

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
Heber M Wells Building
160 East 300 South
PO 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
ADAIR CONSTRUCTION

**NOTICE OF AGENCY ACTION
FOR UNLAWFUL CONDUCT
BY ALLOWING ONE'S LICENSE TO
BE USED BY ANOTHER**

Case No DOPL-2011-343

THE CONSTRUCTION SERVICES COMMISSION TO ADAIR CONSTRUCTION
("Respondent")

ADAIR CONSTRUCTION

SALT LAKE CITY, UT 84121

The Division of Occupational and Professional Licensing ("the Division") hereby files this Notice of Agency Action ("Notice") to determine if you have been allowing your license to be used by another

This action is based upon Division records and an investigation, which show that Respondent has engaged in unlawful conduct by allowing one's license to be used by another, in violation of Utah Code Ann. Subsection 58-55-501(10)

ALLEGATIONS SUPPORTING THIS ACTION

I Respondent has engaged in unlawful conduct

1 On or about July 10, 1984, Respondent became licensed as a contractor under License No 244328-5501 Respondent's license subsequently expired on or about November 30, 2009

2 On or about September 2009, a bid was submitted to Jesse Carr ("Carr") See Price Estimate Bid, attached as Exhibit A The bid contains Respondent's name and license number See id The bid also contains another company's name and logo – C R Petersen as the primary heading on the bid See id

3 C R Petersen became licensed on or about June 14, 1999 This license expired on August 26, 2008

4 The bid is signed by "Quintin " See Exhibit A Upon information and belief, "Quintin" is Quintin Adair, Adair Construction's owner and qualifier

5 After the bid was submitted, concerns arose which led to a number of phone calls between the bid recipient (Carr) and both Respondent and C R Petersen (Clint Petersen)

6 On or about September 28, 2009 at 3 25 p m , Respondent acknowledged in a phone conversation with Carr that "the wheel barrel is still there, the plaster is there" and that he told Clint Petersen to "get over there and do [the job] " Respondent also stated "I don't know why we can't get over there and get that [job] done It's just a simple thing "

7 On or about September 29, 2009, a conversation occurred between Carr and Clint Petersen In this conversation, Petersen stated "I'm having a really hard time getting out there to do that grout, simply for the fact that I went above and beyond what we originally went for what we charged you [T]he way it sits, [that job] cost me about \$14,800 to do You gave me \$15,500 I lost my shirt on that job "

8 On or about July 1, 2010, in another conversation that occurred between Respondent and Carr, Respondent acknowledged to Carr that his license was expired "My license is expired, the one that my company is with now is another qualifier So it's a totally different responsible person "

9 Carr subsequently brought legal action against Respondent, C R Petersen, et al See Case No 100918232

10 On or about December 28, 2010, a judgment in the amount of \$45,508 26 was entered against C R Petersen in favor of Jesse Carr in case no 100918232 The judgment remains unpaid

11 Based on the foregoing information, Respondent has engaged in unlawful conduct by allowing one's license to be used by another, in violation of Utah Code Ann Subsection 58-55-501(10)

12 Pursuant to Utah Code Ann Subsection 58-55-503(4), Respondent should be assessed a fine in the amount of \$1,000

CEASE AND DESIST ORDER

Pursuant to Utah Code Ann Subsection 58-1-401(4)(c), "the division may issue [a] cease and desist order[]" to any person who otherwise violates this title or any rules adopted under this title " Because Respondent has allowed its license to be used by another in violation of Utah Code Ann Subsection 58-55-501(10), the Division is entitled to order Respondent to cease and desist from practicing in the construction trade without a license and allowing its license to be used by another Accordingly, the Division requests such an order against Respondent

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

Division of Occupational and Professional Licensing
Attn Dan S Jones, Bureau Manager
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

Dan S Jones, Bureau Manager, 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, Mr Jones can be contacted at the above address or via telephone number at (801) 530-6720

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 engaged in unlawful conduct, in violation of Utah Code Annotated Subsection 58-55-501(10)

The maximum administrative sanction in this case is a fine in the amount of \$1,000 and a cease and desist order from practicing in the construction trade without a license and allowing its license to be used by another

Please conduct yourself accordingly

Dated this 17th day of October, 2011

W. Ray Walker
W Ray Walker
Regulatory and Compliance
Officer