



July 19, 2019

SENT VIA FIRST-CLASS U.S. MAIL

Trall Painting Company, LLC
3518 Woodbury Park Drive S
Fargo, ND 58103

Re: Licensing Order; Trall Painting Company, LLC REG1905-00021/JOR

To Whom It May Concern:

Enclosed is a Licensing Order for contracting with and paying unregistered independent contractors. The Order will become final thirty days from the date of signature, upon which date the monetary penalty will become due and owing. Please review the Order thoroughly, and feel free to contact the undersigned with any questions.

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

Enclosure: Licensing Order

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of the Contractor Registration of
Traill Painting Company, LLC

**LICENSING ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against Respondent Traill Painting Company, LLC.

Pursuant to Minn. Stat. § 326B.082, subd. 12(b) (2018), the Commissioner hereby orders the Respondent to cease and desist from committing the violations described in section III of this Order.

Pursuant to Minn. Stat. § 326B.082, subd. 12(b) (2018) and Minn. Stat. § 326B.083 (2018), the Commissioner hereby assesses against Respondent a monetary penalty of \$500.

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, No. IR678003, issued on March 5, 2014.
2. Respondent, as a registered contractor, must adhere to the Minnesota statutes and regulations governing independent contractor classification and registration, Minn. Stat. §§ 181.723 and 326B.701 (2018).
3. The Minnesota Department of Labor and Industry (“Department”) finalized a Consent Order with Respondent on April 17, 2014. Among other terms, Respondent consented to ensuring its independent contractors are registered or licensed and meet all nine factors described in Minn. Stat. § 181.723, subd. 4(a) (2018).
4. On May 9, 2019, the Department opened an investigation based on receipt of information that indicated that Respondent may have engaged in violations of the Minnesota statutes governing independent contractor classification and registration.

5. The Department determined that Respondent hired two independent contractors to perform building construction services in Minnesota during the audit period (January 1, 2018 through May 10, 2019).
6. Respondent contracted with and paid All Painting & Finishing and Amber Chubb for services provided during the audit period. Neither contractor had an active contractor registration or a license with the Department during this time period.

III. CONCLUSIONS OF LAW

1. Respondent has committed violations of applicable law. Minn. Stat. § 326B.082, subd. 11(b)(1) (2018).
2. Respondent contracted with and paid All Painting & Finishing and Amber Chubb when they were not licensed by the Department or actively registered in the Contractor Registration Program. Minn. Stat. § 326B.701, subd. 5(b)(2) (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 Respondent gained economic benefit in not complying with the law; and other factors as justice may require. Minn. Stat. §§ 14.045, subd. 3, 326B.083, subd. 1 (2018).

Because Respondent 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 Respondent's response to the most recent previous violation.

V. REQUEST FOR HEARING

Pursuant to Minn. Stat. § 326B.082, subd. 12(c), Respondent 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). 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. Minn. Stat. § 326B.082, subd. 4.

If Respondent submits 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.01 to 326B.085 of the Minnesota Statutes. Copies of these materials or are available at www.revisor.mn.gov or may be purchased from the Minnesota Book Store, telephone (651) 297-3000.

VI. EFFECT OF FINAL ORDER

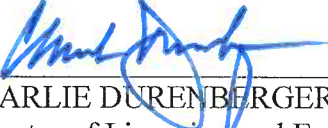
If Respondent does not request a hearing or submit a timely hearing request to contest this order, it shall become a final order of the Commissioner and will not be subject to review by any court or agency. *See* Minn. Stat. § 326B.082, subd. 12(c) (2018).

The monetary penalty assessed by this order is due and payable on the date this order becomes final. 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, Respondent is 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: 7/19/19

NANCY J. LEPPINK
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

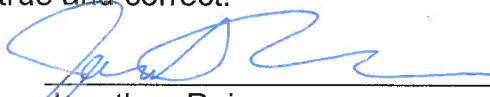
AFFIDAVIT OF SERVICE BY U.S. MAIL

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 an Investigator Senior. On the 19th day of July, 2019, 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
Traill Painting Company, LLC
3518 Woodbury Park Drive S
Fargo, ND 58103

I am signing this Affidavit in Ramsey County, State of Minnesota, on the 19th day of July, 2019. 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