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BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING

OF THE DEPARTMENT OF COMMERCE

OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF GEORGE W. JOHANSEN CONSTRUCTION CO. TO PRACTICE AS A CONTRACTOR IN THE STATE OF UTAH	)))))	**STIPULATION AND ORDER** CASE NO. DOPL 2009- 356

GEORGE W. JOHANSEN CONSTRUCTION CO., ("Respondent") and the Construction Services Commission ("Commission") of the Department of Commerce of the State of Utah stipulate and agree as follows:

1. Respondent admits the jurisdiction of the Commission and the Division of Occupational and Professional Licensing ("Division") over Respondent and over the subject matter of this action. George W. Johansen is the owner of Respondent company, George W. Johansen Construction Co., and is authorized to act as agent for, and enter into binding agreements on behalf of Respondent company. In this Stipulation and Order, the term

"Respondent" shall collectively mean George W. Johansen and George W. Johansen Construction Co.

2. Respondent acknowledges that Respondent enters into this Stipulation knowingly and voluntarily.

3. Respondent understands that Respondent has the right to be represented by counsel in this matter and Respondent's signature below signifies that Respondent has either consulted with an attorney or Respondent waives Respondent's right to counsel in this matter.

4. Respondent understands that Respondent is entitled to a hearing before the Commission, or other 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 and any other rights to which Respondent may be entitled in connection with said hearing. Respondent understands that by signing this document Respondent waives all rights to any administrative and judicial review as set forth in §§ 63G-4-301 through 63G-4-405 and Utah Administrative Code R151-46b-12 through R151-46b-15.

5. Respondent waives the right to the issuance of a Petition and a Notice of Agency Action in this matter.

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

7. Respondent neither admits nor denies the following, but agrees that the Division may make the following findings of fact:

(a) On or about April 21, 2009 in the Seventh Judicial District Court, Emery County, State of Utah, Case Number 081700091, Respondent pleaded "no contest" to one count of attempted forcible sexual abuse, a 3rd degree felony. Respondent's plea was held in abeyance.

8. Respondent agrees that the findings of fact above constitute unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(c), and that said finding of fact justifies disciplinary action against Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a). Respondent understands that the issuance of the Order in this matter is disciplinary action by the Division against Respondent's license pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2). Respondent agrees that an Order shall be entered in this matter as follows:

(1) Respondent's license shall be subject to a term of probation for a period of three years. 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, Respondent shall be subject to all of the following terms and conditions. If the Commission or Division later deems any of the conditions unnecessary such deletions may be made by an amended order issued unilaterally by the Commission or Division.

a. 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 agrees to meet with an assigned staff member prior to the first Commission meeting.

b. Respondent shall submit to the following course of treatment as part of Respondent rehabilitation and at Respondent's own expense:

i. Respondent shall, at his own expense, submit to an evaluation and course of treatment ordered by the 7th District Court in Case No. 08170091 as

part of the plea in abeyance agreement. That evaluation must meet the following requirements. Respondent shall successfully complete a mental health evaluation provided by a Division-approved licensed provider within ninety (90) days of the effective date of this Stipulation and Order. Respondent shall contact the Division-approved provider for an initial appointment within 10 days of the effective date of this Stipulation and Order. Respondent shall schedule the initial appointment to be held within 45 days of the effective date of this Stipulation and Order. Respondent shall attend all appointments and follow-up appointments in a timely manner. Respondent shall cooperate fully with the evaluator to ensure a fair and complete evaluation. Respondent shall notify the Division immediately after successfully completing the evaluation and inform the Division that Respondent has successfully completed the mental health evaluation. Respondent agrees to cause the evaluation report to be sent to the Division within 90 days of the effective date of this Order.

ii. Respondent acknowledges receiving a current list of the Division-approved licensed providers.

iii. If Respondent fails to submit the evaluation(s) to the Division within the time stated above, the Division may take any action necessary pursuant to the Utah Administrative Procedures Act, Utah Code Annotated § 63-46b.

iv. Respondent shall successfully complete all treatment programs and treatment recommendations as outlined in the evaluation. Respondent shall sign any releases required to allow Respondent's therapist or counselor to provide the Division with ongoing reports of diagnosis, prognosis, compliance, etc., regarding Respondent's treatment.

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

d. 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, or should Respondent be admitted as a patient to any institution in this state or elsewhere for treatment for any emotional or psychological disorder, Respondent agrees to cause the Division and Commission to be notified immediately. 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.

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

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

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.

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

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

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 regarding the subject of this Stipulation and Order. There are no verbal agreements that modify, interpret, construe or affect this Stipulation. Respondent agrees not to take any action or make any public statement, that creates, or tends to create, the

impression that any of the matters set forth in this Stipulation and Order are without factual basis. A public statement includes statements to one or more Commission or Board members during a meeting of the Commission or Board. Any such action or statement shall be considered a violation of this Stipulation and Order.

12. 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 Commission and Division Director. Respondent must comply with all the terms and conditions of this Stipulation immediately following the Commission and 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.

13. If Respondent violates any term or condition of this Stipulation and Order, the Commission 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.

14. 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: 11-16-9

BY: _____
L. MITCHELL JONES
Counsel for Division

DATE: 16 Nov 2009

RESPONDENT

BY: _____
GEORGE W. JOHANSEN
George W. Johansen Construction Co.

DATE: 11-16-09

ORDER

THE ABOVE STIPULATION, in the matter of **GEORGE W. JOHANSEN CONSTRUCTION CO.**, is hereby approved by the Construction Services Commission, and constitutes its Findings of Fact and Conclusions of Law in this matter. The issuance of this Order is disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2). The terms and conditions of the Stipulation are incorporated herein and constitute the Commission's final Order in this case.

DATED this 25 day of Nov, 2009.

CONSTRUCTION SERVICES COMMISSION
Representative

I concur with the above Stipulation and Order, which the Construction Services Commission has approved.

DATED this 30 day of Nov, 2009.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

MARK B. STEINAGEL
Director