

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 DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF THE LICENSE OF	:	FINDINGS OF FACT
MILE HIGH CONTRACTING INC	:	CONCLUSIONS OF LAW
	:	AND ORDER
TO PRACTICE AS A CONTRACTOR	:	
IN THE STATE OF UTAH	:	
	:	Case No. DOPL-2011-84

FINDINGS OF FACT

1. The Division of Occupational and Professional Licensing ("the Division") filed a Notice of Agency Action in this matter on the 28th day of February 20110.
2. This action is based upon Division records which show Mile High Contracting Inc, (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 filed a response to the notice of agency action. However, the response fails to demonstrate the obligations specified in the notice of agency action have been resolved. Respondent alleged it is ". . . making payments to Caterpillar Financial Services and will have the judgment amount paid off in Twenty Three Months. . .". However, this response fails to demonstrate the Respondent is able to pay Respondent's obligations as they become due and does not dispute the misrepresentation on the application.

Therefore, according to Division records and after a review of Respondent's response in this matter, Respondent has failed to demonstrate and maintain financial responsibility as outlined above and has 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 or place on probation 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 or place on probation 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 placed on probation for a period of two (2) years commencing on the date this order is signed.

Respondent shall be subject to all of the following terms and conditions:

- (1) Respondent shall pay an administrative penalty of \$500.00 (five-hundred dollars) to the Division, pursuant to Utah Code Ann. § 58-55-503, within 30 days of the effective date of this Order.
- (2)
 - a. Respondent shall meet with the Commission or a Division compliance specialist on a quarterly basis, or at such other greater or lesser frequency as determined by the Division, for the duration of probation.
 - b. Respondent shall provide the Division with the following

documents on a quarterly basis:

(i) a current copy of an Experian Business Profile business credit report for Mile High Contracting Inc; and

(ii) a personal credit report for Deric Shelley.

If the credit reports provided indicate any negative items not previously reported, then Respondent shall additionally provide full written details of the negative items on the credit reports.

- c. Respondent shall provide the Division with the following documents on an annual basis, or at such other greater or lesser frequency as determined by the Commission and Division, for the duration of probation:
- (i) a business income tax return for Mile High Contracting Inc;
- (ii) a personal income tax return for Deric Shelley; and
- (iii) a current financial statement for Mile High Contracting Inc.
- d. Respondent shall immediately notify the Division of Respondent's failure to pay any financial obligation that is 60 days past due. The notification shall state to whom the obligation is owed, the amount past due, and the date the obligation, including any penalties and interest, is expected to be fully paid.
- e. Respondent shall notify the Division within 10 days after any collection lawsuit, judgment or tax lien is filed against the Respondent.
- f. Respondent agrees that the maintenance of a solvent financial condition, the timely payment of obligations as they become due, including timely payment of the obligations identified in the finding of facts herein; and compliance with all terms and conditions of this Order, are conditions of maintaining Respondent's license.
- g. Respondent shall maintain a current license at all times during the period of this agreement.
- h. Respondent shall immediately notify the Division in writing of any change in Respondent's business address.
- i. Respondent shall be responsible for payment of all costs associated with this Order. Failure of Respondent to pay the costs associated with this Order constitutes a violation of probation and this Order.
- j. If Respondent has still not demonstrated financial responsibility as

set forth in Utah Code Ann. § 58-55-306 at the end of the probationary period, the Division may take appropriate action against Respondent. The period of probation shall be tolled while any petition alleging unlawful or unprofessional conduct is pending.

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 5th day of October 2011 for their review and action.



Dan S. Jones, Bureau Manager

ORDER

THE ABOVE FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER in the matter of **MILE HIGH CONTRACTING INC**, is hereby adopted by the Construction Services Commission of the State of Utah.

DATED this 5 day of Oct, 2011.



CONSTRUCTION SERVICES COMMISSION
Representative

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

DATED this 6 day of October, 2011.

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.