

STATE OF MINNESOTA  
Department of Labor and Industry

In the Matter of the Contractor Registration of  
Daniel Drywall, LLC

**LICENSING ORDER  
WITH PENALTY**

---

**I. ORDER**

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Daniel Drywall, LLC (“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.

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. IR663346, until such time that Respondent provides a complete answer to the Commissioner’s September 14, 2016 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, Guadalupe Almanza Baca, 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, Guadalupe Almanza Baca, to cease and desist from registering in the Registration Program under the business name Daniel Drywall 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 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. Respondent is currently registered with the Minnesota Department of Labor and Industry (“Department”) through the Registration Program holding registration No. IR663346, which was issued on February 27, 2013. When Respondent registered, it disclosed that its sole owner and officer is Guadalupe Almanza Baca and the company’s business address is 35 Ehlers Ave., Chaska, MN.

3. Respondent's registration with the Minnesota Secretary of State is active. Its registered office address is listed as: 35 Ehlers Ave, Chaska, MN.
4. On August 8, 2016, 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.
5. On September 14, 2016, 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. The subpoena required a response within 20 days and was mailed via first-class and certified mail to the Burnsville address it disclosed in its registration and its business filing with the Secretary of State.
6. On October 25, 2016, Respondent sent a partial response to the subpoena including the questionnaire which was part of the subpoena and its business tax returns for 2014 and 2015.
7. On October 28, 2016, the Department investigator sent Respondent a letter requesting a complete response to the subpoena including copies of IRS forms 1099 issued to its subcontractors in 2015, a list of its subcontractors for 2016, payments made to its subcontractors in 2016, copies of contracts respondent had with JG Drywall, LLC and Junior Drywall, LLC.
8. On March 2, 2018, the Department investigator sent a second letter requesting a complete response to the subpoena.
9. On March 23, 2018, Respondent called and requested an extension. An extension was granted till April 6, 2018.
10. As of the date of this Order, Respondent has failed to provide a complete response to the subpoena duces tecum.

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

1. Respondent committed a violation of applicable law. 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).

### **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: 4/30/18

KEN B. PETERSON  
Commissioner

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