

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

IN THE MATTER OF THE LICENSE OF	:	
JOHN KIRK MCCULLOUGH dba	:	DEFAULT ORDER
KMC CONSTRUCTION	:	
TO PRACTICE AS A CONTRACTOR	:	Case No. DOPL-2009-155
IN THE STATE OF UTAH	:	

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.

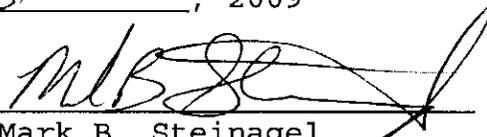
IT IS FURTHER ORDERED that the revoked license, both wall and wallet sizes, as well as any embossed certificate, thus be surrendered to the Division of Occupational and Professional Licensing.

Dated this 26 day of aug, 2009.


Commission

I hereby concur with the foregoing Order.

Dated this 26 day of August, 2009


Mark B. Steinagel
Director



to Subsection 63G-4-209(3), Respondent may seek to
asides the above-stated default order by filing such a request
Division consistent with the procedures outlined in the
Utah Rules of Civil Procedure.

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

IN THE MATTER OF THE LICENSE OF	:	NOTICE OF ENTRY
JOHN KIRK MCCULLOUGH dba	:	OF DEFAULT AND
KMC CONSTRUCTION	:	RECOMMENDED ORDER
TO PRACTICE AS A CONTRACTOR	:	
IN THE STATE OF UTAH	:	Case No. DOPL-2009-155
	:	

BY THE ADMINISTRATIVE LAW JUDGE:

This adjudicative proceeding was initiated pursuant to the issuance of a May 27, 2009 notice of agency action. The notice recites Respondent was required to file a response within thirty (30) days of the mailing date of the notice.

The May 27, 2009 notice was sent to Respondent's last known address of . Leeds, Utah 84746 by both certified and first class mail. The certified mailing was thus received on June 2, 2009. Respondent has not filed a response to the May 18, 2009 Verified Petition.

The Division filed a July 14, 2009 motion for entry of default based on Respondent's failure to have filed a response. Utah Code Ann. §63G-4-209(1)(c) provides an order of default may enter if a respondent in a formal adjudicative proceeding fails to file a response.

Given Respondent's failure to have filed a response to the May 18, 2009 Verified Petition, the Court concludes a proper

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basis exists to enter Respondent's default and it is so entered. After the entry of a default order, §63G-4-209(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. §63G-4-209(4)(a) also provides a determination shall be made of all issues in the adjudicative proceeding, including those affecting the defaulting party.

The Court thus adopts the allegations set forth in Paragraph 3 of the May 18, 2009 Verified Petition as its Findings of Fact. The Court also adopts Paragraph 7 of that Petition as its Findings of Fact and Conclusions of Law.

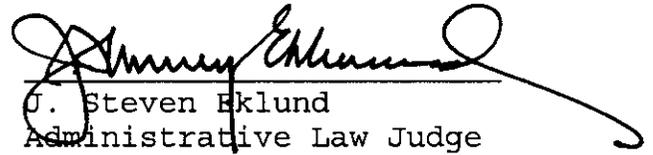
Specifically, the Court concludes Respondent engaged in unprofessional conduct violative of §58-55-502(1) when he failed to maintain financial responsibility as established by the May 30, 2007 judgment entered against Respondent in Washington County Justice Court proceedings. The Court thus concludes a proper factual and legal basis exists to enter a disciplinary sanction as to Respondent's license. Absent any matters offered in defense or mitigation, the Court concludes the following Recommended Order is warranted:

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 may be adopted.

I hereby certify the foregoing Notice of Entry of Default, Findings of Fact, Conclusions of Law and Recommended Order were submitted to the Construction Services Commission on the 17th day of August 2009 for its review and action.




J. Steven Eklund
Administrative Law Judge