

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of castillo roofing L.L.C.

**LICENSING ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against castillo roofing L.L.C. (“Respondent”).

Pursuant to Minn. Stat. § 326B.082, subd. 12 (b) (2018) and Minn. Stat. § 326B.083 (2018), the Commissioner hereby assesses against Respondent a monetary penalty of \$5,000.

Pursuant to Minn. Stat. § 326B.082, subds. 11(b) and 12 (2018) and Minn. Stat. § 326B.083 (2018), the Commissioner hereby suspends the Contractor Registration of Respondent, registration number IR709825, from the date that this Order becomes final until such time as the Respondent provides a complete and truthful response to the Commissioner’s December 26, 2018 Subpoena Duces Tecum and pays the monetary penalty assessed herein. During the term of the contractor registration suspension, Respondent and its principals shall cease and desist from acting or holding themselves out as a registered independent construction contractor.

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

II. FINDINGS OF FACT

1. On June 14, 2016, Respondent registered in the Minnesota Department of Labor and Industry’s (“Department”) Construction Contractor Registration Program (“Registration Program”) and was issued registration number IR709825. Javier Castillo Almanza was listed as the sole owner of Respondent.
2. Respondent, as a registered independent construction contractor, must adhere to the Minnesota statutes and regulations governing Construction Contractors pursuant to Minn. Stat. §§ 326B.701 and 181.723 (2018).
3. On May 3, 2016, Respondent was registered with the Minnesota Secretary of State (“MN SOS”) as a domestic limited liability company under file number 886721700027. Javier Castillo Almanza was named as the Registered Agent and Manager with Registered Offices at 1317 – 16th Avenue SE, Forest Lake, Minnesota. This registration is active and in good standing.

4. On December 14, 2018, the Department opened an investigation of Respondent based on information that indicated that Respondent may have engaged in violations of the statutes and rules governing the classification of workers in the construction industry.
5. On December 26, 2018, a Department investigator mailed Respondent a Subpoena Duces Tecum requiring the production of records and other information relating to Respondent's contractors, subcontractors and employees.
6. The subpoena required a response no later than January 15, 2019 and was mailed via first-class and certified mail to Respondent's address in its Department registration which is the same as its Registered Address at the MN SOS.
7. The first-class and certified mailings were not returned to the Department. Respondent did not respond to the subpoena.
8. Due to Respondent's failure to respond to the subpoena, the Department investigator sent a copy of the subpoena and a follow up letter dated January 30, 2019 to Respondent via first-class and certified mail at the same address.
9. The first-class mailing was not returned to the Department. The certified mailing was returned to the Department by the US Postal Service unopened and marked "RETURN TO SENDER – UNCLAIMED – UNABLE TO FORWARD."
10. As of the date of this Order, Respondent has failed to respond to both the December 26, 2018 subpoena and the January 30, 2019 follow up letter.
11. Evidence gather in a related investigation shows that Respondent performed roofing work on behalf of Sela Roofing and Remodeling, Inc. in Minnesota between January 1, 2017 and July 10, 2018.

III. CONCLUSIONS OF LAW

1. Respondent has committed a violation of applicable law. Minn. Stat. § 326B.082, subd. 11(b)(1) (2018).
2. Respondent failed to comply with a subpoena issued by the Commissioner. Minn. Stat. § 326B.082, subd. 11(b)(6) (2018).

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), Respondent shall have 30 days after issuance of this 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. Minn. Stat. § 326B.082, subd. 12(c). 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 facsimile, 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.

If the Respondent submits to the Commissioner a timely request for hearing, this order shall be stayed unless otherwise ordered by a judge, and a contested case hearing will be commenced. The contested case procedures are set out in chapter 14 of Minnesota Statutes, chapter 1400 of the Minnesota Rules, and sections 326B.081 to 326B.085 of the Minnesota Statutes. Copies of these materials are available at www.revisor.mn.gov or may be purchased from the Minnesota Book Store, telephone (651) 297-3000.

VI. EFFECT OF FINAL ORDER

If Respondent does not request a hearing or submit a timely hearing request to contest this order, it 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) (2018).

Respondent is prohibited from applying for reinstatement of its Independent Contractor Registration until such time as full compliance with the terms of this Licensing Order has been achieved. Reinstatement after suspension requires: (1) full payment of the penalty assessed


herein and (2) submission of a complete, truthful response to the Commissioner's December 26, 2018 Subpoena Duces Tecum.

The monetary penalty assessed by this order is due and payable on the date this order becomes final. Minn. Stat. § 326B.083, subd. 3(a) (2018). When this 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. Minn. Stat. §§ 16D.17 and 326B.083, subd. 2 (2018). 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. Minn. Stat. § 326B.082, subd. 17 (2018).

Finally, Respondent is notified that thirty (30) days after the date this order becomes final, simple interest computed in accordance with Minn. Stat. § 16D.13, subd. 2 (2018) will begin to accrue on the unpaid portion of the penalty.

Dated: 2/20/19

NANCY J. LEPPINK
Commissioner


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