

**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>BRIAN KEITH SULLIVAN</b>	~	<b>DEFAULT ORDER</b>
TO PRACTICE AS A	~	
<b>CERTIFIED PUBLIC ACCOUNTANT</b>	~	Case No DOPL-2011-12
IN THE STATE OF UTAH	~	

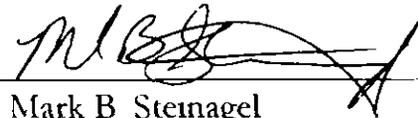
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**BY THE DIVISION:**

The attached Notice of Entry of Default, Findings of Fact, Conclusions of Law and Recommended Order is hereby adopted by the Director of the Division of Occupational and Professional Licensing of the State of Utah. Respondent's license to practice as a certified public accountant 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 10 day of March 2011

  
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Mark B. Steinagel  
Director  
Division of Occupational and  
Professional Licensing

**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING  
OF THE DEPARTMENT OF COMMERCE  
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<b>IN THE MATTER OF THE LICENSE OF</b>	~	<b>NOTICE OF ENTRY OF DEFAULT</b>
<b>BRIAN KEITH SULLIVAN</b>	~	<b>FINDINGS OF FACT</b>
<b>TO PRACTICE AS A</b>	~	<b>CONCLUSIONS OF LAW</b>
<b>CERTIFIED PUBLIC ACCOUNTANT</b>	~	<b>AND RECOMMENDED ORDER</b>
<b>IN THE STATE OF UTAH</b>	~	Case No DOPL- 2011-12

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**BY THE ADMINISTRATIVE LAW JUDGE:**

This adjudicative proceeding was initiated pursuant to the issuance of a January 11, 2011 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 January 11, 2011 notice was sent to Respondent's last known address of Salt Lake City, Utah 84109 by both certified and first class mail. Postal authorities returned the certified mailing to the Division on February 7, 2011 with notations that the mailing should be returned to sender, it was unclaimed and the mailing could not be forwarded. The first class mailing has not been returned to the Division and this record does not reflect whether that mailing was received.

Respondent did not submit a response in this proceeding. The Division thus filed a February 17, 2011 motion to enter Respondent's default. §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 any response, the Division requested the Court to enter Respondent's default.

The Division has duly attempted to notify Respondent of this proceeding by providing notice to an address reasonably calculated to inform Respondent of this licensure action. Absent any response filed to the January 10, 2011 Petition, the Court concludes a proper basis exists to enter Respondent's default and his default was thus 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.

Based on the proffer made by the Division, the Court adopts the allegations set forth in Paragraph 3 of the January 10, 2011 Petition as its Findings of Fact. The Court also adopts Paragraphs 4 through 20 of the legal argument in that Petition as its Findings of Fact and Conclusions of Law.

Thus, the Court finds and concludes Respondent engaged in unprofessional conduct generally violative of §§58-1-501(2)(b), (f) and (g). Respondent violated generally accepted professional and ethical standards applicable to his profession. He

also practiced as a certified public accountant through gross incompetence, gross negligence or a pattern of incompetency or negligence Respondent also practiced as an accountant despite being physically unfit to do so

Respondent also engaged in unprofessional conduct specifically violative of §58-26a-502(1)(a) Respondent violated the American Institute of Certified Public Accountants (AICPA) when he failed to demonstrate due care in the course of his practice as a certified public accountant Respondent failed to discharge his responsibilities with competence and diligence and he failed to refer clients to another accountant when Respondent's engagements exceeded his personal competence

Respondent also failed to diligently discharge his responsibilities to clients and he failed to render his services promptly Respondent also committed acts discreditable to the profession when he failed to return client-provided records in a timely manner

Thus, the Court readily finds and concludes a proper factual and legal basis exists to enter disciplinary action on Respondent's license Absent any matters offered in defense or mitigation, the Court concludes the following action is warranted

### **RECOMMENDED ORDER**

WHEREFORE, IT IS ORDERED Respondent's license to practice as a certified public accountant 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 28<sup>th</sup> day of March 2011 for his review and action

  
Steven Eklund  
Administrative Law Judge  
Department of Commerce