

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of Trester, LLC and
Dianna Trester, individually

**ADMINISTRATIVE ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Respondents Trester, LLC and Dianna Trester, individually, pursuant to Minn. Stat. § 326B.082, subd. 6 (2018).

Pursuant to Minn. Stat. § 326B.082, subd. 7 (2018) and Minn. Stat. § 326B.083 (2018), the Commissioner hereby assesses against Respondents Trester, LLC and Dianna Trester, jointly and severally, a monetary penalty of \$10,000.

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 residential or commercial building or improvement services for which licensure or registration is required.

The Commissioner takes the above action based upon the following findings of fact and conclusions of law:

II. FINDINGS OF FACT

1. Trester, LLC holds a contractor registration issued by the Commissioner on February 6, 2017, number IR719731. In this registration, Trester, LLC disclosed that its sole owner is Dianna Trester and that its business address is: P.O. Box 388, Cambridge MN.
2. As a registered contractor, Respondents must adhere to the Minnesota statutes and rules governing Contractor Registration, Minn. Stat. §§ 181.723, 326B.701 and 326B.081 to 326B.085 (2018).
3. On September 13, 2012, Dianna Trester registered Trester Construction, LLC in the Minnesota Construction Contractor Registration Program and the company was issued registration No. IR654662 by the Commissioner with the number. In the registration application, Dianna Trester listed the principals of the business as Jason S. Trester and Dianna Trester.

4. This registration was suspended pursuant to a Licensing Order issued by the Commissioner on July 14, 2014. The order became final August 14, 2014. The Licensing Order required the Respondent, Trester Construction, LLC, and its principals to cease and desist from performing public or private sector commercial or residential building construction or improvement services for which a registration is required.
5. On August 7, 2014, a Department investigator received a form from the United States Postal Service (“USPS”) listing the address for Trester Construction, LLC as P.O. Box 388, Cambridge, MN.
6. On June 1, 2016, the Minnesota Department of Labor and Industry (“Department”) opened an investigation based on receipt of copies of a credit application and invoices that evidenced Trester Construction, LLC performing building construction or improvement services in Minnesota despite the fact that its contractor registration had been suspended.
7. On June 29, 2016, an Administrative Order was issued by the Commissioner to Jason S. Trester requiring him to cease and desist from performing residential or commercial building or remodeling services and assessing him a monetary penalty of \$5,000. The order became final July 29, 2016.
8. On August 2, 2016, the Department investigator received a voice mail message from Dianna Trester questioning the Administrative Order. The investigator returned the call and left a message, but received no further communications from Dianna Trester.
9. On October 13, 2011, a Certificate of Organization was filed with the Minnesota Secretary of State (“MNSOS”) on behalf of Trester, LLC. The certificate lists the registered address of Trester, LLC as 24515 – 140th Street NW, Zimmerman, MN.
10. On December 29, 2012, Trester, LLC filed a renewal with MNSOS listing Dianna Trester as the manager and the Zimmerman address as the Principal Executive Office and the Registered Office address.
11. On November 5, 2013, Trester, LLC filed a renewal with MNSOS listing Jason Trester as the manager and the Zimmerman address as the Principal Executive Office address and the Registered Office address.
12. On July 24, 2014, Trester, LLC filed a renewal with MNSOS listing Jason Trester as the manager and the Zimmerman address as the Principal Executive Office address and the Registered Office address.
13. On March 15, 2016, Trester LLC was administratively terminated by the MNSOS.
14. On February 6, 2017, Trester, LLC renewed its registration with the MNSOS. The manager was listed as Dianna Trester with an address of P.O. Box 388, Cambridge MN. The Principal Executive Office address was listed as 1730 New Brighton Blvd. 104-294,

Minneapolis, MN and the Registered Office address was listed as the Zimmerman address.

