

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of the Contractor Registration of
Four Seasons Flooring Specialist L.L.C.

**LICENSING ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Department of Labor and Industry (“Commissioner”) issues this Order against Four Seasons Flooring Specialist L.L.C. (“Respondent”).

Pursuant to Minn. Stat. §§ 326B.701, subd. 6; 326B.082, subd. 12(b); and 326B.083 (2016), the Commissioner hereby assesses against Respondent a monetary penalty of \$4,000, of which \$1,000 is hereby forgiven pursuant to Minn. Stat. § 326B.701, subd. 6(b) (2016).

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. IR700787, until such time that Respondent provides a complete answer to the Commissioner’s February 16, 2017 subpoena and pays the monetary penalty imposed herein.

Pursuant to Minn. Stat. § 326B.082, subd. 12 (b) (2016), the Commissioner also hereby orders Respondent and its principal, Violeta Lopez, during the period of contractor registration suspension, to cease and desist from performing public or private sector commercial or residential building construction or improvement services for which registration in the Minnesota Construction Contractor Registration Program (“Registration Program”) is required.

Pursuant to Minn. Stat. § 326B.082, subd. 11(a) (b)(5) (2016), the Commissioner also hereby orders Respondent and its principal, Violeta Lopez, to cease and desist from registering in the Registration Program under the business name Four Seasons Flooring Specialist L.L.C. or any other business name.

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 performing public or private sector commercial or residential building construction or improvement services for which registration in the Registration Program is required.
2. Minn. Stat. § 326B.701, subd. 5(b)(2) (2016) prohibits a contractor from hiring another contractor to perform building construction services unless the contractor being hired is licensed by the Department or registered in the Registration Program.

3. Respondent is registered with the Minnesota Department of Labor and Industry (“Department”) through the Registration Program, holding registration No. IR700787. When Respondent registered on October 30, 2015, it disclosed that its sole owner and officer is Violeta Lopez, and the company’s business address is 4711 Woodland Ave, Shakopee, MN.
4. Respondent’s registration with the Minnesota Secretary of State is active and its principal executive office address is listed as: 11900 210th St. W., Lakeville, MN.
5. On February 9, 2017, 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.
6. On February 16, 2017, a Department investigator sent Respondent a subpoena duces tecum requiring the production of records and other information relating to Respondent’s contractors, subcontractors and employees.
7. On March 20, 2017, Respondent sent a partial response that included copies of IRS forms 1099 for its 2014 subcontractors and a copy of an application for automatic extension for its 2014 and 2015 tax returns. Respondent asserted that it did not work for any contractors.
8. On March 28, 2017 the Department investigator sent Respondent a letter requesting a complete response to the subpoena duces tecum including information on who hired Respondent and proof of payments from the hiring entity.
9. As of the date of this Order, Respondent has failed to provide a complete response to the subpoena duces tecum.
10. Investigation by the Department determined that between January 1, 2013 and November 30, 2013, Respondent hired and paid Murillo’s Flooring Specialist, LLC for the performance of building construction or improvement services and treated it as an independent contractor even though it was not licensed by the Department or registered in the Registration Program at the time it performed construction services on Respondent’s behalf.

III. CONCLUSIONS OF LAW

1. Respondent committed a violation of applicable law. Minn. Minn. Stat. §§ 181.723, 326B.701, and 326B.082, subd. 11(b)(1) (2016).
2. Respondent failed to comply with a subpoena issued by the Commissioner. Minn. Stat. § 326B.082, subd. 11(b)(6) (2016).
3. Respondent hired a person that was neither licensed by the Department nor registered in the Registration Program to provide construction services on Respondent’s behalf and treated it as an independent contractor in violation of Minn. Stat. § 326B.701, subd. 5(b)(2) (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.

The \$1,000 portion of the penalty for hiring an unregistered subcontractor is forgiven as required by Minn. Stat. § 326B.701, subd. 6(b) (2016) as it is Respondent's first violation.

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

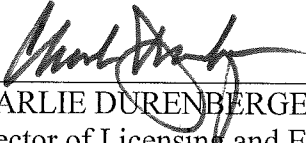
If Respondent does not request a hearing or Respondent's request for a hearing is not served on or faxed to the Commissioner by 30 days after issuance of this Licensing Order, this Licensing Order shall become a final order of the Commissioner and will not be subject to review by any court or agency. *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.

The monetary penalty assessed against the Respondent by this Licensing Order, other than the forgiven portion, 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: 8/15/17

KEN B. PETERSON
Commissioner


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