

2020-01834

12/8/2020

Kasper, Irene M.

From: Frey, Jacob
Sent: Monday, November 2, 2020 2:29 PM
To: Council Comment
Subject: FW: CPC Comments regarding 416 E Hennepin Ave
Attachments: doc20200709140130.pdf; Painting America Consent Order.pdf; Painting America LO.pdf

Heidi Ritchie, BSN, RN, PHN
Policy Director to Mayor Jacob Frey

From: Dan McConnell <dan@mplsbtcc.org>
Sent: Sunday, November 1, 2020 11:24 AM
To: Smith, Mei-Ling C. <Mei-Ling.Smith@minneapolismn.gov>
Cc: adam.duininck@gmail.com; adlpierdesign@gmail.com; aneesha.marwah@artspace.org; atamburino@comcast.net; cmeyer <cmeyer@minneapolisparcs.org>; Kimberly.Caprini@mpls.k12.mn.us; olsonalyssamarie@gmail.com; Raya Esmaeili <raya.esmaeili@gmail.com>; samuel.rockwell@gmail.com; Schroeder, Jeremy <jeremy.schroeder@minneapolismn.gov>; Fletcher, Steve <steve.fletcher@minneapolismn.gov>; Frey, Jacob <Jacob.Frey@minneapolismn.gov>; Rowader, Jim R <jim.rowader@minneapolismn.gov>; Curt Gunsbury <curt@solhem.com>
Subject: CPC Comments regarding 416 E Hennepin Ave

Mei-Ling,

Please see the attached which I would request be added to the record for item #10 on the agenda for the 11/2/20(?) meeting **Central and Hennepin Apartments, 416-420 Hennepin Ave E, Ward 3**

Thanks,

Dan McConnell
Business Manager
Minneapolis Building and Construction Trades Council
(o) 612.379.4234
(c) 612.209.7915
dan@mplsbtcc.org

United Labor Centre
312 Central Avenue, Suite 556
Minneapolis, Minnesota 55414



Phone: (612) 379-4234
Fax: (612) 379-4479



Boilermakers #647
Bricklayers & Allied
Craftworkers #1
Carpenters #322
Cement Masons #633
City Employees #363
Construction & General
Laborers #563
Electrical Workers #110
Electrical Workers #292
Elevator Constructors #9
Glaziers & Glassworkers
#L-1324
Heat & Frost Insulators
& Allied Workers #34
Iron Workers #512
Iron Workers Shopmen #535
Millwrights #548
MN State Interior Systems #68
Operating Engineers #49
Painters #386
Pile Drivers & Dock Builders
#1847
Pipefitters #539
Plasterers #265
Plumbers #15
Roofers #96
Sheet Metal Workers #10
Sign, Display & Allied workers
#880
Sprinkler Fitters #417
Teamsters Local #120

7/9/20

Chair Rockwell and members of the Minneapolis Planning Commission,

I write to share concerns regarding item 11 on your agenda for tonight's meeting of the committee of the whole.

On previous projects which the applicant has developed, we have received reports of wage theft and violations of COVID-19 transmission prevention protocols. Despite repeated attempts to contact the applicant I have not been able to establish communication to address these concerns.

Attached are findings that the MN Dept of Labor and Industry has published regarding one of the subcontractors who has worked on multiple projects developed by the applicant.

I would appreciate it if you could please encourage the applicant to take steps to address these issues and to establish communications with me to ensure workers on future projects are fairly compensated and work in a safe environment.

Thank you,

Dan McConnell
Business Manager

CC
CM Fletcher
Mayor Frey

REG1608-00028/JOR

**STATE OF MINNESOTA
COMMISSIONER OF LABOR AND INDUSTRY**

In the Matter of the Licensing Order Issued to
Painting America Inc.,

CONSENT ORDER

TO: Painting America Inc.
2013 O'Neil Road
Hudson, WI 54016

Commissioner of Labor and Industry has determined as follows:

1. The Commissioner initiated administrative proceedings against Painting America, Inc. ("Respondent") by issuing a Licensing Order against it on December 27, 2017 pursuant to Minn. Stat. § 326B.082, subd. 11 (2018) based on allegations that Respondent misclassified employees as independent contractors under Minn. Stat. § 181.723, subds. 4(a)(6), 7(c)(2) (2018) and violated Minn. Stat. § 326B.701, subd. 5(b)(2)(2018).

