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DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING

BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING

OF THE DEPARTMENT OF COMMERCE

OF THE STATE OF UTAH

IN THE MATTER OF THE ISSUANCE OF A PROBATIONARY LICENSE TO **EUGENE D. STONE** TO PRACTICE AS A CONTRACTOR IN THE STATE OF UTAH	)))))	**MEMORANDUM OF UNDERSTANDING AND ORDER** **CASE NO. DOPL 2008-** 53

EUGENE D. STONE ("Respondent") submitted an application for renewal of licensure as a contractor in the State of Utah on or about December 4, 2007.

On or about October 30, 2006 in the Third District Court, State of Utah, Case #031900310, Respondent was convicted of one count of sex abuse of a child, a second degree felony. Respondent was ordered to serve 365 days in jail, placed on probation for 36 months, ordered to pay restitution of $780.00 and ordered to pay restitution for the continuing costs of victim's counseling.

Based upon Respondent's conviction, Respondent and Division, as evidenced by their signatures on this Memorandum of Understanding and Order, agree that Respondent shall be issued a probationary license to practice as a contractor in the State of Utah, subject to the following terms and conditions, which shall be in effect for a period of ~~three~~ five years commencing upon the date this Memorandum of Understanding and Order is approved by the Division Director as evidenced by his signature.

1. Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action. Respondent admits that the conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(c). Respondent understands that the issuance of the Order in this matter is disciplinary action against

Respondent's license by the Division pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2).

2. Respondent acknowledges that Respondent enters into this Memorandum of Understanding and Order knowingly and voluntarily, and other than what is contained in this Memorandum of Understanding and Order, no promise or threat whatsoever has been made by the Division, or any member, officer, agent or representative of the Division to induce Respondent to enter into this agreement.

3. Respondent understands that Respondent has the right to be represented by an attorney in this matter, and the Respondent has either sought the advice of counsel or knowingly waives Respondent's right to counsel in this matter.

4. Respondent acknowledges that this Memorandum of Understanding and Order, if adopted by the Director of the Division, will be classified as a public document. The Division may release this Memorandum of Understanding and Order, and will release other information about this disciplinary action against Respondent's license, to other persons and entities.

5. Respondent shall successfully complete and satisfy the following terms and conditions:

   a. Respondent shall not perform any work at any location where ~~females~~ persons under age 18 are present, unless another adult is present and has full knowledge of Respondent's criminal history.

   b. Respondent shall, on a quarterly basis or other frequency set forth by the Division, provide to the Division a list of all construction projects which Respondent worked on during the previous quarter. This list shall include the name of the project, the customer's name, customer's address and customer's phone number.

   c. Respondent shall, on an annual basis or other frequency set forth by the Division, provide a current criminal history report to the Division, obtained from the State of Utah, Department Public Safety or any other state requested by the Division.

   d. Respondent shall meet with the Board or the Division's probation monitoring staff on a quarterly basis or at such other greater or lesser frequency as determined by the Board and Division for the duration of the Memorandum of Understanding.

   e. Respondent shall notify the Board in writing within one (1) week of any change of employer, employment status, or practice status. This notification is required regardless of whether Respondent is employed in construction activities.

   f. If Respondent is arrested or charged with a criminal offense by any law enforcement agency, in any jurisdiction, inside or outside the State of Utah, for any reason, Respondent agrees to cause the Division and Board to be notified within two business days. If Respondent at any time during the period of this agreement is convicted of a criminal offense of any kind, or enters a plea in abeyance to a criminal offense of any kind, including a pending criminal charge, the Division may take appropriate action against Respondent, including imposing appropriate

sanctions, after notice and opportunity for hearing. Such sanctions may include revocation or suspension of Respondent's license, or other appropriate sanctions.

g. Respondent shall maintain a current license at all times during the period of this agreement.

h. Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address.

i. Respondent shall provide a copy of this Memorandum of Understanding to any co-owners or associate with whom Respondent has any practice or association.

j. Failure of Respondent to pay the costs associated with this Memorandum of Understanding constitutes a violation of the Memorandum of Understanding.

6. Respondent agrees to abide by all applicable federal and state laws, regulations, rules or orders related to Respondent's practice as a contractor.

7. Respondent understands that the issuance of a license pursuant to this Memorandum of Understanding and Order is a partial denial of licensure, and Respondent hereby waives the right to any administrative review of that partial denial of licensure.

8. If Respondent successfully completes the terms of this Memorandum of Understanding and Order, the conditions on Respondent's license to practice as a contractor will be lifted and Respondent's license will not be subject to further restriction.

9. If Respondent violates any term or condition of this Memorandum of Understanding, the Division may take action against Respondent, including imposing appropriate sanction, in the manner provided by law. Such sanction may include revocation or suspension of Respondent's license, or other appropriate sanction.

10. The terms and conditions of this Memorandum of Understanding and Order become effective immediately upon the approval of this Memorandum of Understanding and signing of the Order by the Division Director. Respondent must comply with all the terms and conditions of this Memorandum of Understanding and Order immediately after the Division Director signs the Order page of this Memorandum of Understanding and Order. Respondent shall complete all the terms and conditions contained in the Memorandum of Understanding and Order in a timely manner. If a time period for completion of a term or condition is not specifically set forth in this Memorandum of Understanding and Order, Respondent agrees that the time period for completion of that term or condition shall be set by the Board. Failure to complete a term or condition in a timely manner shall constitute a violation of the Memorandum of Understanding and Order and may subject Respondent to revocation or other sanctions.

11. This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties. There are no verbal agreements that modify, interpret, construe or affect this Memorandum of Understanding and Order.

12. Respondent has read each and every paragraph contained in this Memorandum of Understanding and Order. Respondent understands each and every paragraph contained in this Memorandum of Understanding and Order. Respondent has no questions about any paragraph or provision contained in this Memorandum of Understanding and Order.

DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING

BY: _____
DAN S. JONES
Bureau Manager

DATE: 3-17-5

RESPONDENT

BY: _____
EUGENE D. STONE

DATE: 3-14-08

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY: _____
L. MITCHELL JONES
Counsel for the Division

DATE: 3 Mar 2008

ORDER

THE ABOVE MEMORANDUM OF UNDERSTANDING, in the matter of **EUGENE D. STONE,** is hereby approved by the Construction Services Commission. The terms and conditions of the Memorandum of Understanding are incorporated herein and constitute the Commission's final Order in this case.

DATED this 7th day of April, 2008.

Bradley F. Stu

Commission Representative.

I concur with the Construction Services Commission in the matter of **EUGENE D. STONE.** This issuance of this Order is disciplinary action pursuant to Utah Administrative Code Section R156-1-102(7) and Utah Code Annotated 58-1-401(2)

DATED this 8 day of April, 2008.

F. David Stanley

F. DAVID STANLEY
Director
Division of Occupational &
Professional Licensing