

m DEPARTMENT OF
LABOR AND INDUSTRY

July 16, 2018

SENT VIA U.S. MAIL

Mr. Jose S. Martinez Orellana
M.O. Framing LLC
11445 Anderson Lakes Parkway #136
Eden Prairie, MN 55344

Mr. Jose S. Martinez Orellana
M.O. Framing LLC
8896 Center Way
Eden Prairie, MN 55344

Re: Licensing Order With Penalty; REG1803-00040/WWH, REG1805-00020/JOR

Dear Mr. Martinez:

Enclosed is a Licensing Order issued against M.O. Framing LLC for not complying with the Commissioner's May 24, 2018 subpoena. The Order carries a \$1,000 penalty and it suspends the contractor registration of M.O. Framing LLC until there is compliance with the subpoena. The Licensing Order becomes a final order 30 days after the date of the Order if you do not request a hearing or otherwise contact the Department to resolve it. If you are interested, please contact me to resolve the Order before it becomes final.

Sincerely,



Jonathan Reiner
Senior Investigator
Construction Codes & Licensing – Enforcement
443 Lafayette Road N
St. Paul, MN 55155
P: (651) 284-5396
jonathan.reiner@state.mn.us

REG1803-00040/WWH
REG1805-00020/JOR

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of M.O. Framing, LLC

**LICENSING ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against M.O. Framing, LLC (“Respondent”).

Pursuant to Minn. Stat. § 326B.082, subd. 12 (b) (2016) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby assesses against Respondent a monetary penalty of \$1,000.

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. IR734001, from the date that this Order becomes final until Respondent produces the documents requested in the Commissioner’s subpoena dated May 24, 2018 and pays the monetary penalty assessed above. During the term of the registration suspension, Respondent and its principal shall cease and desist from acting or holding themselves out as a registered contractor.

The Commissioner takes the above action based upon the following Findings of Fact and Conclusions of Law:

II. FINDINGS OF FACT

1. Respondent holds a Contractor Registration issued by the Commissioner on December 6, 2017, No. IR734001. Respondent, as a registered contractor, must adhere to the Minnesota statutes and regulations governing worker classification and contractor registration, Minn. Stat. §§ 181.723 and 326B.701 (2016).
2. On May 10, 2018, the Minnesota Department of Labor and Industry (“Department”) opened an investigation based on receipt of information that indicated that Respondent may have engaged in violations of the Minnesota statutes governing the classification of workers in the construction industry. The Department consolidated this investigation with a prior investigation of the business opened by another investigator on March 28, 2018, File No. REG1803-00040/WWH.

3. As a part of the Department's investigation, the Commissioner issued a subpoena duces tecum to Respondent on May 24, 2018 via certified and first-class U.S. mail. Someone signed the certified mail return receipt for Respondent but the signature is illegible.
4. A Department investigator made numerous attempts to contact Respondent at the phone number listed in Respondent's registration. The investigator sent copies of the subpoena and related correspondence to the email address listed in Respondent's registration.
5. On June 18, 2018, a Department investigator sent a letter and email warning Respondent that the Department would issue an order against it including a monetary penalty.
6. As of the date of this Order, Respondent has not complied with the May 24, 2018 subpoena.

III. CONCLUSIONS OF LAW

1. Respondent has committed a violation of applicable law. Minn. Stat. § 326B.082, subd. 11(b)(1) (2016).
2. Respondent failed to cooperate with the Commissioner's request to produce documents. 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.

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. Reinstatement after suspension requires: application to the Commissioner no later than two years after completion of the suspension period; payment of a \$50 license reinstatement fee; submission of a completed license renewal and application and fees if the license expired during the license suspension; and the meeting of all other requirements for licensure. *See* Minn. Stat. § 326B.096, subd. 2 (2016).

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: 7/16/18

KEN B. PETERSON
Commissioner


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

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
443 LAFAYETTE ROAD NORTH
ST PAUL, MINNESOTA 55155

AFFIDAVIT OF SERVICE BY U.S. MAIL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

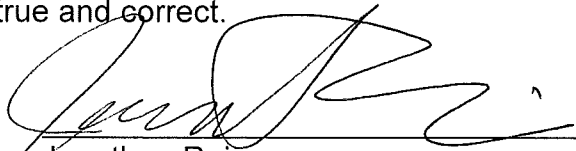
My name is Jonathan Reiner and I am employed by the Minnesota Department of Labor and Industry, Construction Codes and Licensing Division, as a Senior Investigator. On the 16th day of July, 2018, in the City of St. Paul, County of Ramsey, State of Minnesota, I served the attached Licensing Order by first-class mail by depositing the same in the United States Mail, a true and correct copy thereof, properly enveloped, with postage prepaid, and addressed to:

REGULAR FIRST-CLASS MAIL

Mr. Jose S. Martinez Orellana
M.O. Framing LLC
11445 Anderson Lakes Parkway #136
Eden Prairie, MN 55344

Mr. Jose S. Martinez Orellana
M.O. Framing LLC
8896 Center Way
Eden Prairie, MN 55344

I am signing this Affidavit in Ramsey County, State of Minnesota, on the 16th day of July, 2018. Pursuant to Minnesota Statutes § 358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.


Jonathan Reiner