2. Respondent acknowledges that it has been advised of its rights to a hearing in this matter, to present argument to the Commissioner and to appeal from any adverse determination after a hearing, and Respondent hereby expressly waives those rights. Respondent further acknowledges that it has been represented by legal counsel throughout these proceedings, or has been advised of its right to be represented by legal counsel which right it hereby waives.

3. Respondent acknowledges that it engaged in the conduct leading to the allegations herein, but has agreed to informal disposition of this matter without a hearing as provided under Minn. Stat. § 14.59 (2018) and Minn. R. 1400.5900 (2017).

4. The following Order is in the public interest.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows, that:

- A. The December 27, 2017 Licensing Order is **VACATED**.
- B. Respondent shall comply with any request for information from the Commissioner within 30 days of the Commissioner's request;
- C. Respondent shall ensure that all of its subcontractors and independent contractors are registered or licensed by the Commissioner and remain registered or licensed while performing construction services on Respondent's behalf;
- D. Respondent shall ensure all of its subcontractors and independent contractors meet the nine factors described in Minn. Stat. § 181.723, subd. 4(a) and (b) (2018);
- E. Respondent shall obtain from each of its subcontractors and independent contractors, all documentation legally required to verify the worker classification status of the subcontractor or independent contractor, and maintain same for a period of five (5) years;
- F. Respondent shall ensure that documentation used by each of its subcontractors and independent contractors (i.e., invoices, contracts, etc.) reflects accurately their true and correct legal business name and business organization type;
- G. Respondent shall ensure that payments it makes to its subcontractors and independent contractors are made to the legally registered business entity;
- H. Respondent shall pay to the State of Minnesota a monetary penalty of \$5,000, though payment of this penalty is **STAYED** so long as Respondent complies with all provisions of this Consent Order and commits no violation of any law or rule relating to the classification of construction workers. If Respondent complies fully with this Consent Order, the \$5,000 monetary penalty that is stayed shall be **VACATED** three years from the date of this Consent Order; and


I. If the Commissioner determines that Respondent has engaged in conduct that constitutes a violation of this Consent Order, the stay of the monetary penalty shall be lifted, and shall become due and owing in addition to any additional penalty the Commissioner deems appropriate for the new violation(s). Respondent may request a hearing to contest the factual basis for the lifting of the stay but not the \$5,000 amount owing.

J. This Consent Order shall not be construed as a final administrative or licensing order for purposes of Minn. Stat. § 16C.285, subd. 3(3) (2018).

This Order shall be effective upon signature on behalf of the Commissioner.

Dated: 1/8/19

CHRIS LEIFELD
Acting Commissioner

By: 
CHARLIE DURENBERGER
Director of Licensing and Enforcement
Construction Codes and Licensing Division
443 Lafayette Road N.
Saint Paul, Minnesota 55155

REG1608-00028/JOR

CONSENT TO ENTRY OF ORDER

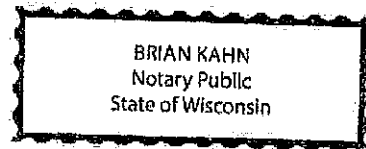
The undersigned, Cory Howard, acting on behalf of Painting America Inc., states that he has read the foregoing Consent Order; that he knows and fully understands its contents and effect; that he has been advised of his right to a hearing; that he has been represented by legal counsel in this matter or that he has been advised of his right to be represented by legal counsel and that he has waived this right; and that he consents to entry of this Order by the Commissioner of Labor and Industry. It is further expressly understood that this Order constitutes the entire settlement agreement between the parties hereto with respect to the violations of the Contractor Registration laws and rules, there being no other promises or agreements, either expressed or implied.

PAINTING AMERICA INC.

By: *Cory Howard*
Cory Howard

Its: CEO
(Title)

STATE OF WI
COUNTY OF ST CROIX



This instrument was acknowledged before me on 1/8/19 by Cory Howard.
(Date)

(stamp)

Brian Kahn
(Signature of notary officer)

Title (and Rank)
My commission expires 6/15/21



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

SUITE 1800
445 MINNESOTA STREET
ST. PAUL, MN 55101-2134
TELEPHONE: (651) 297-2040

June 5, 2018

Thomas R. Revnew, Esq.
Seaton Peters Revnew
7300 Metro Blvd., Ste. 500
Minneapolis, MN 55439

Re: *In the Matter of the Licensing Order Issued to Painting America, Inc.*
OAH File No. 68-1902-35292

Dear Mr. Revnew:

On behalf of the Minnesota Department of Labor and Industry, I enclose and serve upon you copies of the Notice and Order for Prehearing Conference and Hearing, in the above-entitled matter, along with my Notice of Appearance.

