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DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING  
Heber M Wells Building  
160 East 300 South  
P O Box 146741  
Salt Lake City UT 84114-6741  
Telephone (801) 530-6628

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

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IN THE MATTER OF THE LICENSE OF  
**BLACKMESA EXCAVATING INC**  
TO PRACTICE AS A  
CONTRACTOR IN THE STATE OF UTAH

**NOTICE OF AGENCY ACTION  
TO REVOKE CONTRACTORS  
LICENSE FOR FAILURE TO  
MAINTAIN FINANCIAL  
RESPONSIBILITY  
AND MISREPRESENTATION ON  
APPLICATION FOR LICENSURE**

Case No DOPL-2010-422

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THE CONSTRUCTION SERVICES COMMISSION TO BLACKMESA  
EXCAVATING INC ("Respondent"), SALT LAKE CITY UT 84121

The Division of Occupational and Professional Licensing ("the Division") hereby files this Notice of Agency Action to determine whether a basis exists to revoke your license to practice as a contractor for failure to demonstrate and maintain financial responsibility

Said action is based upon Division records and investigation, which shows that you have failed to demonstrate and maintain financial responsibility as required under Utah Code Annotated Section 58-55-306 and 58-55-502(1), and Utah Administrative Code Section R156-55a-306 because of the following financial history

A judgment in favor of Express Recovery Services Inc in the amount of \$1,364 70 was entered against Respondent on or about August 12, 2009 in the Third District Court – West Jordan, Salt Lake County, State of Utah, Case No 090411483 As of the date of this Notice, Respondent has not satisfied the judgment A certified copy of the judgment is attached as Exhibit 1

A judgment in favor of Credit Recovery Agency in the amount of \$45,800 27 was entered against Respondent on or about September 24, 2009 in the Third District Court

– Salt Lake, Salt Lake County, State of Utah, Case No 090914590 As of the date of this Notice, Respondent has not satisfied the judgment A certified copy of the judgment is attached as Exhibit 2

A judgment in favor of JPMorgan Chase Bank NA in the amount of \$506,008 21 was entered against Respondent on or about December 1, 2009 in the Third District Court – Salt Lake, Salt Lake County, State of Utah, Case No 090911318 As of the date of this Notice, Respondent has not satisfied the judgment A certified copy of the judgment is attached as Exhibit 3

A judgment in favor of Utah State Tax Commission in the amount of \$1,330 74 was entered against Respondent's owner, Kip Cazier, on or about November 6, 2006 in the Third District Court – Salt Lake, Salt Lake County, State of Utah, Case No 066927450 As of the date of this Notice, Respondent has not satisfied the judgment A certified copy of the judgment is attached as Exhibit 4

A judgment in favor of Utah State Tax Commission in the amount of \$2,890 01 was entered against Respondent's owner, Kip Cazier, on or about November 6, 2006 in the Third District Court – Salt Lake, Salt Lake County, State of Utah, Case No 066927451 As of the date of this Notice, Respondent has not satisfied the judgment A certified copy of the judgment is attached as Exhibit 5

A judgment in favor of Utah State Tax Commission in the amount of \$4,609 29 was entered against Respondent's owner, Kip Cazier, on or about November 6, 2006 in the Third District Court – Salt Lake, Salt Lake County, State of Utah, Case No 066927452 As of the date of this Notice, Respondent has not satisfied the judgment A certified copy of the judgment is attached as Exhibit 6

A judgment in favor of Utah State Tax Commission in the amount of \$3,169 77 was entered against Respondent's owner, Kip W Cazier, on or about October 22, 2007 in the Third District Court – Salt Lake, Salt Lake County, State of Utah, Case No 076927101 As of the date of this Notice, Respondent has not satisfied the judgment A certified copy of the judgment is attached as Exhibit 7

A judgment in favor of Signature Alert LLC in the amount of \$1,832 88 was entered against Respondent's owner, Kip Cazier, on or about September 8, 2009 in the Third District Court – West Jordan, Salt Lake County, State of Utah, Case No 090414845 As of the date of this Notice, Respondent has not satisfied the judgment A certified copy of the judgment is attached as Exhibit 8

Utah Administrative Code Subsection R156-55a-306(f) provides the division may consider judgments and/or tax liens against and owner of the licensee or prior entities owned by the owner in determining the licensee financial responsibility

Judgments and Tax Liens / Etc totaling \$567,005 87 as outlined above, were entered against Respondent and have not been satisfied Therefore, Respondent has

failed to demonstrate and maintain financial responsibility as outlined above, which constitutes a basis to sanction Respondent's license pursuant to Utah Code Annotated Subsections 58-1-401(1) and (2)

The Respondent made a representation to the Division when Respondent applied for renewal of licensure that all judgments or tax liens had been paid. This representation was not accurate when made. Therefore, Respondent has obtained a license by misrepresentation in violation of Utah Code Annotated Subsection 58-55-501(9), which constitutes a basis to sanction Respondent's license pursuant to Utah Code Annotated Subsection 58-1-401(2) and assess a fine pursuant to Utah Code Annotated Subsection 58-55-503(4)

The adjudicative proceeding designated herein is to be conducted on an informal basis, meaning that you are not entitled to a hearing. The decision in this matter will be based upon a review of the Division records and any response filed.

**Within thirty (30) days of the mailing date of this notice, you are requested to file a written response with the Division.** The response you file may be helpful in clarifying, refining or narrowing the facts and the violation alleged herein. Your written response should be mailed to the following address: Division of Occupational and Professional Licensing, Attn Dan S. Jones, 160 East 300 South, PO Box 146741, SALT LAKE CITY, UT 84114-6741

You may represent yourself or be represented by legal counsel, at your own expense, at all times while this action is pending. Your legal counsel shall file with the Division an Entry of Appearance and until that Entry of Appearance is filed, the presiding officer will deal directly with you.

Dan S. Jones, Bureau Manager, has been designated as the coordinator for the Construction Services Commission, which is the presiding officer for purposes of conducting this informal proceeding. If you or your attorney has any questions as to the procedures relative to this matter, Dan S. Jones can be contacted at P O Box 146741, Salt Lake City, UT 84114-6741. His telephone number is (801) 530-6720.

At the expiration your deadline to submit a response, and without further notice to you, the presiding officer will make an informal review of the record in this matter and determine whether you have failed to demonstrate and maintain financial responsibility, in violation of Utah Code Annotated Section 58-55-306 and Subsection 58-55-502(1), and whether you obtained a license by omission or misrepresentation, in violation of Utah Code Annotated Subsection 58-1-501(1)(e)

The maximum administrative sanction in this case is revocation of licensure to practice as contractor and imposition of an administrative fine of up to \$1,000 for misrepresentation on an application

Please conduct yourself accordingly

Dated this 1<sup>st</sup> day of December, 2010

W. Ray Walker  
W Ray Walker  
Regulatory and Compliance  
Officer