

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of Bravo Roofing LLC
and Guillermo Bravo, Individually

**ADMINISTRATIVE ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Bravo Roofing LLC and Guillermo Bravo, individually (“Respondents”).

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 \$5,000.

The Commissioner also hereby orders Respondents to cease and desist from violating the laws cited in the “Conclusions of Law” section of this Administrative Order. Specifically, the Commissioner orders Respondents to cease and desist from performing public or private sector commercial or residential building construction or improvement services for which registration in the Minnesota Department of Labor and Industry’s (“Department”) Construction Contractor Registration Program (“Registration Program”) is required. The cease and desist order remains in effect until the monetary penalty assessed herein is paid and compliance with the registration requirements of Minn. Stat. § 326B.701, subd. 2(b) (2016) is achieved as appropriate.

Pursuant to Minn. Stat. § 326B.082, subd. 11(a)(b)(5) (2016), the Commissioner also hereby orders Respondent and its principal, Guillermo Bravo, to cease and desist from registering in the Registration Program under the business name Bravo 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 providing building construction or improvement services, but are not currently registered with the Registration Program.
2. Respondents did register in the Registration Program on October 9, 2013 and were assigned registration No. IR673115, but that registration expired on December 31, 2015.
3. When Respondent registered, it disclosed that its sole owner and officer is Guillermo Bravo and the company’s business address 1965 Banyan St., St Paul, MN.

4. According to the records of the Minnesota Secretary of State, Bravo Roofing, LLC was initially filed as a limited liability company on April 21, 2012 and is currently inactive. Respondents disclosed their registered office address as 1965 Banyan St., St Paul, MN.
5. In 2014 Respondents provided building construction or improvement services for Arcentales Roofing, LLC and were treated as independent contractors.
6. On November 28, 2017, the Minnesota Department of Labor and Industry (“Department”) opened an investigation of Respondents based on information that indicated Respondents may have engaged in violations of the Minnesota statutes and rules governing worker classification in the construction industry.
7. On December 7, 2017, a Department investigator mailed a subpoena duces tecum via first-class and certified mail to Respondents at the address provided in their workers’ compensation insurance application, and Secretary of State filing. The subpoena required the production of documentation relating to Respondents’ subcontractors, contractors, and employees. The subpoena required a response within 20 days.
8. On January 26, 2018, the copy of the subpoena sent via certified mail was returned to the Department by the USPS as it was “unclaimed” and the USPS was “unable to forward.”
9. On January 12, 2018, a Department investigator sent a warning letter requiring a response to the subpoena duces tecum.
10. The Commissioner has not received a reply from Respondents as of the date of this Order.

III. CONCLUSIONS OF LAW

1. Respondents committed violations of applicable law. Minn. Stat. §§ 181.723; Minn. Stat. §§ 326B.701 and 326B.082, subd. 7 (2016).
2. Respondents failed to comply with a subpoena issued by the Commissioner. Minn. Stat. § 326B.082, subd. 11 (b)(6) (2016).
3. Respondents performed building construction or improvement services in Minnesota without being licensed by the Commissioner or registered in the Registration Program. Minn. Stat. § 326B.701, subd. 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 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. 8 (2016), Respondents shall have 30 days after issuance of this Administrative 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. The request for hearing must specifically state the reasons for seeking review of the order. 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 8 (2016).

If Respondents submit 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 (2015), and Minn. Stat. § 326B.082, subd. 8 (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 Respondents do not request a hearing or Respondents' 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 (2016).

The monetary penalty assessed upon Respondents by this Administrative Order, is due and payable on the date the Administrative Order becomes final. *See* Minn. Stat. § 326B.083, subd. 3(a) (2016). If the Commissioner determines that Respondents are not employees of another contractors and failed to successfully register in the Registration Program within 31 days of the issuance of this Order, then the forgivable portion of the penalty is due and payable 20 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 (2016).

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 (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), Respondents are 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 (2016) will begin to accrue on the unpaid portion of the penalty.

Dated: 4/6/18

KEN B. PETERSON
Commissioner


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