Please take notice that the prehearing conference is scheduled for July 26, 2018 at 9:30 a.m., before Administrative Law Judge Jean Cochran at the Office of Administrative Hearings, Harold E. Stassen Office Building, 600 North Robert Street, St. Paul, Minnesota.

Please direct all further communications on this matter to my attention. Let me know if you have any questions or concerns.

Sincerely,

/s/ Corinne Wright-MacLeod
CORINNE WRIGHT-MACLEOD
Assistant Attorney General

(651) 757-1198 (Voice)
(651) 297-1235 (Fax)

Attorney for Minnesota
Department of Labor and Industry

Enclosures

cc: Charlie Durenberger (via email) (w/encls.)



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

SUITE 1800
445 MINNESOTA STREET
ST. PAUL, MN 55101-2134
TELEPHONE: (651) 297-2040

June 5, 2018

Cari Snaza
OAH Docket Clerk
Office of Administrative Hearings
P.O. Box 64620
St. Paul, MN 55164-0620

Re: *In the Matter of the Licensing Order Issued to Painting America Inc.*
OAH File No. 68-1902-35292

Dear Ms. Snaza:

I enclose for filing in the above-entitled matter the following documents:

1. Notice and Order for Prehearing Conference and Hearing;
2. Notice of Appearance; and
3. Affidavit of Service.

The prehearing conference is scheduled for July 26, 2018 at 9:30 a.m., before Administrative Law Judge Jeanne Cochran at the Office of Administrative Hearings.

Sincerely,

/s/ Corinne Wright-MacLeod
CORINNE WRIGHT-MACLEOD
Assistant Attorney General

(651) 757-1198 (Voice)
(651) 297-1235 (Fax)

Attorney for Minnesota
Department of Labor and Industry

Enclosures

cc: Thomas Revnew, Esq. (w/encls.)
Charlie Durenberger (via email) (w/encls.)

REG1608-00028/JOR

OAH Docket No. 68-1902-35292

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Licensing Order Issued to
Painting America Inc.,

**NOTICE AND ORDER FOR
PREHEARING CONFERENCE**

TO: Respondent Painting America Inc., through its counsel Thomas R. Revnew, Esq., Seaton
Peters Revnew, 7300 Metro Boulevard, Suite 500, Minneapolis, MN 55439

RESPONDENT PAINTING AMERICA INC. IS HEREBY NOTIFIED that, based on its request for a hearing, the Minnesota Department of Labor and Industry has initiated this action to determine whether the licensing order issued to Respondent on December 27, 2017, should be vacated, modified, or made permanent.

IT IS HEREBY ORDERED that a prehearing conference will be held telephonically at 9:30 a.m. on July 26, 2018. You must call 1 (888) 742-5095 and enter conference code: 673 883 4434# at the appointed time.

The Chief Administrative Law Judge, Office of Administrative Hearings, has assigned this matter to Administrative Law Judge Jeanne Cochran. Judge Cochran's legal assistant, Sheena Denny, may be reached at (651) 361-7881 or sheena.denny@state.mn.us. All mail sent to the Administrative Law Judge assigned to this matter should be directed to P.O. Box 64620, St. Paul, MN 55164-0620.

The purposes of the prehearing conference include establishing the hearing date and location, setting scheduling deadlines for conducting discovery and exchanging exhibit and witness lists in advance of the hearing, simplifying the issues to be determined, considering whether an interpreter or other accommodation is needed, and, if possible, reaching a settlement without the necessity for further hearing. Minn. R. 1400.6500 (2017).

