DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
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Telephone: (801) 530-6628

**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<br>**PENCO INCORPORATED**<br><br>TO PRACTICE AS A CONTRACTOR<br>IN THE STATE OF UTAH | **FINDINGS OF FACT**<br>**CONCLUSIONS OF LAW**<br>**AND ORDER**<br><br><br><br>Case No. DOPL-2010-308 |

FINDINGS OF FACT

1. The Division of Occupational and Professional Licensing ("the Division") filed a Notice of Agency Action in this matter on the 27th day of September 2010.

2. This action is based upon Division records which show PENCO INCORPORATED, (the "Respondent") failed to demonstrate and maintain financial responsibility as required under Utah Code Annotated Section 58-55-306 and Subsection 58-55-502(1), and Utah Administrative Code Section R156-55a-306 [and obtained a license by misrepresentation or omission, in violation of Utah Code Annotated Subsection 58-55-501(9).

3. The Respondent has failed to respond to the notice of agency action and according to Division records has failed to demonstrate and maintain financial responsibility as outlined above and obtained a license by misrepresentation or omission as outlined above, which constitutes a basis to sanction Respondent's license pursuant to Utah Code Annotated Subsections 58-1-401(1) and (2) and Utah Code Annotated subsection 58-55-503(4).

CONCLUSIONS OF LAW

4. Based upon Respondent's failure to demonstrate and maintain financial responsibility as required by Utah Code Annotated Section 58-55-306, Subsection 58-55-502(1), and Section R156-55a-306 and Respondent has engaged in unlawful conduct by Respondent's misrepresentation or omission in violation of or Utah Code Annotated Subsection 58-55-501(9), the Respondent has engaged in unprofessional

conduct as provided by Utah Code Annotated Subsection 58-1-501(2)(a) and Respondent no longer meets the qualification for licensure as provided by Utah Code Annotated Section 58-55-306.

5. The Division is authorized to revoke the Respondent's contractor license as provided by Utah Code Annotated Subsection 58-1-401(1) because the Respondent no longer meets the qualifications for license as required by Utah Code Annotated Subsection 58-55-102(19).

6. The Division is authorized to revoke the Respondent's contractor license as provided by Utah Code Annotated Subsection 58-1-401(2)(a) for engaging in unprofessional conduct as provided by Utah Code Annotated Subsection 58-1-501(2)(a) for failure to maintain financial responsibility as required by Utah Code Annotated Section 58-55-306.

7. The Division is authorized to impose fine against Respondent as provided by Utah Code Annotated Subsection 58-55-503(4) for engaging in unlawful conduct as provided by Utah Code Annotated Subsection 58-55-501(9) for obtaining a license by misrepresentation or omission.

ORDER

WHEREFORE, IT IS ORDERED Respondent's license to practice as a contractor in this state shall be revoked, effective on the date this order is signed.

WHEREFORE, IT IS ORDERED Respondent's shall be assessed a fine in the amount of $500.00 which is payable within 30 days of the date of this order is signed.

On behalf of the Construction Services Commission and the Division of Occupational and professional licensing, I hereby certify the foregoing Findings of Fact, Conclusions of Law and Order was submitted to the Construction Services Commission and the Division on the 24th day of November 2010 for their review and action.

DATED this 24th day of November, 2010

Dan S. Jones, Bureau Manager

## ORDER

THE ABOVE FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in the matter of PENCO INCORPORATED, is hereby adopted by the Construction Services Commission of the State of Utah.

DATED this 24 day of Nov, 2010

CONSTRUCTION SERVICES COMMISSION
Representative

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

DATED this 29 day of Nov, 2010.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

MARK B. STEINAGEL
Director

Agency review of this order may be obtained by filing a request for agency review within thirty (30) days after the date of this order. If you choose to file a request for agency review, you must adhere to the attached procedures.