

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of RIC, Inc.

**LICENSING ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against RIC, Inc. (“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 \$2,000.

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

II. FINDINGS OF FACT

1. Since September 15, 2012, Minnesota law has required all contractors who perform commercial or residential building construction or improvement services in Minnesota to be registered in the Department’s Construction Contractor Registration Program (“Registration Program”) if they are not required to hold a license issued by the Department.
2. Pursuant to Minn. Stat. § 181.723, subd. 4 (2016), an individual who performs building construction or improvement services for a person that are in the course of the person’s trade, business, profession, or occupation is an employee of that person and that person is an employer of the individual unless the individual meets all nine factors described in Minn. Stat. § 181.723, subd. 4(a) (2016). If the individual cannot meet all nine factors, he or she is deemed to be an employee of the person that hired the individual.
3. On February 23, 2011, the Department issued Respondent residential building contractor (“RBC”) License No. BC639105. Respondent named Wade A. Kranz and Amy C. Kranz as its Company Officers and Wade A. Kranz as its Qualifying Builder, No. QB114417. This RBC License is valid through March 31, 2020.
4. The Commissioner issued a Notice of Violation to Respondent on August 12, 2015 (“2015 Notice of Violation”) for “violation of Minn. Stat. § 326B.701, subd. 5(b)(2) (2014)” because Respondent hired seven unregistered, unlicensed persons to perform building construction or improvement services in Minnesota on its behalf between October 1, 2012 and July 16, 2015 and treated them as independent contractors. One of the seven unregistered persons was PBP Construction, Inc. (“PBP”).

5. A Department investigator mailed the 2015 Notice of Violation to Respondent with an August 12, 2015 cover letter that stated in relevant part:

“Between October 1, 2012 and July 16, 2015, your company hired unregistered persons to perform commercial or residential building construction or improvement services in violation of the statute cited above.... Because this is your first violation, we have issued the enclosed Notice of Violation rather than issue a penalty order. However, we want to make it clear if you hire unregistered subcontractors in the future, you will be subject to monetary penalties that will have to be paid. Monetary penalties may also be assessed if you misclassify employees as independent contractors, whether or not they are registered or licensed with the Department.”

6. Respondent did not request reconsideration of the Commissioner’s 2015 Notice of Violation, so it is considered final as a matter of law.
7. On March 22, 2018, the Department opened an investigation of Respondent based on information indicating that Respondent may have engaged in further violations of the Minnesota statutes governing the classification of workers in the construction industry.
8. Based on information gathered in its investigation, the Department found evidence that between January 1, 2016 and March 26, 2018, Respondent hired and paid four persons to perform building construction or improvement services on Respondent’s behalf and treated them as independent contractors despite the fact that they were not registered with or licensed by the Department, including LEVASSEUR PLUMBING & HEATING LLC; New Season’s Painting, LLC (“NSPL”); NLW, LLC (“NLW”) and, again, PBP.
9. After performing work on behalf of the Respondent, NSPL registered with the Department on July 25, 2017 and was issued registration No. IR727864; NLW registered with the Department on March 28, 2018 and was issued registration No. IR738801.
10. PBP formerly held registration No. IR696232 issued by the Department until December 31, 2015 at which time that registration expired and PBP failed to renew it. This registration is non-renewable.

III. CONCLUSIONS OF LAW

1. Respondent committed violations of applicable law. Minn. Stat. §§ 181.723, 326B.701, and 326B.082, subd. 11(b)(1) (2016).
2. Respondent repeatedly hired persons to provide building construction or improvement services without a construction contractor registration or license issued by the Commissioner and treated them as independent contractors 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.

Because Respondent had previously received a Notice of Violation for hiring unregistered subcontractors, the requirement of Minn. Stat. § 326B.701, subd. 6(b) (2016) that the monetary penalty be forgiven for the first such violation does not apply as the violations alleged herein do not constitute a 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

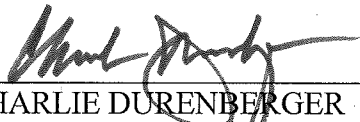
If Respondent does not request a hearing or Respondent's request for a hearing is not served on or faxed to the Commissioner by 30 days after issuance of this Licensing Order, this Licensing Order shall become a final order of the Commissioner and will not be subject to review by any court or agency. *See* Minn. Stat. § 326B.082, subd. 12(c) (2016).

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: 6/28/18

KEN B. PETERSON
Commissioner


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