15. According to the records of the Minnesota Workers Compensation Insurance Association (MWCIA), Trester Construction LLC and Trester LLC share a workers' compensation insurance policy with the Coverage ID of 3005860.
16. As noted above, Trester, LLC applied for a Contractor Registration on February 6, 2017 and was assigned registration number IR719731. In the application, the company disclosed Dianna Trester as its sole owner and provided a business address of P.O. Box 388, Cambridge, MN.
17. As a result of a complaint by another contractor, the Department opened an investigation of Respondents on February 26, 2019 to determine whether Respondents had engaged in violations of the statutes and rules governing the classification of workers in the construction industry and to identify the true business entity.
18. On February 28, 2019, a Department investigator mailed a subpoena duces tecum via first-class and certified mail to Respondents at their registered address and the address they provided in their registration.
19. The subpoena required the production of documentation relating to Respondents' subcontractors, contractors, and employees. Both the subpoena sent via certified mail and first-class to the Zimmerman address were returned marked "Unclaimed" by the USPS. The subpoena delivered to the Cambridge address was not returned by the USPS.
20. As part of the investigation of another contractor, the Department found that Trester Construction, LLC was listed as a subcontractor of Shaw Construction, Inc., and that Trester Construction, LLC was using the construction contractor registration number of Trester, LLC. On March 8, 2019 the Department requested copies of all invoices from both entities.
21. On March 18, 2019, the MNSOS registration for Trester, LLC was administratively terminated.
22. On March 21, 2019, Shaw Construction, Inc. submitted copies of three invoices. One from Trester Construction LLC was for \$4,324.00 for work done November 7, 2017, and two from Trester, LLC; one for \$60,000.00 for demolition labor for September 2018 and one for demolition labor in October 2018 for \$29,047.00. All invoices listed an address of P.O. Box 388, Cambridge, MN; phone number of 888-225-0595; and info@trester.org.
23. On April 2, 2019, Trester, LLC submitted a completed subpoena questionnaire stating that Trester, LLC "Originally was going to use business name for my property 4 years ago but was unable to refinance if it was in a business name so I never used it." Trester, LLC also claimed that there were no employees, no subcontractors, and no customers in 2018

and additionally noted “Did not use the business.”

III. CONCLUSIONS OF LAW

1. Respondents committed violations of applicable law. Minn. Stat. § 326B.082, subd. 7 (2018).
2. Respondents provided the Commissioner with false material statements. Minn. Stat. §§ 326B.084, subd. 1 (2018).
3. In September and October of 2018, Respondents provided residential construction services to another contractor in violation of an order of the Commissioner. Minn. Stat. §§ 326B.082, subd. 11(b)(5) (2018).

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. Minn. Stat. §§ 14.045, subd. 3 and 326B.083, subd. 1.

Because Respondents have 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.

VI. REQUEST FOR HEARING

Pursuant to Minn. Stat. § 326B.082, subd. 8 (2018), Respondents shall have 30 days after issuance of this 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. Minn. Stat. § 326B.082, subd. 12(c).

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 facsimile, 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.

If the Respondents submit to the Commissioner a timely request for hearing, this order shall be stayed unless otherwise ordered by a judge, and a contested case hearing will be commenced. The contested case procedures are set out in chapter 14 of Minnesota Statutes, chapter 1400 of the Minnesota Rules, and sections 326B.081 to 326B.085 of the Minnesota Statutes. Copies of these materials are available at www.revisor.mn.gov or may be purchased from the Minnesota Book Store, telephone (651) 297-3000.

VII. EFFECT OF FINAL ORDER

If Respondents do not request a hearing or submit a timely hearing request to contest this order, it shall become a final order of the Commissioner and will not be subject to review by any court or agency. Minn. Stat. § 326B.082, subd. 8 (2018).


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) (2018).

When this 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. Minn. Stat. §§ 16D.17 and 326B.083, subd. 2 (2018). 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. Minn. Stat. § 326B.082, subd. 17 (2018).

Finally, Respondents are hereby notified that thirty (30) days after the date this order becomes final, simple interest computed in accordance with Minn. Stat. § 16D.13, subd. 2 (2018) will begin to accrue on the unpaid portion of the penalty.

Dated: 7/3/19

NANCY J. LEPPINK
Commissioner

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