

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of Trester Construction, LLC
and Jason S. 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 Construction, LLC and Jason S. Trester, individually.

Pursuant to Minn. Stat. §§ 326B.701 (2018); 326B.082, subd. 7 (2018) and 326B.083 (2018), the Commissioner hereby assesses against Respondents, 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 commercial or residential building construction or improvement services for which registration in the Registration Program is required. The cease and desist order remains in effect until such time that Respondents comply with the terms of the Commissioner’s Licensing Order with Penalty issued against Trester Construction, LLC on May 30, 2014 and comply with the Commissioner’s Administrative Order with penalty issued against Jason S. Trester on June 29, 2016.

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 building construction or improvement services, but have not registered with the Registration Program and are not licensed by the Commissioner in any capacity.
2. Respondents were registered with the Minnesota Department of Labor and Industry (“Department”) and held registration no. IR654662 which was issued on September 13, 2012 until it expired December 31, 2015.
3. On October 8, 2013, a Department investigator mailed a subpoena duces tecum to Respondents at Respondents’ address of record.
4. On May 30, 2014 a Licensing Order was issued suspending Trester Construction, LLC’s registration until it provided a complete response to the previously issued subpoena and

paid a \$5,000 monetary penalty. The Order is final and the monetary penalty remains unpaid.

5. On August 10, 2016, the Commissioner issued an Administrative order against Respondent Jason S. Trester, ordering Trester to cease and desist from performing building construction services for which a registration is required and assessed a \$5,000 monetary penalty. That Order is now final and the penalty remains unpaid.
6. According to the records of the Minnesota Secretary of State, Trester Construction, LLC was filed as a corporation on May 22, 2007 and this filing is currently active. Jason S. Trester is listed as the manager. In the business filing with the Secretary of State, Respondents disclosed their registered office address as 1730 New Brighton Blvd. #104-294, Minneapolis, MN.
7. According to the records of the Minnesota Workers Compensation Insurers Association, Trester Construction LLC continues to maintain Workers Compensation coverage. The address is listed as P.O. Box 388, Cambridge, MN 55008
8. According to the records of Shaw Construction, Inc., Trester Construction, LLC performed construction services from July 12, 2017 to February 7, 2019. The records list Respondents' address as P.O. Box 388, Cambridge, MN.

III. CONCLUSIONS OF LAW

1. Respondents committed violations of applicable law. Minn. Stat. §§ 181.723; Minn. Stat. §§ 326B.701 and 326B.082, subd. 7 (2018).
2. Respondents committed a violation of Minn. Stat. §§ 181.723, subd. 2 and 326B.701, subd. 2 (2018) by providing building construction or improvement services without being licensed or registered by the Commissioner.
3. Respondent Trester Construction, LLC violated the terms of the Commissioner's May 30, 2014 Licensing Order with Penalty. Respondent has unresolved violations and unpaid monetary penalty in violation of Minn. Stat. §§326B.082, subd. 11(a) and (b)(5) (2018).
4. Respondent Jason S. Trester violated the terms of the Commissioner's June 29, 2016 Administrative Order with penalty. Respondent has unresolved violations and unpaid monetary penalty in violation of Minn. Stat. §§326B.082, subd. 11(a) and (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.

Because Respondents have a history of past violations, the Commissioner also considered: the similarity of the previous violation(s) 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 (2018), Respondents shall have 30 days after issuance of this Administrative 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. The request for hearing must specifically state the reasons for seeking review of the order. 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, subsd. 4 and 8 (2018).

If 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 (2017), and Minn. Stat. § 326B.082, subd. 8 (2018). 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 (2018).

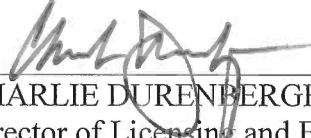
The monetary penalty assessed upon Respondents by this Administrative Order is due and payable on the date the Administrative Order becomes final. *See* Minn. Stat. § 326B.083, subd. 3(a) (2018).

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. *See* 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. *See* 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