

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING  
Heber M. Wells Building  
160 East 300 South  
P O Box 146741  
Salt Lake City UT 84114-6741  
Telephone: (801) 530-6628

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

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IN THE MATTER OF THE LICENSE OF	NOTICE OF AGENCY ACTION
<b>VERGIL N. ZAUGG</b>	<b>AND HEARING</b>
TO PRACTICE AS A CONTRACTOR	:
IN THE STATE OF UTAH	:
	Case No. DOPL-2007-156

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THE CONSTRUCTION SERVICES COMMISSION TO Vergil N. Zaugg  
("Respondent"), Clearfield UT 84015.

The Division of Occupational and Professional Licensing ("the Division") hereby files this Notice of Agency Action and Hearing. Said action is based upon the Verified Petition, a copy of which is attached hereto and incorporated herein by reference

The adjudicative proceeding designated herein is to be conducted on a formal basis. **Within thirty (30) days of the mailing date of this Notice, you are required to file a written response with this Division.** The response you file may be helpful in clarifying, refining or narrowing the facts and violations alleged in the Verified Petition.

The response should address and document whether the required insurance coverage and amounts were in fact continuously maintained. If insurance amounts or coverage were not maintained, please provide documentation of the following:

1. When the policy or policies lapsed, expired or were cancelled;
2. When the policy or policies were reacquired or reinstated, if this was the case,
3. Whether any uninsurable loss or losses occurred while the insurance policy or policies were not in effect, and the details of any such loss or losses; and

4. Verification that any loss or losses not covered by an insurance policy or policies have been paid in full by the licensee.

If sufficient proof is shown, the Division may request that the hearing be cancelled, and this Notice of Agency Action and the Petition on which it is based may be dismissed.

You may represent yourself or be represented by legal counsel, at your own expense, at all times while this action is pending. Your legal counsel shall file with the Division an Entry of Appearance and until that Entry of Appearance is filed, the presiding officer will deal directly with you.

You are entitled by law to an evidentiary hearing to determine whether your license to practice as a contractor in the State of Utah should be subject to a disciplinary action. Notice is hereby given that said hearing will be held on the following date and appointed hour in Conference Room 474 (4th floor) of the Heber M Wells Building, 160 East 300 South, Salt Lake City, Utah.

**DATE OF HEARING: September 17, 2007 TIME OF HEARING: 10:00 am**

During the evidentiary hearing, you will have the opportunity to present evidence, argue, respond, conduct cross-examination and submit rebuttal evidence to the fact finder.

The presiding officer for the hearing will be J. Steven Eklund, Administrative Law Judge, Department of Commerce. He will rule on any evidentiary issues and matters of law or procedure, and will act as the fact finder. After the hearing, Judge Eklund will submit findings of fact, conclusions of law and a recommended order to the Construction Services Commission for its subsequent review and action.

If you or your attorney have any questions as to the procedures relative to the hearing, Judge Eklund can be contacted at P O Box 146701, Salt Lake City, UT 84114-6701. His telephone number is (801) 530-6648.

The hearing will promptly commence as scheduled. If you have any questions as to the evidence to be offered by the Division during the hearing, please contact Lenore Epstein, Assistant Attorney General at (801) 366-0310 or P O Box 140872, Salt Lake City, UT 84114-0872.

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Should you fail to timely file a response, as set forth above, or fail to attend or participate in any scheduled hearing in this case, you may be held in default without further notice to you. If you are held in default, the maximum administrative sanction consistent with the terms of the Verified Petition may be imposed against you. The maximum administrative sanction in this case is revocation of licensure.

Please conduct yourself accordingly.

Dated this 17<sup>th</sup> day of July, 2007.

