

STATE OF MINNESOTA  
Department of Labor and Industry

In the Matter of the Contractor Registration of  
FOX ROOFING LLC, and Jesus Cardenas  
Resendiz, Individually

**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 FOX ROOFING LLC and Jesus Cardenas Resendiz, Individually (“Respondents”).

Pursuant to Minn. Stat. §§ 326B.701, subd. 6; 326B.082, subd. 12 (b); and 326B.083 (2018), the Commissioner hereby assesses against Respondent FOX ROOFING LLC a monetary penalty of \$2,000.

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 FOX ROOFING LLC, No. IR746489, until such time that Respondents provide a complete answer to the Commissioner’s July 10, 2018 subpoena and pay the monetary penalty imposed herein.

Pursuant to Minn. Stat. § 326B.082, subd. 12(b) (2018), the Commissioner also hereby orders Respondents, 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) (2018), the Commissioner also hereby orders Respondents to cease and desist from registering in the Registration Program under the business name FOX ROOFING 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. Respondents are 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. Respondents are currently registered with the Minnesota Department of Labor and Industry (“Department”) through the Registration Program holding registration No. IR746489, which was issued on September 17, 2018. When Respondent FOX

ROOFING LLC registered, it disclosed that its sole owner and officer is Jesus Cardenas Resendiz and the company's business address is 4624 Oakland Ave. S., Minneapolis MN.

3. Respondent FOX ROOFING LLC's business registration with the Minnesota Secretary of State is active and its registered office address is listed as: 4624 Oakland Ave. S., Minneapolis, MN.
4. On June 29, 2018, the Department opened an investigation of Respondents based on information that indicated that Respondents may have engaged in violations of the statutes and rules governing the classification of workers in the construction industry, and that they had performed building construction services on behalf of other contractors without being registered in the Registration Program.
5. On July 10, 2018, a Department investigator sent Respondents a subpoena duces tecum requiring the production of records and other information relating to Respondents' contractors, subcontractors and employees. The subpoena required a response within 20 days and was mailed via first-class and certified mail to the St. Paul address disclosed in Respondents' contractor registration and their business filing with the Minnesota Secretary of State.
6. On August 6, 2018, Respondents sent a completed subpoena questionnaire, which was a part of the subpoena, but failed to provide any of the other information required by the subpoena itself.
7. On August 16, 2018, the Department investigator sent Respondents a letter requiring Respondent to register and to provide its business tax returns for 2016 and 2017.
8. On September 18, 2018, Respondents provided a response to the letter, though it was still not responsive to the subpoena.
9. On September 26, 2018, the Department investigator sent Respondents a letter requiring additional information for the year 2017, including copies of: receipts for supplies in the amount of \$82,920; contracts Respondent has with its general contractor; and invoices Respondent submitted to its general contractor.
10. As of the date of this Order, Respondents have failed to provide a complete response to the subpoena or the Department's supplemental requests for information.

### **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) (2018).
2. Respondent failed to comply with a subpoena issued by the Commissioner and failed to respond completely to supplemental information requests from 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 Respondents 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) (2018), Respondents 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. Respondents' review rights are more thoroughly described in Minn. Stat. § 326B.082, subds. 4 and 12(c) (2018).

If Respondents submit 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 (2017), and Minn. Stat. § 326B.082, subd. 12(c) (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 Respondents do not request a hearing or Respondents' 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) (2018).


Respondents are prohibited from applying for reinstatement of their contractor registration until such time full compliance with the terms of this Licensing Order has been achieved.

The monetary penalty assessed against the Respondents by this Licensing Order is due and payable on the date the Licensing Order becomes final. *See* Minn. Stat. § 326B.083, subd. 3(a) (2018). 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 (2018) 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), Respondents are 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 (2018) will begin to accrue on the unpaid portion of the penalty.

Dated: 12/27/18

KEN B. PETERSON  
Commissioner

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