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BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF
ART PLUIM CONSTRUCTION INC. TO
PRACTICE AS A CONTRACTOR IN THE
STATE OF UTAH

STIPULATION AND ORDER

Case no. DOPL ~~2008~~ - 125
2009

Art Pluim Construction Inc. ("Respondent") and the Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah ("Division") stipulate and agree as follows:

1. Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action.
2. Respondent acknowledges that Respondent enters into this Stipulation knowingly and voluntarily.
3. The Respondent has retained Michael D. Bassett as legal counsel and has reviewed this stipulation with Mr. Bassett and obtained his advice on the matter.

4. Respondent submitted a request for review the Division's April 9, 2009 denial of its application for reinstatement of licensure. Respondent understands that Respondent is entitled to a hearing on his request for review before the Construction Services Commission (the Commission), or other Division Presiding Officer, at which time Respondent may present evidence on Respondent's own behalf, call witnesses, and confront adverse witnesses. Respondent acknowledges that by executing this document Respondent hereby waives the right to a hearing in this matter and any other rights to which Respondent may be entitled in connection with said hearing.

5. Respondent acknowledges that this Stipulation and Order, if adopted by the Director of the Division, will be classified as a public document and may be released to other persons and entities.

6. Respondent admits the following facts:

- (a) A Notice of Lien was filed against Respondent by the U.S. Department of Treasury – Internal Revenue Service on February 12, 2008, Case No. 2321022, for unpaid taxes in the amount of \$4,463.00. Respondent has entered into an installment agreement with the Internal Revenue Service for payment of the outstanding balance of the lien.
- (b) Respondent has a loan with the Small Business Administration which has been in delinquency. Respondent has entered into a payment agreement for repayment of the loan.

7. Respondent admits that Respondent has failed to maintain financial responsibility, which is a condition of licensure set forth in Utah Code Ann. § 58-55-306. Therefore, Respondent agrees that an Order shall be entered in this matter as follows:

- (a) Respondent shall be issued a license to practice as a general contractor in the State of Utah. The license shall be placed on probation for a period of three years.

- (b) The period of probation shall commence on the effective date of this Stipulation and Order, which is the date the Division Director signs the Order. During the period of probation, the Respondent shall be subject to all of the following terms and conditions. If the Commission and Division later deems any of the conditions unnecessary such deletions may be made by an amended order issued unilaterally by the Division.
- (c) Respondent shall meet with the Commission at the first scheduled Commission meeting following the effective date of this Stipulation and Order. Respondent shall then meet with the Commission on a quarterly basis or at such other greater or lesser frequency as determined by the Commission and Division for the duration of the Stipulation and Order. Respondent shall meet with a Division staff person prior to Respondent's first meeting with the Commission.
- (d) Respondent shall maintain financial responsibility during the period of probation.
- (e) Respondent shall provide a current copy of Respondent's Experian Business Profile business credit report, a personal credit report, and a current financial statement to the Division on a quarterly basis, or at such other greater or lesser frequency as determined by the Commission and Division, for the duration of the Stipulation and Order. If the credit reports provided show any negative items, including but not limited to accounts which have gone into collections or late payments on new or existing obligations, Respondent shall provide a full written explanation of each negative item on the credit report.
- (f) Respondent shall notify the Division within 10 days of failing to pay in full any obligation when it becomes due. The notification shall state the amount not paid when due, to whom the obligation was due, and the date the obligation, including any penalties and interest, is expected to be paid.
- (g) Respondent shall be responsible for payment of all costs associated with this Stipulation and Order. Failure of Respondent to pay the costs associated with this Stipulation and Order constitutes a violation of this Stipulation and Order.
- (h) Respondent shall maintain a current license at all times during the period of this agreement.
- (i) Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address.

