

**m** DEPARTMENT OF  
LABOR AND INDUSTRY

September 28, 2018

SENT VIA U.S. MAIL

Ricardo Batres  
American Contractors and Associates LLC  
5644 Vera Cruz Avenue N  
Brooklyn Center, MN 55429

5235 Dupont Avenue N  
Minneapolis, MN 55430

Re: Licensing Order; American Contractors and Associates LLC REG1709-00012/JOR

Dear Mr. Batres:

Enclosed is a Licensing Order issued against American Contractors and Associates LLC regarding the above-referenced investigation. Please contact the undersigned if you have 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

STATE OF MINNESOTA  
Department of Labor and Industry

In the Matter of the Residential Building  
Contractor License of American  
Contractors and Associates LLC

**LICENSING ORDER  
WITH PENALTY**

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**I. ORDER**

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against American Contractors and Associates LLC (“Respondent”).

Pursuant to Minn. Stat. § 326B.082, subds. 11(b) and 12 (2016) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby suspends the residential building contractor license of Respondent, No. BC631907, until Respondent provides a complete response to the Commissioner’s September 25, 2017 subpoena and subsequent requests for documents, pays the \$10,000 monetary penalty assessed against Respondent in the Administrative Order the Commissioner issued to Respondent on February 7, 2018, and satisfies the \$1,031,25 judgment obtained against Respondent by the Minnesota Department of Labor and Industry’s Occupational Health and Safety Division (“MNOSHA”).

During the term of the license suspension, Respondent and its principals shall cease and desist from acting or holding themselves out as a residential building contractor in the state of Minnesota.

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 Residential Building Contractor license issued by the Commissioner on October 14, 2008, No. BC631907.
2. Respondent, as a licensed Residential Building Contractor, must adhere to the Minnesota statutes and regulations governing contractor registration and classification, Minn. Stat. §§ 181.723 and 326B.701 (2016).
3. On September 7, 2017, 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.

4. As a part of the Department's investigation, the Commissioner issued a subpoena duces tecum to Respondent on September 25, 2017, with a response deadline of October 16, 2017.
5. On October 9, 2017, Respondent requested additional time to respond to the Commissioner's subpoena. A Department investigator agreed to extend the response deadline to October 23, 2017.
6. On October 24, 2017, Respondent requested additional time to respond to the Commissioner's subpoena. The Department investigator agreed to extend the deadline to October 31, 2017.
7. On November 6, 2017, Respondent requested additional time to respond to the Commissioner's subpoena. The Department investigator once again agreed to extend the deadline, this time to November 27, 2017. As requested by Respondent, the Department investigator sent a copy of the Commissioner's subpoena to Respondent's email address of americancontractorsmn@gmail.com.
8. On November 13, 2017, the Department investigator sent Respondent an email reminder to respond to the Commissioner's subpoena by November 27, 2017.
9. On November 20, 2017, the Department investigator sent Respondent an email reminder to respond to the Commissioner's subpoena by November 27, 2017.
10. On November 27, 2017, Respondent's principal, Ricardo Batres, appeared at the Department in person to respond to the subpoena, but he did not produce any documents whatsoever.
11. On November 30, 2017, Respondent produced a two-page Word document presumably listing the purported subcontractors that provided services to Respondent during an unstated time period. In its accompanying message, Respondent stated, "I'm working on the Contracts and Invoices form Cross Creek Construction, for balances that are still due, as well as copies of any other pertaining to payments etc to Martinez subs and any one involved that has received payments for this projects."
12. On December 6, 2017, the Department investigator notified Respondent about the deficiencies in Respondent's November 30, 2017 response, and the investigator required a full response from Respondent by December 15, 2017.
13. On December 15, 2017, Respondent produced a six-page pdf file that was mostly scanned pages of the original subpoena and another written list of Respondent's subcontractors and hiring contractors.
14. On January 25, 2018, a Department investigator requested a variety of payment information from Respondent pertaining to the Liberty Crossing Townhomes project, for

which Respondent had a nearly half-a-million dollar contract for building construction or improvement services. The investigator requested a response by February 2, 2018.

15. On January 31, 2018, Respondent produced a single check from a Juan Ruiz Beltran to a Selum Orellana for \$1,200. The relevancy of the check was not clear on its face, nor did Respondent explain its relevancy.
16. On February 7, 2018, the Commissioner issued an Administrative Order against Respondent for failing to cooperate with the Commissioner's request to produce documents. The Administrative Order fined Respondent \$10,000, \$9,000 of which was stayed if Respondent cooperated with the Commissioner's request to produce documents. The Administrative Order became final on March 9, 2018.
17. As of the date of this Order, Respondent still has not produced all of the required information responsive to the September 25, 2017 subpoena and subsequent requests for information. Furthermore, as of the date of this Order, Respondent has not produced any information responsive to the January 25, 2018 request for information pursuant to the subpoena. Consequently, the \$9,000 portion of the monetary is not forgiven, and the entire \$10,000 monetary penalty is now due and owing.
18. As of the date of this Order, Respondent has made no payments toward the monetary penalty imposed in the February 7, 2018 Administrative Order.
19. On November 21, 2017, MNOSHA obtained a \$1,031.25 judgment against Respondent in Hennepin County District Court based on a workplace safety violation penalty. To date, Respondent has made no effort to satisfy this judgment.

### **III. CONCLUSIONS OF LAW**

1. Respondent has committed violations 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).
3. Respondent owes unpaid monetary penalties related to its residential building contractor activities. Minn. Stat. § 326B.082, subd. 11(a) (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 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](http://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 residential building contractor license 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: 9/28/18

KEN B. PETERSON  
Commissioner

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