

**m** DEPARTMENT OF  
LABOR AND INDUSTRY

February 16, 2018

SENT VIA U.S. MAIL & E-MAIL

Mr. Margarito Martinez  
Martinez Construction LLC  
3109 Longfellow Avenue  
Minneapolis, MN 55407

Re: Licensing Order; REG1711-00033/JOR

Dear Mr. Martinez:

Enclosed is a Licensing Order issued against Martinez Construction LLC for failing to respond to the Department's subpoena. The Order imposes a \$5,000 penalty. Please contact me and we may be able to resolve the penalty pending your cooperation with the subpoena.

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  
Martinez Construction LLC

**LICENSING ORDER  
WITH PENALTY**

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**I. ORDER**

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Martinez 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 \$5,000.

Pursuant to Minn. Stat. § 326B.082, subds. 11(b) and 12 (2016) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby suspends the Contractor Registration of Respondent, No. IR710804 until such time that Respondent provides a complete answer to the Commissioner’s November 29, 2017 subpoena and pays the monetary penalty imposed herein.

During the term of the registration suspension, Respondent and its principals shall cease and desist from performing commercial or residential building or improvement services in the state of Minnesota and shall not attempt to register in the Construction Contractor Registration Program under the business name Martinez Construction LLC 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 holds a Contractor Registration issued by the Commissioner on July 5, 2016, No. IR710804.
2. Respondent, as a registered contractor, must adhere to the Minnesota statutes and regulations governing worker classification and contractor registration. *See* Minn. Stat. §§ 181.723 and 326B.701.
3. On November 28, 2017, 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 Minnesota statutes governing the classification of workers in the construction industry.

4. As a part of the Department's investigation, the Commissioner issued a subpoena duces tecum to Respondent on November 29, 2017, with a response deadline of December 19, 2017.
5. The Department sent the subpoena via both certified and first-class mail to Respondent's registered address of 6920 Humboldt Avenue N., Apt. 110, Brooklyn Center, MN 55430. The subpoenas were returned to the Department by the United State Postal Service as "not deliverable as addressed" on December 4 and December 6, 2017 respectively.
6. On December 12, 2017, the Department investigator spoke with Respondent's registered owner, Mr. Margarito Martinez Venegas, regarding the subpoena. Mr. Martinez stated his correct and current address was 3109 Longfellow Avenue, Minneapolis, MN 55407. The Department investigator sent the subpoena to the Longfellow address.
7. On January 26, 2018, the Department investigator sent Respondent a warning letter stating that failure to respond to the subpoena will result in formal enforcement action. The letter required a response to the subpoena by February 9, 2018.
8. As of the date of this Order, Respondent has not produced any information responsive to the November 29, 2017 administrative subpoena duces tecum.

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

1. Respondent committed a violation of applicable law. Minn. Stat. § 326B.082, subd. 7 (2016).
2. Respondent has 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](http://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 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: 2/16/18

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 16th day of February, 2018, in the City of St. Paul, County of Ramsey, State of Minnesota, I served the attached Licensing 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**

Mr. Margarito Martinez  
3109 Longfellow Avenue  
Minneapolis, MN 55407

I am signing this Affidavit in Ramsey County, State of Minnesota, on the 16th day of February, 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