

STATE OF MINNESOTA  
Department of Labor and Industry

In the Matter of DAKOTA FINISHING, INC.

**ADMINISTRATIVE ORDER  
WITH PENALTY**

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**I. ORDER**

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Administrative Order against DAKOTA FINISHING, INC. (“Respondent”).

Pursuant to Minn. Stat. § 326B.082, subd. 7 (2018) and Minn. Stat. § 326B.083 (2018), the Commissioner hereby assesses against Respondent a monetary penalty of \$2,000, which shall be forgiven if Respondent demonstrates to the Commissioner by the 31<sup>st</sup> day after this Administrative Order its full compliance with: (1) the Construction Contractor Registration requirements of Minn. Stat. § 326B.701, subd. 2 (2018) or (2) the Residential Building Contractor or Residential Remodeler licensing requirements of Minn. Stat. § 326B.805, subd. 1 (2018), as applicable.

The Commissioner also hereby orders Respondent to cease and desist from violating the laws cited in the “Conclusions of Law” section of this Administrative Order. Specifically, the Commissioner orders Respondent DAKOTA FINISHING, INC., or acting under any other business name, to cease and desist from performing public or private sector commercial or residential building construction or improvement services in the state of Minnesota as defined in Minn. Stat. § 181.723, subs. 1 and 2 (2018) until such time as the Respondent demonstrates its full compliance with the registration or licensing requirements cited above.

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

**II. FINDINGS OF FACT**

1. Respondent was registered as a foreign business corporation with the Minnesota Secretary of State on September 22, 2009 under file No. 3499617-2 with a Registered Office Address of 2262 – 26<sup>th</sup> Street S., Moorhead, Minnesota. This registration expired on December 31, 2010 for failure to renew.
2. On July 24, 2018, the Minnesota Department of Labor and Industry (“Department”) opened an investigation of Respondent based on information indicating that Respondent may have engaged in violations of the Minnesota statutes governing workers in the construction industry.

3. The Department initiated this investigation based on written invoices showing that Brennan Construction of Minnesota, Inc. (“Brennan”) hired and paid Respondent to perform residential trim and construction cleanup work in Minnesota in 2016, 2017, and 2018.
4. Based on the Brennan invoices, Respondent was engaged in the business of providing commercial or residential building construction or improvement services but was neither licensed by the Commissioner nor registered in the Minnesota Construction Contractor Registration Program (“Registration Program”).
5. During an October 30, 2018 telephone call between a Department investigator and Respondent’s owner, Kent Jansen (“Jansen”), the investigator told Jansen to register his company in the Registration Program.
6. As of the date of this Order, Respondent is still not licensed by the Commissioner or registered in the Registration Program.

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

1. Respondent committed a violation of applicable law. Minn. Stat. § 326B.082, subd. 7 (2018).
2. Respondent performed building construction or improvement services and was treated as an independent contractor despite not being licensed by the Department or registered in the Registration Program in violation of Minn. Stat. § 326B.701, subd. 2 (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. 8 (2018), Respondent shall have 30 days after issuance of this Administrative Order to request a hearing. In addition, if the Commissioner determines that Respondent has not achieved compliance with the Contractor Registration or residential building contractor or residential remodeler licensing requirements cited above within the 31-day period for corrective action, Respondent has the right to a review of the Commissioner’s determination by requesting a hearing within 20 days after the Commissioner

issues notice of this determination. 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. 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 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 8 (2018).

If the Respondent submits to the Commissioner a timely request for hearing, the Administrative 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 Minnesota Statutes, the Rules of the Office of Administrative Hearings, Minn. Rules 1400.5010 to 1400.8400 (2017), and Minn. Stat. § 326B.082, subd. 8 (2018). 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 the deadline specified in the "Request for Hearing" section of this Administrative Order, this Administrative 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. 8 (2018).

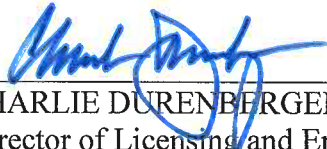
If the Commissioner determines that the violation was not corrected within the 31-day period for corrective action, then the penalty is due and payable ten days after the Commissioner serves notice of this determination or on the date this Administrative Order becomes final, whichever is later. *See* Minn. Stat. § 326B.083, subd. 3(b) (2018).

When this Administrative 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 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. *See* Minn. Stat. § 326B.082, subd. 17 (2018).

Also, pursuant to Minn. Stat. § 16D.13 (2018), Respondent is hereby notified that thirty (30) days after the date this Administrative 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: 2/14/19

NANCY J. LEPPINK  
Commissioner

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