The hearing, which may be scheduled at the prehearing conference, will be conducted under the contested case procedures set out in chapter 14 of Minnesota Statutes, chapter 1400 of Minnesota Rules, and Minn. Stat. §§ 326B.01 to 326B.085 (2016). A copy of these materials may be purchased from the Minnesota Book Store, telephone (651) 297-3000, or are available at www.revisor.mn.gov. The attorney handling this case for the Department is Assistant Attorney General Corinne Wright-MacLeod, 445 Minnesota Street, Suite 1800, St. Paul, Minnesota 55101-2134, (651) 757-1198. Ms. Wright-MacLeod may be contacted to discuss discovery or informal disposition of this matter.

ALLEGATIONS

1. On December 27, 2017, the Department served Painting America Inc. with a licensing order, which is attached as Exhibit A and incorporated by reference.
2. The order imposed a \$5,000 penalty and required Painting America to cease and desist from misclassifying individuals as independent contractors and from hiring contractors that do not hold valid contractor registrations.
3. The order notified Painting America that, unless it requested a hearing within thirty days, the order would become a final order of the Commissioner. *See* Minn. Stat. § 326B.082, subd. 12(c) (outlining requirements for hearing requests).
4. The Department received a timely request from Painting America to contest the order.

VIOLATIONS

Count I

Painting America knowingly misclassified individuals providing drywall services as independent contractors in violation of Minn. Stat. § 181.723, subd. 7(c)(2) (2016).

Count II

Painting America hired a drywall contractor that did not hold a valid contractor registration in violation of Minn. Stat. § 326B.701, subd. 5(b)(2) (2016).

ADDITIONAL NOTICE

1. Painting America's failure to appear at the hearing or any prehearing conference, or any failure to comply with an order of the Administrative Law Judge, may result in a finding that Painting America is in default, that the Department's allegations contained in this notice and order may be accepted as true, and its proposed action may be upheld.

2. If any party has good cause for requesting a delay of the hearing or any prehearing conference, the request must be made in writing to the Administrative Law Judge at least five days prior to the scheduled date. A copy of the request must be served on the other party.

3. Any party intending to participate as a party in this proceeding must file a notice of appearance form and return it to the Administrative Law Judge within twenty days of the date of service of this notice and order. A copy must be served on the Department's attorney. A notice of appearance form is enclosed.

4. All parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. The parties are entitled to the issuance of subpoenas to compel witnesses to attend the hearing. The parties will have the opportunity to be heard orally, to present evidence and cross-examine witnesses, and to submit evidence and argument. Ordinarily the hearing is tape-recorded. The parties may request that a court reporter record the testimony at their expense.

5. Persons attending the hearing should bring all evidence bearing on the case, including any records or other documents. Be advised that if data that is not public is admitted into the record, it may become public data unless an objection is made and relief is requested under Minn. Stat. § 14.60, subd. 2 (2016).

6. Requests for subpoenas for the attendance of witnesses or the production of documents at the hearing shall be made in writing to the Administrative Law Judge pursuant to Minn. R. 1400.7000. A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at <http://mn.gov/oah/> or by calling (651) 361-7900

7. This case may be appropriate for mediation. The parties are encouraged to consider requesting the Chief Administrative Law Judge to assign a mediator so that mediation can be scheduled promptly. "No matter shall be ordered for mediation if the agency or any party is opposed." Minn. Rule 1400.5950, subp. 3C (2017).

8. The Office of Administrative Hearings conducts contested-case proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota Supreme Court.

9. A Guide to Participating in Contested Case Proceedings at the Office of Administrative Hearings is available at <http://mn.gov/oah/> or by calling (651) 361-7900.

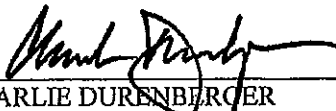
10. Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, including a foreign language interpreter, the administrative law judge must be promptly notified. To arrange for an accommodation or an interpreter, contact the Office of

Administrative Hearings at P.O. Box 64620, St. Paul, Minnesota 55164-0620, or may call
(651) 361-7900 (voice) or (651) 361-7878 (TTY).

KEN B. PETERSON
Commissioner

Dated: 5/30/18

BY:



CHARLIE DURENBERGER
Director of Licensing and Enforcement

Construction Codes and Licensing Division
Department of Labor and Industry
443 Lafayette Road North
Saint Paul, Minnesota 55155
Telephone: (651) 284-5069

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of the Contractor Registration of
Painting America Inc.

LICENSING ORDER
WITH PENALTY

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry ("Commissioner") issues this Order against Painting America Inc. ("Respondent").