W. Ray Walker  
W. Ray Walker  
Regulatory & Compliance  
Officer

**Lenore Epstein** (USB No 6723)  
Assistant Attorney General  
Commercial Enforcement Division  
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Attorneys for Division of Occupational  
and Professional Licensing

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**BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING**

**DEPARTMENT OF COMMERCE**

**STATE OF UTAH**

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IN THE MATTER OF THE LICENSE OF )  
**VERGIL N. ZAUGG, LICENSE** ) **PETITION**  
228206-5501, TO ACT AS A )  
CONTRACTOR IN THE STATE )  
OF UTAH, )  
Respondent ) **CASE No. DOPL 2007- 156**

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**PRELIMINARY STATEMENT**

The following claims were investigated by the Utah Division of Occupational and Professional Licensing (hereafter, "Division") upon receipt of complaints that Vergil N Zaugg (hereafter, "Respondent"), a licensee of the Division, has engaged in acts and practices that constitute violations of the Division of Occupational and Professional Licensing Act, Utah Code Ann §§ 58-1-101 to 58-1-504 (West 2004), and the Construction Trades Licensing Act, Utah Code Ann §§ 58-55-101 to 58-55-604 (West 2004) The allegations in this Petition are based

upon the Division's findings, and upon information and belief arising out of its investigation  
Each count in this Petition shall be deemed to incorporate the allegations set forth in all other  
paragraphs of the Petition

**PARTIES**

1 The Division is a division of the Department of Commerce of the State of Utah  
and is established pursuant to Utah Code Ann § 13-1-2 (West 2004)

2 Respondent is a general contractor licensed with the Division pursuant to Utah  
Code Ann § 58-55-101 to 604 (West 2004)

**STATEMENT OF ALLEGATIONS**

3 On or about August 4, 2006, the Division was notified via mail by Respondent's  
insurer, State Farm Insurance, that Respondent's Contractor's insurance policy was scheduled to  
expire on August 18, 2006 A true and correct copy of the State Farm letter is attached hereto as  
**Exhibit A** and incorporated herein

4 On or about August 18, 2006, the Division sent a letter to the Respondent  
requesting that Respondent provide the Division with proof of current and continuing insurance  
coverage as required by Utah state law As of the date of this Petition, the Respondent has failed  
to provide the Division with evidence of current insurance As of the date of this Petition, the  
Respondent has failed to provide proof of insurance A true and correct copy of the Divisions'  
September 20, 2006 letter is attached hereto as **Exhibit B** and incorporated herein

**APPLICABLE LAW**

5 Utah Code Ann § 58-1-106(1)(d) (West 2004), authorizes the Division to issue

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cease and desist orders against persons in violation of the statutes the Division administers

6 Utah Code Ann § 58-1-401(2) (West 2004), provides in part that the Division may refuse to renew, or may revoke, suspend, restrict, or place on probation, issue a public or private reprimand to, or otherwise act upon the license of any licensee who has engaged in unlawful or unprofessional conduct

7 Utah Code Ann § 58-1-501(2)(a) (West 2004), provides that unprofessional conduct includes violating any statute, rule, or order regulating an occupation or profession

8 Utah Code Ann § 58-55-302(2)(b) (West 2004), provides that licensees are required to maintain public liability insurance

9 Utah Code Ann § 58-55-501(16)(a) (West 2004), provides that unlawful conduct includes willfully or deliberately disregarding or violating the building or construction laws of this state or any political subdivisions

10 Utah Admin Code R 156-55a-302d requires licensees to file with the Division a certificate of insurance issued by a public liability insurance carrier that names the Division as the certificate holder and which certificate provides for a minimum of \$100,000 coverage per incident and \$300,000 coverage in the aggregate

### COUNTS

11 Respondent has failed to maintain public liability insurance as required by § 58-55-302(2)(b)

12 Accordingly, Respondent has engaged in unprofessional conduct pursuant to § 58-1-501(2)(a) and § 58-55-502(1) and should be disciplined in accordance with the provisions of

§§ 58-1-106(1)(d) and 58-1-401(2)(a)

**WHEREFORE**, the Division respectfully requests the following relief

1 that the Respondent be adjudged and decreed to have engaged in the acts alleged herein,

2 that by engaging in the acts described herein, Respondent be adjudged and decreed to have violated the Division of Occupational and Professional Licensing Act and the Construction Trades Licensing Act,

3 that an Order be issued imposing appropriate sanctions against Respondent's license to act as a contractor in the state of Utah,

4 that Respondent be ordered to cease and desist from further violations of the Acts, and

5 that an Order be issued immediately revoking Respondent's contractor's license

DATED this 10<sup>th</sup> day of July, 2007

MARK L SHURTLEFF  
Attorney General

  
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LENORE EPSTEIN  
Assistant Attorney General