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- (j) If Respondent leaves the State of Utah for a period longer than sixty (60) days, Respondent shall notify the Division and Commission in writing of the dates of Respondent's departure and return. The licensing authorities of the jurisdiction to which Respondent moves shall be notified by Respondent in writing of the provisions of this Stipulation and Order. Periods of residency or practice outside the State of Utah may apply to the reduction of the period this Stipulation and Order is in effect, if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Stipulation and Order.
 - (k) In the event Respondent does not practice as a contractor for a period of sixty (60) days or longer, Respondent shall notify the Commission in writing of the date Respondent ceased practicing. The period of time in which Respondent does not practice shall not be counted toward the time period of this Stipulation and Order. It shall be within the discretion of the Commission to modify this requirement if Respondent satisfactorily explains to the Commission that compliance in Respondent's case was impractical or unduly burdensome. Respondent must work at least sixteen (16) hours per week ~~and no more than forty-eight (48) hours per week~~ to be considered "practicing" in Respondent's profession.
 - (l) In the event the amount considered delinquent by creditors increases, or the credit reports provided under paragraph (b) above, or other information received by Division, indicates any of Respondent's financial obligations are delinquent, the Division may take action as set forth in Paragraph 12.

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8. This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this matter. Respondent acknowledges that the Director is not required to accept the terms of this Stipulation and Order and that if the Director does not do so, this Stipulation and the representations contained therein shall be null and void, except that the Division and the Respondent waive any claim of bias or prejudgment Respondent might have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

9. Respondent understands that the issuance of a license pursuant to this Stipulation and

Order is a partial denial of licensure, and Respondent hereby waives the right to any administrative review of that partial denial of licensure.

10. Respondent agrees to abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's practice as a contractor.

11. If Respondent successfully completes the terms of this Stipulation 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.

12. If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanctions, in the manner provided by law. Such sanctions may include but are not limited to revocation or suspension of Respondent's license. The period of probation shall be extended while an order to show cause or a petition alleging unlawful or unprofessional conduct is pending.

13. 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 regarding the subject of this Stipulation and Order. There are no verbal agreements that modify, interpret, construe or affect this Stipulation.

14. The terms and conditions of this Stipulation and Order become effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director. Respondent must comply with all the terms and conditions of this Stipulation immediately following the Division Director's signing of the Order page of this Stipulation and Order. Respondent shall complete all the terms and conditions contained in the Stipulation and Order in a timely manner. If a time period for completion of a term or condition is not specifically set

forth in the Stipulation and Order, Respondent agrees that the time period for completion of that term or condition shall be set by the Commission. Failure to complete a term or condition in a timely manner shall constitute a violation of the Stipulation and Order and may subject Respondent to revocation or other sanctions.

15. Respondent has read each and every paragraph contained in this Stipulation and Order. Respondent understands each and every paragraph contained in this Stipulation and Order. Respondent has no questions about any paragraph or provision contained in this Stipulation and Order.

DIVISION OF OCCUPATIONAL
PROFESSIONAL LICENSING

BY: 
DAN S. JONES
Bureau Manager

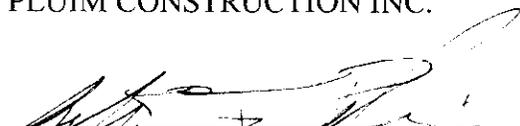
DATE: 7-29-09

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY: 
LENORE EPSTEIN
Assistant Attorney General

DATE: July 29, 2009

RESPONDENT
ART PLUIM CONSTRUCTION INC.

BY: 
Art Plum

DATE: July 29, 2009

COUNSEL FOR RESPONDENT

BY:  (10359)
MICHAEL D. BASSETT

DATE: July 29, 2009

ORDER

THE ABOVE STIPULATION, in the matter of ART PLUIM CONSTRUCTION, INC., is hereby approved by the Construction Services Commission and constitutes its Findings of Fact and Conclusions of Law in This Matter. The terms and conditions of the Stipulation are incorporated herein and constitute the Commission's final Order in this case.

DATED this 29 day of July, 2009.


COMMISSION CHAIR

THE ABOVE STIPULATION, in the matter of ART PLUIM CONSTRUCTION, INC., is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 29 day of July, 2009.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


MARK B. STEINAGEL
Director