

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of Finishing Touch LLC
and John Joseph Jendro, individually

**ADMINISTRATIVE ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Finishing Touch LLC and John Joseph Jendro, individually (“Respondents”).

Pursuant to Minn. Stat. § 326B.082, subd. 7 (2016) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby assesses against Respondents, jointly and severally, a monetary penalty of \$2,500.

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 in the state of Minnesota as defined in Minn. Stat. § 181.723, subds. 1 and 2, until such time as the Respondents comply with all the terms of:

- (1) this Administrative Order with Penalty;
- (2) the Commissioner’s October 19, 2015 Administrative Order with Penalty (“2015 Administrative Order”) issued against Jendro Contracting LLC (“JCL”) and John Joseph Jendro, individually;
- (3) the Commissioner’s March 22, 2018 Administrative Order with Penalty issued against JCL and John Joseph Jendro, individually; and
- (4) otherwise comply with Minnesota statutes cited in the “Conclusions of Law” below.

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 commercial or residential building construction or improvement services and have recently registered in the Minnesota Construction Contractor Registration Program (“Registration Program”) administered by the Commissioner pursuant to Minn. Stat. § 326B.701 (2016).

2. Respondent Finishing Touch LLC was registered with the Minnesota Secretary of State (“MNSOS”) on November 7, 2016 with File No. 914048200021. In this business filing, Respondent John Joseph Jendro and Wendi Lea Nelson are named as the Registered Agents at 125 Turnberry Trail, Big Lake, Minnesota.
3. On November 8, 2017, Respondent Finishing Touch LLC was registered with the Minnesota Department of Labor and Industry (“Department”) and issued registration No. IR732786. Both Respondent John Joseph Jendro and Wendi Nelson are listed as owners in the company’s registration with the Department.
4. Department records show that John Joseph Jendro has or had a common ownership interest in JCL and Respondent Finishing Touch LLC. According to MNSOS records, JCL has been inactive since December 31, 2016.
5. As a result of a previous Department investigation, the Commissioner issued a 2015 Administrative Order against JCL and John Joseph Jendro, individually, based on allegations that they failed to register in the Department’s Registration Program prior to performing building construction or improvement services in Minnesota.
6. The 2015 Administrative Order assessed a \$2,000 penalty jointly and severally against JCL and John Joseph Jendro, individually, and required them “to cease and desist from performing building construction or improvement services for which registration in the Registration Program is required in Minnesota” until they registered. JCL and John Joseph Jendro did not register in the Registration Program, they did not pay the \$2,000 penalty and they did not request a hearing to contest the 2015 Administrative Order.
7. After the 2015 Administrative Order was issued, the JCL and John Joseph Jendro, individually, proceeded to violate the terms of said order by continuing to perform building construction or improvement services for UNIVERSAL SPRAY & DRYWALL, INC. (“USDPI”) in Minnesota despite the fact that they did not register in the Registration Program. The \$2,000 penalty is still due and owing as of the date of this Order.
8. On or about November 8, 2017, the day Respondent Finishing Touch LLC registered in the Registration Program, USDI stopped making payments to JCI for building construction or improvement services performed by John Joseph Jendro. Thereafter, they started making payments to Respondent Finishing Touch LLC for same or similar work done by John Joseph Jendro.
9. On March 22, 2018, the Commissioner issued a separate Administrative Order with Penalty against JCL and John Joseph Jendro, individually, based on new investigative findings, including repeat and continuing violation of prior Orders of the Commissioner by Respondent John Joseph Jendro.

III. CONCLUSIONS OF LAW

1. Respondents committed violations of applicable law. Minn. Stat. § 326B.082, subd. 7 (2016).
2. Respondents Finishing Touch LLC and John Joseph Jendro violated the terms of the Commissioner's October 19, 2015 Administrative Order with Penalty and have unresolved violations and unpaid monetary penalties. Minn. Stat. § 326B.082, subd. 7(a) (2016) and § 326B.083, subd. 3(a) (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.

Because Respondent Jendro has a history of past violations, the Commissioner also considered: the similarity of the previous violations to the current violations; the time elapsed since the last violation; the number of previous violations; and the Respondents' response to the most recent previous violation.

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. In addition, if the Commissioner determines that Respondents have not corrected or taken appropriate steps toward correcting the violations within the 31-day period for corrective action, Respondents have 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. Respondents' review rights are more thoroughly described in Minn. Stat. § 326B.082, subs. 4 and 8 (2016).

If the 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).

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: 3/28/18

KEN B. PETERSON
Commissioner

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