Pursuant to Minn. Stat. § 326B.082, subd. 12(b) (2016), 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) (2016) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby assesses against Respondent a monetary penalty of \$5,000.

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

II. FINDINGS OF FACT

1. Respondent is engaged in the business of providing commercial or residential building construction or improvement services and holds a Contractor Registration issued by the Commissioner on June 5, 2013, No. IR668622.
2. The address Respondent provided the Commissioner in its contractor registration is 2013 O'Neil Road, Hudson, WI 54016.
3. When it registered with the Minnesota Secretary of State as a foreign business corporation, Respondent asserted that its registered office address was 1322 Helmo Avenue North, Oakdale, MN 55128.
4. Respondent, as a registered contractor, must understand and comply with all statutes and rules governing the residential and commercial construction industry, including contractor classification and registration. *See* Minn. Stat. §§ 181.723 and 326B.701 (2016).
5. According to its website, "[w]ith more than 45 years of experience, Painting America, Inc. offers a full range of commercial, residential, and specialty services."

EXHIBIT A

6. On July 21, 2015, the Minnesota Department of Labor and Industry ("Department") notified Respondent that it had suspended the contractor registration of one of Respondent's subcontractors, Sublime Drywall LLC and Ismael Ayala Cano, individually. The Department notified Respondent that hiring the suspended contractor and treating it as an independent contractor would result in a finding that Respondent had misclassified an employee as an independent contractor.
7. As a result of an investigation of Respondent opened in August of 2016, the Department determined that from January 1, 2014 through July 21, 2017 ("audit period"), Respondent paid 16 subcontractors to perform building construction or improvement services for Respondent in Minnesota.
8. One of these contractors, Douglas Drywall LLC ("Douglas"), holds a Contractor Registration issued by the Commissioner, No. IR.713792. Douglas is actively registered with the Minnesota Secretary of State. Douglas' registered address is 420 Coon Rapids Boulevard NW, Coon Rapids, MN 55433. The only residential or commercial property located at that address is an Intown Suites motel.
9. The Department requested all contracts for services provided by Respondent's subcontractors during the audit period. Respondent did not provide any contracts for services provided by Douglas, explaining that "Douglas Drywall supplied guys for misc. projects. Pricing was verbal through both owners with no contract written up."
10. Respondent compensated Douglas' workers exclusively on an hourly basis plus a daily per diem for their services during the audit period. For example, Douglas submitted a timesheet to Respondent on September 4, 2016 that listed the hours worked per day in a week by Derek King, Randy Hunt, Tony Locklear, Tiger Phelps, and Jerry Crump.
11. Then, Respondent drafted an invoice for Douglas entitled "Bobby Douglas." The invoice listed the same individuals from the September 4 timesheet ("Derek," "Randy," "Tony," "Tiger," and "Jerry") and the same hours the individuals worked. Respondent wrote the hourly rate next to each individual along with the daily per diem. Respondent paid premium hourly rates for hours the individuals worked in excess of forty, but less than a rate of time-and-a-half. Respondent computed the payment due to each worker for a total of \$4,660. The invoice referenced a September 12, 2016 check for \$4,660.
12. Respondent continued to compensate Douglas by drafting invoices based on the hours reported from Douglas' timesheets as summarized below:

Timesheets			Invoices				Checks	
Date	Workers Reported	Hours Reported	Date	Workers	Hours	Amount Billed ¹	Date	Amount Paid
9-4-16	5	196	9-12-16	5	196	\$4,660	9-12-16	\$4,660.00
9-11-16	10	366	9-16-16	10	366	\$8,738.00	9-16-16	\$8,738.00
9-18-16	11	422	9-23-16	11	422	\$10,451.00	9-23-16	\$10,451.00

¹ Amount billed includes daily per diem in addition to hourly compensation. The total amount tended to always have a \$25.00 deduction from the total.

