dated June 13, 2018 and pays the monetary penalty assessed above. During the term of the registration suspension, Respondent and its principal shall cease and desist from acting or holding themselves out as a registered contractor.

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

II. FINDINGS OF FACT

1. Respondent holds a Contractor Registration issued by the Commissioner on January 10, 2018, No. IR735352. Respondent, as a registered contractor, must adhere to the Minnesota statutes and regulations governing worker classification and contractor registration, Minn. Stat. §§ 181.723 and 326B.701 (2016).
2. On June 11, 2018, the Minnesota Department of Labor and Industry (“Department”) opened an investigation 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.
3. As a part of the Department’s investigation, the Commissioner served a subpoena duces tecum to Respondent’s address dated June 13, 2018 via certified and first-class U.S. mail.
4. On July 5, 2018, an individual who answered as “Fabian” on Respondent’s registered phone line told a Department investigator that he received the Department’s subpoena.

5. On July 5, 2018, the Department sent Respondent a letter warning Respondent that the Department would issue an order with a penalty against Respondent if Respondent failed to respond to the subpoena. The warning letter included a copy of the subpoena.
6. As of the date of this Order, Respondent has not provided a response to the Department's June 13, 2018 subpoena.

III. CONCLUSIONS OF LAW

1. Respondent has committed a violation of applicable law. Minn. Stat. § 326B.082, subd. 11(b)(1) (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. 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, subs. 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 its Contractor Registration until such time full compliance with the terms of this Licensing Order has been achieved. Reinstatement after suspension requires: application to the Commissioner no later than two years after completion of the suspension period; payment of a \$50 license reinstatement fee; submission of a completed license renewal and application and fees if the license expired during the license suspension; and the meeting of all other requirements for licensure. *See* Minn. Stat. § 326B.096, subd. 2 (2016).

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: 9/27/18

KEN B. PETERSON
Commissioner

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