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 THE LICENSE OF	:	**NOTICE OF AGENCY ACTION**
SAMUEL D ROBINSON dba	:	**TO REVOKE CONTRACTOR'S**
A CUT ABOVE LAWN CARE AND	:	**LICENSE FOR FAILURE TO**
FERTILIZING	:	**MAINTAIN FINANCIAL**
TO PRACTICE AS A CONTRACTOR	:	**RESPONSIBILITY AND**
IN THE STATE OF UTAH	:	**MISREPRESENTATION ON**
	:	**APPLICATION FOR**
	:	**LICENSURE**
	:	
	:	Case No. DOPL-2013-283

THE CONSTRUCTION SERVICES COMMISSION TO SAMUEL D ROBINSON ("Respondent"):

SAMUEL D ROBINSON
DBA A CUT ABOVE LAWN CARE AND FERTILIZING

The Division of Occupational and Professional Licensing ("the Division") hereby files this notice of agency action. The jurisdiction and authority for this action is Utah Code Annotated §58-1-401(2).

This action is filed based upon a review of the Division's records and investigation ("file") that indicate Respondent has engaged in unprofessional and unlawful conduct by failing to demonstrate and maintain financial responsibility in violation of Utah Code Annotated §58-55-502(1), and *making misrepresentation(s) on the application for renewal of licensure, in violation of* Utah Code Annotated §*58-55-501(9)*, such that Respondent's license should be subject to disciplinary action.

ALLEGATIONS AND AUTHORITY

1. In particular the evidence in the Division's file indicates that Respondent has engaged in the following conduct:

I. FAILURE TO DEMONSTRATE AND MAINTAIN FINANCIAL RESPONSIBILITY.

2. Respondent has failed to maintain and demonstrate financial responsibility as required by Utah Code Annotated Sections 58-55-306 and 58-55-502(1).

3. 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.

Financial History of Respondent

4. On or about July 5, 2010 a judgment in the amount of **$2,528.29** was entered in favor of Utah State Tax Commission against Samuel D Robinson (Third District Court, Salt Lake, Salt Lake County, State of Utah, Case No.: 106919244). As of the date of this Notice, Respondent has not satisfied the judgment. A copy of the court docket is attached as *Exhibit A*.

5. On or about November 1, 2010 a judgment in the amount of **$2,671.81** was entered in favor of Utah State Tax Commission against Samuel D Robinson (Third District Court, Salt Lake, Salt Lake County, State of Utah, Case No.: 106936446). As of the date of this Notice, Respondent has not satisfied the judgment. A copy of the court docket is attached as *Exhibit B*.

6. On or about November 8, 2011 a judgment in the amount of **$1,484.68** was entered in favor of Express Recovery Services Inc against Samuel D Robinson (Third District Court, West Jordan, Salt Lake County, State of Utah, Case No.: 110413468). As of the date of this Notice, Respondent has not satisfied the judgment. A copy of the court docket is attached as *Exhibit C*.

7. On or about February 20, 2012 a judgment in the amount of **$3,403.35** was entered in favor of Utah State Tax Commission against Samuel D Robinson (Third District Court, Salt Lake, Salt Lake County, State of Utah, Case No.: 126906361). As of the date of this Notice, Respondent has not satisfied the judgment. A copy of the court docket is attached as *Exhibit D*.

8. On or about October 26, 2012 a judgment in the amount

of **$5,793.80** was entered in favor of NAR against Samuel D Robinson (Third District Court, Salt Lake, Salt Lake County, State of Utah, Case No.: 129913370). As of the date of this Notice, Respondent has not satisfied the judgment. A copy of the court docket is attached as *Exhibit E*.

9. On or about February 12, 2013 a judgment in the amount of **$3,401.01** was entered in favor of Workforce Services against Samuel D Robinson (Third District Court, Salt Lake, Salt Lake County, State of Utah, Case No.: 136901212). As of the date of this Notice, Respondent has not satisfied the judgment. A copy of the court docket is attached as *Exhibit F*.

10. On or about March 5, 2013 a judgment in the amount of **$124.59** was entered in favor of Workforce Services against Samuel D Robinson (Third District Court, Salt Lake, Salt Lake County, State of Utah, Case No.: 136908871). As of the date of this Notice, Respondent has not satisfied the judgment. A copy of the court docket is attached as *Exhibit G*.

11. On or about April 5, 2013 a judgment in the amount of **$1,551.20** was entered in favor of Workforce Services against Samuel D Robinson (Third District Court, Salt Lake, Salt Lake County, State of Utah, Case No.: 136912384). As of the date of this Notice, Respondent has not satisfied the judgment. A copy of the court docket is attached as *Exhibit H*.

12. On or about June 9, 2008 a tax lien in the amount of **$49,362.53** was entered in favor of Internal Revenue Service against Samuel D Robinson (County Recorder, Salt Lake County, State of Utah, Case No.: 10455710). As of the date of this Notice, Respondent has not satisfied the judgment. A copy of the judgment is attached as *Exhibit I*.