9-25-16	11	472	9-30-16	11	472	\$11,534.00	9-30-16	\$11,534.00
10-2-16	10	499.5	10-7-16	10	499.5	\$14,011.00	10-7-16	\$14,011.00
Undated	11	492	10-14-16	11	492	\$13,053.00	10-18-16	\$13,053.00
10-9-16	11	561.5	10-21-16	11	556.5	\$14,931.00	10-21-16	\$14,931.00
n/a	n/a	n/a	10-25-16 ²	n/a	n/a	\$1,102.00	10-25-16	\$1,102.00
10-16-16	15	615.5	10-28-16	15	617.5	\$16,422.00	10-28-16	\$16,422.00
10-23-16	12	559.5	11-4-16	12	559	\$15,208.00	11-4-16	\$15,208.00

13. As of October 30, 2016, Respondent changed its procedure for compensating Douglas. Respondent claimed that "office procedures were changed for all subcontractors pay in order to create consistency and organization." Douglas continued to submit timesheets to Respondent with hours worked per individual. Rather than Respondent drafting a separate invoice, Respondent began calculating the pay due to Douglas on the timesheets themselves. Sometimes Respondent also created "Sub Contractor Request for Draw" documents that listed the amount due to Douglas as calculated on the timesheets. This pattern continued for the rest of Douglas' work with Respondent as summarized below:

Timesheets				Requests for Draws		Checks	
Date	Workers Reported	Hours Reported	Amount Billed	Date	Amount to Be Paid	Date	Amount Paid
10-30-16	11 ³	633	\$16,715.00	11-11-16	\$16,690.00	11-14-16	\$16,690.00
Undated	18	790	\$19,160.00	11-18-16	\$19,135.00	11-18-16	\$19,135.00
11-20-16	12	676	\$16,702.00	n/a	n/a	11-23-16	\$16,702.00
11-27-16	10	336	\$7,777.00	n/a	n/a	12-2-16	\$7,777.00
12-4-16	10	414	\$9,962.00	n/a	n/a	12-9-16	\$9,962.00
12-11-16	22	864.5	\$20,902.00	12-16-16	\$20,902.00	12-16-16	\$20,902.00
12-18-16	8	390	\$10,152.00	12-23-16	\$10,127.00	12-23-16	\$10,127.00
n/a	n/a	n/a	n/a	12-30-16	\$4,789.00	12-30-16	\$4,789.00

14. Respondent confirmed that it did not pay a daily per diem to any other contractors during the audit period. Respondent also confirmed that it did not compensate any other contractors based on timesheets during the audit period.

15. The Department suspended the Contractor Registration of LVZ Drywall LLC, No. IR679017, pursuant to a Licensing Order on September 14, 2016. Respondent paid LVZ Drywall LLC to perform construction services after the Department suspended LVZ's registration through at least July 21, 2017.

III. CONCLUSIONS OF LAW

1. Respondent has committed violations of applicable law. Minn. Stat. § 326B.082, subd. 11(b)(1) (2016).

² This non-Itemized charge appeared on the 10-21-16 invoice, but referenced the date of 10-25-16.

³ Douglas reported Carlos Lopez twice on this log to reflect the hours he worked from the previous week that apparently were not paid for.

2. Douglas did not receive compensation from Respondent solely on a commission, per-job, or competitive bid basis for the services Douglas performed in the course of Respondent's business. Minn. Stat. § 181.723, subd. 4(a)(6) (2016).
3. Respondent knowingly misclassified as independent contractors the individuals who fully or partially own Douglas, along with any individuals Douglas hired to perform services for Respondent. Minn. Stat. § 181.723, subd. 7(c)(2) (2016).
4. Respondent paid LVZ Drywall LLC to perform construction services after the Commissioner suspended LVZ Drywall LLC's contractor registration. Minn. Stat. § 326B.701, subd. 5(b)(2) (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.


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).

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: 12/27/17

KEN B. PETERSON
Commissioner


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

REG1608-00028/JOR

OAH Docket No. 68-1902-35292

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Licensing Order Issued to
Painting America Inc.,

NOTICE OF APPEARANCE

Date: July 26, 2018

Time: 9:30 a.m.

TO: Honorable Jeanne Cochran, Administrative Law Judge, Office of Administrative
Hearings, P.O. Box 64620, St. Paul, Minnesota 55164-0620

PLEASE TAKE NOTICE that the party named below will appear at the prehearing conference in
this matter:

Name, Address, and Telephone Number of Party:

Party's Attorney, Office Address and Telephone Number:

Dated: _____.

Signature of Party/Attorney

NOTICE: This Notice must be served upon the attorney for the agency and any other known party. After an attorney has filed a notice of appearance, withdrawal is effective only if a notice of withdrawal is promptly served on all parties and filed with the judge. The notice of withdrawal must include the address and telephone number of the party. Withdrawal of counsel does not create any right to a continuance. Minn. Rule 1400.5700 (2017).

