

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of Chperez Drywall LLC
and Guillermo Chavez-Perez, Individually
and dba Chperez Drywall LLC

**LICENSING ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Chperez Drywall LLC and Guillermo Chavez-Perez, individually and dba Chperez Drywall LLC (“Respondents”).

Pursuant to Minn. Stat. §§ 326B.701, subd. 6; 326B.082, subd. 12 (b); and 326B.083 (2016), the Commissioner hereby assesses against Respondents, jointly and severally, a monetary penalty of \$5,000.

Pursuant to Minn. Stat. § 326B.082, subs. 11(b) and 12 (2016) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby suspends the Contractor Registrations of Respondents, Nos. IR671834 and IR733612, until such time that Respondents provide a complete and truthful response to the Commissioner’s March 23, 2018 subpoena and pay the monetary penalty imposed above.

Pursuant to Minn. Stat. § 326B.082, subd. 12 (b) (2016), the Commissioner also hereby orders Respondents, during the period of the contractor registration suspensions, 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.

Pursuant to Minn. Stat. § 326B.082, subd. 11(a)(b)(5) (2016), the Commissioner also hereby orders Respondents to cease and desist from registering in the Registration Program under the business name Chperez Drywall LLC, Guillermo Chavez-Perez, or any other business or personal name.

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 provide or offer to provide 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 by the Department to hold a license.

2. On July 3, 2013, Respondent Chperez Drywall LLC registered as a domestic limited liability company with the Minnesota Secretary of State (“MN SOS”) under file No. 680127700029 with Guillermo Chavez-Perez named as the Manager and Registered Agent. The Registered Office Address for Chperez Drywall LLC is 12925 CR 5 #201, Burnsville, Minnesota. This registration is active and in good standing as of the date of this Licensing Order.
3. On September 4, 2013, Respondent Chperez Drywall LLC registered with the Department in the Registration Program and was issued registration No. IR671834. In its registration, Respondent Chperez Drywall LLC named Guillermo Chavez-Perez as its sole owner and listed its business address as 12925 CR 5 #305, Burnsville, Minnesota.
4. On November 28, 2017, Respondent Guillermo Chavez-Perez registered with the Department in the Registration Program as Guillermo Chavez-Perez, dba Chperez Drywall LLC, and was automatically issued registration No. IR733612. In this registration, Respondent Guillermo Chavez-Perez provided the same owner and address that was provided in the contractor registration of Chperez Drywall LLC.
5. On March 6, 2018, the Department opened an investigation of Respondents based on information indicating that Respondents may have engaged in violations of the Minnesota statutes governing the classification of workers in the construction industry.
6. On March 23, 2018, the Commissioner issued a Subpoena Duces Tecum to Respondent Chperez Drywall LLC requesting information about its business structure, employees and subcontractors. A Department investigator sent the subpoena via first class and certified mail to the address included in Respondents’ Department registration and its MN SOS Registered Office Address.
7. The certified mailing return receipt cards were both returned to the Department with the signature of “Kirk Schoonrode” dated March 27, 2018. The first-class mailings were not returned.
8. On April 18, 2018, Respondents provided a partial subpoena response via email that the Department investigator deemed to be false because Respondents claimed to have no employees and further claimed they used no subcontractors from January 1, 2016 through March 23, 2018. However, evidence gathered shows that between January and July 2017, a period of only six months, Respondents were paid \$164,700 for providing drywall services on behalf of Perea Drywall, Inc. in Minnesota.
9. On May 4, 2018, the Department investigator sent Respondents a letter and email stating that their response was deemed false and required a truthful response no later than May 11, 2018.
10. As of the date of this Licensing Order, Respondents have not responded to either the Department investigator’s May 4, 2018 letter or email message.

III. CONCLUSIONS OF LAW

1. Respondents committed a violation of applicable law. Minn. Stat. §§ 181.723, 326B.701, and 326B.082, subd. 11(b)(1) (2016).
2. Respondents 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), 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, subs. 4 and 12(c) (2016).

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 (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 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) (2016).


Respondents are prohibited from applying for reinstatement of their contractor registrations 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) (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), 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 (2016) will begin to accrue on the unpaid portion of the penalty.

Dated: 5/31/18

KEN B. PETERSON
Commissioner

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