

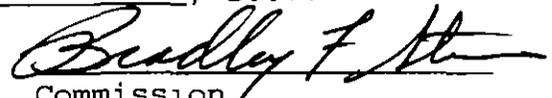
BEFORE THE CONSTRUCTION SERVICES COMMISSION
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF
SHAY HIGLEY CONSTRUCTION, INC. : **DEFAULT ORDER**
TO PRACTICE AS A CONTRACTOR :
IN THE STATE OF UTAH : Case No. DOPL-2007-154

The attached Notice of Entry of Default and Recommended Order is hereby adopted by the Construction Services Commission of the State of Utah Respondent's license to practice as a contractor is thus revoked, effective the date of this Order.

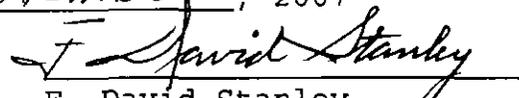
IT IS FURTHER ORDERED that the revoked license, both wall and wallet sizes, as well as any embossed certificate, thus be surrendered to the Division of Occupational and Professional Licensing.

Dated this 31st day of October, 2007.


Commission

I hereby concur with the foregoing Order

Dated this 2 day of November, 2007


F. David Stanley
Director

S E A L

Pursuant to Subsection 63-46b-11(3), Respondent may seek to set aside the above-stated default order by filing such a request with the Division consistent with the procedures outlined in the Utah Rules of Civil Procedure

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IN THE MATTER OF THE LICENSE OF
SHAY HIGLEY CONSTRUCTION, INC.
TO PRACTICE AS A CONTRACTOR
IN THE STATE OF UTAH

NOTICE OF
ENTRY OF DEFAULT AND
RECOMMENDED ORDER
Case No DOPL-2007-154

APPEARANCES:

Lenore Epstein for the Division of Occupational
and Professional Licensing

No appearance by or on behalf of Respondent

BY THE ADMINISTRATIVE LAW JUDGE:

This adjudicative proceeding was initiated pursuant to the
issuance of a July 17, 2007 notice of agency action. The
Division sent that notice by certified and regular mail to
Respondent's last known address at
Syracuse, Utah

The certified mailing was returned to the Division with an
entry by postal authorities that Respondent's forwarding address
is Ammon, Idaho 83406. The Division then
sent the notice to that address by certified mail on July 26,
2007. The notice was thus received on July 29, 2007.

The notice recites Respondent was required to file a written
response in this proceeding within thirty (30) days of the
mailing date of the notice. The notice also recites a September

17, 2007 hearing would be conducted, commencing 9:00 a.m. in Room 474 of the Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah.

Respondent had not filed any written response in this proceeding as of September 10, 2007. Respondent had also not notified the Division of his change of address and the Division does not have a current telephone number to contact Respondent in that manner.

Accordingly, the Court concluded it would be beneficial if a prehearing teleconference could be conducted with Ms. Epstein and Respondent prior to the September 17, 2007 hearing. Since Respondent had relocated to Idaho, the Court contacted Ms. Epstein on September 7, 2007 and inquired if the Division would have any objection if the September 17, 2007 hearing were be conducted on a telephonic basis. Ms. Epstein informed the Court that the Division would not object to that procedure.

Accordingly, the Court issued a September 10, 2007 Order, whereby Respondent was to contact the Court by telephone no later than September 14, 2007. Upon such contact, the Court would then conduct a prehearing teleconference with Respondent and Ms. Epstein.

The September 10, 2007 Order also recites the September 17, 2007 hearing would be conducted on an in-person basis if Respondent did not contact the Court by telephone as to prompt a

prior prehearing teleconference. Further, the hearing was to commence at 11.30 a m in Room 474 of the Heber M. Wells Building, 160 East 300 South, Salt Lake City, Utah.

The September 10, 2007 Order also recites that the Court would entertain a motion to enter Respondent's default and conduct further proceedings as warranted to possibly revoke Respondent's license if Respondent failed to contact the Court by September 17, 2007 and also failed to appear for the September 17, 2007 hearing

The September 10, 2007 Order was sent to Respondent by Federal Express mail. The notice was thus delivered to Respondent on September 11, 2007. Respondent did not contact the Court as to prompt a prehearing teleconference in this proceeding Moreover, Respondent did not appear for the September 17, 2007 hearing

Given Respondent's failure to have filed a response in this proceeding and his failure to appear for the September 17, 2007 hearing, the Division moved for entry of Respondent's default Utah Code Ann §63-46b-11(1)(b) and (c) provides an order of default may enter if a respondent in a formal adjudicative proceeding fails to attend a properly scheduled hearing after receiving proper notice or fails to file a response

The Division has provided due notice to Respondent of this proceeding and the September 17, 2007 hearing. Given

Respondent's failure to have filed a response to the July 10, 2007 Petition and his failure to have appeared for the September 17, 2007 hearing, the Court concluded a proper basis exists to enter Respondent's default and it is so entered.

After the issuance of a default order, §63-46b-11(4)(a) provides the presiding officer shall conduct further proceedings as necessary to complete the adjudicative proceeding without the participation of the party in default. §63-46b-11(4)(a) also provides a determination shall be made of all issues in the adjudicative proceeding, including those affecting the defaulting party

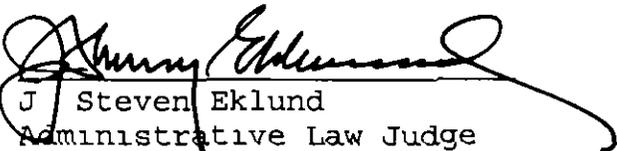
Based on the proffer made by the Division, the Court thus adopts the allegations set forth in Paragraphs (3) and (4) of the July 10, 2007 Petition as its Findings of Fact. The Court also adopts Paragraphs (11) and (12) of that Petition as its Findings of Fact and Conclusions of Law

Specifically, the Court concludes Respondent engaged in unprofessional conduct when it failed to maintain public liability insurance while licensed as a contractor in this state. Absent any matters offered in defense or mitigation, the Court concludes the following Recommended Order is warranted and the Court thus submits that recommendation to the Construction Services Commission and the Division for its review and action.

RECOMMENDED ORDER

WHEREFORE, IT IS ORDERED Respondent's license to practice as a contractor in this state shall be revoked, effective the date this Recommended Order is adopted by the Construction Services Commission and confirmed by the Division

I hereby certify the foregoing Notice of Entry of Default and Recommended Order was submitted to the Construction Services Commission and F David Stanley, Director of the Division of Occupational and Professional Licensing, on the 16th day of October, 2007 for their review and action.


J Steven Eklund
Administrative Law Judge