

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

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

IN THE MATTER OF THE LICENSE OF : **NOTICE OF AGENCY ACTION**
DAVID NEAL PYPER : **TO REVOKE CONTRACTOR'S**
TO PRACTICE AS A : **LICENSE FOR FAILURE TO**
CONTRACTOR IN THE STATE OF UTAH : **MAINTAIN FINANCIAL**
: **RESPONSIBILITY**
: :
: Case No. DOPL-2011- 256

THE CONSTRUCTION SERVICES COMMISSION TO DAVID NEAL PYPER,
("Respondent"):

David Neal Pyper
Ivins, UT 84738

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

This action is based upon Division records and an investigation, which show that Respondent has failed to demonstrate and maintain financial responsibility as required by Utah Code Annotated Sections 58-55-306 and 58-55-502(1), and Utah Administrative Code Section R156-55a-306. Pursuant to Utah Administrative Code Section R156-55a-306, the Division may consider judgments, tax liens, collection actions, a history of late payments to creditors, and bankruptcy schedules filed by a licensee or its owners, as well as prior entities owned or operated by a licensee or its owners when determining financial responsibility.

ALLEGATIONS SUPPORTING THIS ACTION

I. Respondent has Failed to Demonstrate and Maintain Financial Responsibility

1. On or about May 10, 2010, a judgment in the amount of **\$1,918.98** was entered in favor of Workforce Services, against David Neale Pyper (Fifth District Court, St. George, Case No.: 106501606). As of the date of this Notice, Respondent has not satisfied this judgment. A certified copy of this judgment is attached as Exhibit A.

2. On or about June 7, 2010, a judgment in the amount of **\$1,766.19** was entered in favor of Workforce Services, against David Neale Pyper (Fifth District Court, St. George, Case No.: 106501932). As of the date of this Notice, Respondent has not satisfied this judgment. A certified copy of this judgment is attached as Exhibit B.

3. On or about September 7, 2010, a judgment in the amount of **\$432.44** was entered in favor of Workforce Services, against David Neale Pyper (Fifth District Court, St. George, Case No.: 106502932). As of the date of this Notice, Respondent has not satisfied this judgment. A certified copy of this judgment is attached as Exhibit C.

4. On or about October 4, 2010, a tax lien in the amount of **\$743.43** was entered in favor of Utah State Tax Commission, against David Neale Pyper (Fifth District Court, St. George, Case No.: 106503670). As of the date of this Notice, Respondent has not satisfied this judgment. A certified copy of this judgment is attached as Exhibit D.

5. On or about November 1, 2010, a judgment in the amount of **\$19,276.84** was entered in favor of Staker & Parsons Companies, against D Neale Pyper (Second District Court, Ogden, Case No.: 100904484). As of the date of this Notice, Respondent has not satisfied this judgment. A certified copy of this judgment is attached as Exhibit E.

6. On or about January 6, 2011, a judgment in the amount of **\$319.87** was entered in favor of Workforce Services, against David Neale Pyper (Fifth District Court, St. George, Case No.: 116500056). As of the date of this Notice, Respondent has not satisfied this judgment. A certified copy of this judgment is attached as Exhibit F.

7. On or about January 18, 2011, a judgment in the amount of **\$5,755.79** was entered in favor of Valley Builders, Inc., against Neal Pyper (Sevier County Justice Court, Case No.: 108000132). As of the date of this Notice, Respondent has not satisfied this judgment. A certified copy of this judgment is attached as Exhibit G.

8. On or about March 21, 2011, a judgment in the amount of **\$1,972.89** was entered in favor of GE Money Bank (dba GE Finance), against David Pyper (Fifth District Court, St. George, Case No.: 110500439). As of the date of this Notice, Respondent has not satisfied this judgment. A certified copy of this judgment is

attached as Exhibit H.

9. The above identified judgments total \$32,186.43 and have not been satisfied. Accordingly, Respondent has failed to demonstrate and maintain financial responsibility, which constitutes a basis to revoke Respondent's license pursuant to Utah Code Annotated Section 58-1-401. See Utah Code Ann. §§ 58-1-401(1) ("The division . . . shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee who does not meet the qualifications for licensure under this title."); 58-1-401(2)(a) ("The division . . . may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon the license of any licensee [who has] engaged in unprofessional conduct . . ."). See also Utah Code § 58-55-502(1) ("Unprofessional conduct includes . . . failing to establish, maintain, or demonstrate financial responsibility while licensed as a contractor under this chapter.").

10. Respondent's financial history includes substantial delinquent obligations which ultimately resulted in a bankruptcy filed on or about March 28, 2011. See Pet. No. 11-23994. The bankruptcy schedules indicate that Respondent declared **\$591,109.00** in assets and liabilities of **\$873,121.07**, resulting in negative equity of **\$282,012.07** as of the date of the bankruptcy schedules. The liabilities include **\$287,057.07** in priority claims, which are not dischargeable in bankruptcy.

11. Based on Respondent's above financial history, Respondent has failed to demonstrate and maintain financial responsibility, which constitutes a basis to refuse to revoke or, in the alternative, refuse to renew, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon Respondent's license pursuant to Utah Code Annotated Subsections 58-1-401(1) and (2).

NOTICE OF INFORMAL PROCEEDING

The adjudicative proceeding designated herein is to be conducted on an *informal basis*, which means 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. Your response may be helpful in clarifying, refining or narrowing the facts and the violation alleged herein. Your written response should be mailed to:

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Division of Occupational and Professional Licensing
Attn: Melanie Reif
160 East 300 South
PO Box 146741
SALT LAKE CITY, UT 84114-6741

You may represent yourself or legal counsel may represent you, at your own expense, while this action is pending. If you are represented by legal counsel, your attorney must file a Notice of Appearance with the Division at the address stated above. Until a Notice of Appearance is filed, the presiding officer will communicate directly with you.

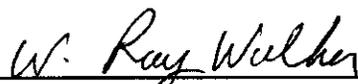
Melanie Reif, Auditor, is designated as the coordinator for the Construction Services Commission, which is the presiding officer over this informal proceeding. If you or your attorney has any questions as to the procedures related to this matter, Ms. Reif can be contacted at the above address or via telephone number at (801) 530-6456.

At the expiration of 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 Sections 58-55-306 and 58-55-502(1).

The maximum administrative sanction in this case is revocation of your license to practice as a contractor.

Please conduct yourself accordingly.

Dated this 15TH day of August, 2011.



W. Ray Walker
Regulatory and Compliance
Officer