

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of Lagunilla Roofing LLC
and Jose Jesus Ornelas-Sanchez aka
Jose Jesus Ornelas Ramos, individually

**ADMINISTRATIVE ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Lagunilla Roofing LLC and Jose Jesus Ornelas-Sanchez, aka Jose Jesus Ornelas Ramos, 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, subs. 1 and 2, until such time as the Respondents comply with all the terms of this Administrative Order with Penalty and the Commissioner’s October 21, 2016 Licensing Order with Penalty (“2016 Licensing Order”) issued against Lagunilla Roofing LLC (“Respondent Lagunilla”), and otherwise comply with the 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. Since September 15, 2012, Minn. Stat. §§ 181.723, subd. 4 (2016) and 326B.701, subd. 2 (2016) require all contractors who intend to provide commercial or residential building construction or improvement services in Minnesota to be registered with the Minnesota Department of Labor and Industry (“Department”)’s Construction Contractor Registration Program (“Registration Program”) if they are not required to hold a license issued by the Department.
2. Respondent Lagunilla was registered with the Minnesota Secretary of State (“MN SOS”) on April 14, 2015 with File No. 822430400038. In this business filing, Respondent Jose

Jesus Ornelas Ramos (“Respondent Jose”) is named as the Registered Agent at 5200 – 83rd Avenue N., Brooklyn Park, Minnesota. According to MN SOS records, Respondent Lagunilla’s business filing has been inactive since December 31, 2016.

3. On February 26, 2016, Respondent Lagunilla registered with the Registration Program and was issued registration No. IR704398. Respondent Jose is listed as the sole owner in Lagunilla’s registration with the Department.
4. The Department opened this investigation on September 27, 2018 based on documentation gathered in another investigation with respect to Respondents’ recent building construction and improvement work in Minnesota.
5. As a result of a previous Department investigation, the Commissioner issued a 2016 Licensing Order with a \$5,000 penalty against Respondent Lagunilla based on allegations that it failed to:
 - a. register in the Department’s Registration Program prior to performing building construction or improvement services in Minnesota; and
 - b. respond to the Commissioner’s April 21, 2016 subpoena duces tecum.
6. The 2016 Licensing Order suspended Respondent Lagunilla’s contractor registration and required it to respond to the April 21, 2016 subpoena. The Department still has not received a subpoena response as of the date of this Order.
7. Respondent Jose continued to operate the Lagunilla Roofing LLC business despite the fact that its registration with the MN SOS became inactive on December 31, 2016 and its Department registration was suspended on December 1, 2016 pursuant to the 2016 Licensing Order.
8. After the 2016 Licensing Order was issued, Respondents proceeded to violate the terms of said Order by performing building construction or improvement services for SJDJ ROOFING & REMODELING INC in Minnesota in late 2016 and 2017. The \$5,000 penalty assessed in the 2016 Licensing Order is still due and owing as of the date of this Order.

III. CONCLUSIONS OF LAW

1. Respondents committed violations of applicable law. Minn. Stat. § 326B.082, subd. 7 (2016).
2. Respondent Lagunilla violated the terms of the Commissioner’s October 21, 2016 Licensing Order with Penalty and has unresolved violations and unpaid monetary penalties. Minn. Stat. § 326B.082, subd. 7(a) (2016) and § 326B.083, subd. 3(a) (2016).

3. Respondents performed building construction or improvement services and were treated as an independent contractor without being registered with or licensed by the Commissioner in violation of 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.

Because Respondent Lagunilla 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

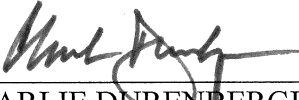
If Respondents do not request a hearing or Respondents' request for a hearing is not served on or faxed to the Commissioner by the deadline specified in the "Request for Hearing" section of this Administrative Order, this Administrative Order shall become a final order of the Commissioner and will not 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: 10/4/18

KEN B. PETERSON
Commissioner


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