

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

IN THE MATTER OF THE LICENSE OF  
BIG M CONSTRUCTION, INC.  
TO PRACTICE AS A CONTRACTOR  
IN THE STATE OF UTAH

DEFAULT ORDER

Case No DOPL-2010-145

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 28 day of July, 2010

  
Commission

I hereby concur with the foregoing Order

Dated this 29 day of July, 2010

  
Mark B. Steinagel  
Director



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

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

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|---------------------------------|---|--------------------------|
| IN THE MATTER OF THE LICENSE OF | : | <b>NOTICE OF ENTRY</b>   |
| <b>BIG M CONSTRUCTION, INC.</b> | : | <b>OF DEFAULT AND</b>    |
| TO PRACTICE AS A CONTRACTOR     | : | <b>RECOMMENDED ORDER</b> |
| IN THE STATE OF UTAH            | : | Case No. DOPL-2010-145   |

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**APPEARANCES:**

Lenore Epstein for the Division of Occupational and  
Professional Licensing

No appearance by or on behalf of Respondent

**BY THE ADMINISTRATIVE LAW JUDGE:**

This adjudicative proceeding was initiated pursuant to the  
issuance of a May 3, 2010 notice of agency action. That notice  
was sent to Respondent's last known address of

. Salt Lake City, Utah 84104 by certified and first class  
mail. The certified mailing was received at that address on May  
4, 2010. As set forth in the notice, Respondent was required to  
file a written response within thirty (30) days from the mailing  
date of the notice.

Respondent failed to file any written response in this  
proceeding. The Division filed a June 14, 2010 motion seeking  
entry of Respondent's default for its failure to have filed a  
response.

§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, the Court concluded a proper basis exists to enter Respondent's default and its default was so entered.

After the issuance of a default order, §63G-4-209(4)(a) provides further proceedings may be conducted as necessary to complete the adjudicative proceeding without the participation of the party in default. §63G-4-209(4)(a) further provides a determination shall be made of all issues in the adjudicative proceeding, including those affecting the defaulting party.

Based on the proffer made by the Division, the Court thus adopts the allegations set forth in Paragraphs 3 through 6 of the April 26, 2010 Petition as its Findings of Fact. The Court also adopts Paragraphs 11 and 12 of that Petition as its Findings of Fact and Conclusions of Law.

Specifically, the Court concludes Respondent engaged in unprofessional conduct when it failed to maintain financial responsibility based on judgments totaling \$16,077 which have been entered against Respondent. Respondent also engaged in unprofessional conduct when it submitted an application for license renewal and misrepresented that all judgments against it had been paid. Respondent thus obtained a license renewal by

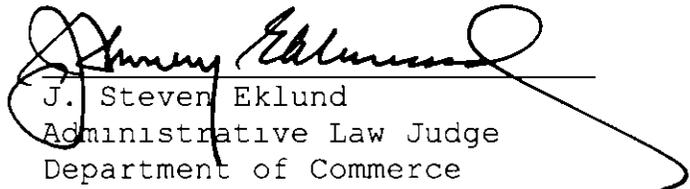
false, misleading, deceptive or fraudulent means.

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 Mark B. Steinagel, Director of the Division of Occupational and Professional Licensing, on the 1<sup>st</sup> day of July 2010 for his review and action.

  
J. Steven Eklund  
Administrative Law Judge  
Department of Commerce