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF LABOR AND INDUSTRY

In the Matter of the Licensing Order Issued to
Painting America Inc.,

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that:

1. The agency named below will appear at the prehearing conference and subsequent proceedings in the above-entitled matter.

2. By providing her email address below, the agency's attorney named below hereby acknowledges that she has read and agrees to the terms of the Office of Administrative Hearings' e-Filing policy and chooses to opt into electronic notice from the Office of Administrative Hearings with respect to this matter. **Note: Provision of an email address DOES NOT constitute the agency's or attorney's consent to electronic service from Respondent in this proceeding.**

3. The agency named below agrees to use best efforts to provide the Office of Administrative Hearings with the email address(es) for opposing parties and their legal counsel and to advise the Office of Administrative Hearings of any known or reported change in any party's email address(es).

Agency Name: Minnesota Department of Labor and Industry
Construction Codes & Licensing Division
443 Lafayette Road North, 2nd Floor
St. Paul, MN 55155
(651) 284-5065

Attorney for Agency: Corinne Wright-MacLeod
Assistant Attorney General
Attorney Reg. No. 0390353
445 Minnesota Street, Suite 1800
St. Paul, Minnesota 55101-2134
(651) 757-1198
corinne.wright-macleod@ag.state.mn.us

Respondent's Name: Painting America Inc.
2013 O'Neil Road
Hudson, WI 54016

Attorney for Respondent:

Thomas R. Revnew, Esq.
Seaton Peters Revnew
7300 Metro Boulevard, Suite 500
Minneapolis, MN 55439
(952) 921-4622
trevnew@seatonlaw.com

Dated: May 30, 2018

OFFICE OF THE ATTORNEY GENERAL
State of Minnesota

/s/ Corinne Wright-MacLeod
CORINNE WRIGHT-MACLEOD
Assistant Attorney General
Atty. Reg. No. 0390353

445 Minnesota Street, Suite 1800
St. Paul, Minnesota 55101-2134
(651) 757-1198 (Voice)
(651) 297-1235 (Fax)
corinne.wright-macleod@ag.state.mn.us

ATTORNEY FOR THE MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY

OAH Docket Number: _____

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

NOTICE OF APPEARANCE

[Insert matter title]

PLEASE TAKE NOTICE that:

1. The party/agency named below (Party/Agency) will appear at the prehearing conference and all subsequent proceedings in the above-entitled matter.

2. By providing its email address below, the Party/Agency acknowledges that it has read and agrees to the terms of the Office of Administrative Hearings' e-Filing policy and chooses to opt into receiving electronic notice from the Office of Administrative Hearings in this matter. **Note: Provision of an email address DOES NOT constitute consent to electronic service from any opposing party or agency in this proceeding.**¹

3. The Party/Agency agrees to use best efforts to provide the Office of Administrative Hearings with the email address(es) for opposing parties and their legal counsel.

Party's/Agency's Name: _____

Email: _____ Telephone: _____

Mailing Address: _____

Party's/Agency's Attorney: _____

Firm Name: _____

Email: _____ Telephone: _____

Mailing Address: _____

Respondent's/Opposing Party's Name: _____

Email: _____ Telephone: _____

Mailing Address: _____

Dated: _____

Signature of Party/Agency or Attorney

¹ In order to opt in to electronic notice, this form must be emailed to OAH.efiling.support@state.mn.us. If the party does not wish to opt in to electronic notice, this form may be filed with the Office of Administrative Hearings via facsimile, U.S. Mail, or personal service. See 2015 Minn. Laws Ch. 63, Minn. R. 1400.5550, subps. 2-5 (2015).

Note: This form must be served upon the opposing party/agency. Counsel may not withdraw from representation without written notice.

Folders > carla@azaksu.com > 68-1902-35292 Painting America Inc (Judge Cochran)

68-1902-35292 Painting America Inc (Judge Cochran)

More Options



<input type="checkbox"/>	Name ▲	Size	Uploaded	Creator	≡
<input checked="" type="checkbox"/>	 Ntc. of Prehearing+Ntc. of App+Affidavit+Service Ltrs...	898 KB	2:16 PM	C. Wright-M...	