13. On or about August 27, 2010 a tax lien in the amount of **$41,617.52** was entered in favor of Internal Revenue Service against Samuel D Robinson (County Recorder, Salt Lake County, State of Utah, Case No.: 11025356). As of the date of this Notice, Respondent has not satisfied the judgment. A copy of the judgment is attached as *Exhibit J*.

14. On or about October 26, 2010 a tax lien in the amount of **$650.95** was entered in favor of Internal Revenue Service against Samuel D Robinson (County Recorder, Salt Lake County, State of Utah, Case No.: 11070074). As of the date of this Notice, Respondent has not satisfied the judgment. A copy of the judgment is attached as *Exhibit K*.

Financial History of Qualifier

15. Respondent's Qualifier is Parker David Fillmore.

16. On or about June 18, 2010 a judgment in the amount of **$1,761.34** was entered in favor of Capital One Bank US NA against Parker D Fillmore (Third District Court, West Jordan, Salt Lake County, State of Utah, Case No.: 100408203). As of the date of this Notice, the Qualifier has not satisfied the judgment. A copy of the court docket is attached as *Exhibit L*.

17. On or about July 8, 2010 a judgment in the amount of **$4,195.42** was entered in favor of Knight Adjustment Bureau against Parker Fillmore (Third District Court, West Jordan, Salt Lake County, State of Utah, Case No.: 100406005). As of the date of this Notice, the Qualifier has not satisfied the judgment. A copy of the court docket is attached as *Exhibit M*.

18. On or about December 5, 2011 a judgment in the amount of **$634.49** was entered in favor of NAR against Parker D Fillmore (Third District Court, Salt Lake, Salt Lake County, State of Utah, Case No.: 119905735). As of the date of this Notice, the Qualifier has not satisfied the judgment. A copy of the court docket is attached as *Exhibit N*.

19. On or about February 18, 2013 a judgment in the amount of **$1,215.39** was entered in favor of Utah State Tax Commission against Parker D Fillmore (Third District Court, Salt Lake, Salt Lake County, State of Utah, Case No.: 136906536). As of the date of this Notice, the Qualifier has not satisfied the judgment. A copy of the court docket is attached as *Exhibit O*.

20. On or about December 7, 2011 a judgment in the amount of **$288.42** was entered in favor of Workforce Services against Hot Shot Repairs & Landscape (Third District Court, Salt Lake, Salt Lake County, State of Utah, Case No.: 116946481). As of the date of this Notice, the Qualifier has not satisfied the judgment. A copy of the court docket is attached as *Exhibit P*.

21. On or about November 9, 2012 a judgment in the amount of **$59.58** was entered in favor of Workforce Services against Hot Shot Repairs & Landscape (Third District Court, Salt Lake, Salt Lake County, State of Utah, Case No.: 126942723). As of the date of this Notice, the Qualifier has not satisfied the judgment. A copy of the court docket is attached as *Exhibit Q*.

22. On or about February 4, 2013 a judgment in the amount of **$41.55** was entered in favor of Workforce Services against Hot Shot Repairs & Landscape (Third District Court, Salt Lake, Salt Lake County, State of Utah, Case No.: 136905291). As of the date

of this Notice, the Qualifier has not satisfied the judgment. A copy of the court docket is attached as *Exhibit R*.

23. On or about November 2, 2010 a bankruptcy was filed for Parker David Fillmore, (Case No.: 10-33553 (United States Bankruptcy Court, District of Utah) declared assets of **$3,695.00** and liabilities of **$249,236.00** resulting in a negative equity of **$245,541.00.** A copy of the Summary of Schedules is attached as *Exhibit S.*

24. Based on the above financial history, 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 Annotated §§ 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."); Section 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 Annotated Section 58-55-502(1) ("Unprofessional conduct includes . . . failing to establish, maintain, or demonstrate financial responsibility while licensed as a contractor under this chapter.")

II. MISREPRESENTATION ON AN APPLICATION FOR LICENSURE

25. Division records and an investigation also show that Respondent made misrepresentation on the renewal application filed on September 30, 20114 by claiming all judgments, tax liens, etc. had been satisfied. This representation was inaccurate when made. Accordingly, Respondent obtained a license by misrepresentation in violation of Utah Code Annotated Subsection 58-55-501(9), and this misrepresentation 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). A copy of the online renewal transcript answers, etc. filed on September 30, 2011 is attached as *Exhibit T*.

RELIEF SOUGHT

The Division seeks revocation of licensure to practice as a contractor in the State of Utah and an Administrative Fine in the amount of **$500.00.**

NOTICE OF PROCEDURES

This action is designated as an informal adjudicative proceeding ("proceeding") in §R156-46b-202 pursuant in accordance with §63G-4-202(1).

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 below. Until an Entry of appearance is filed, the presiding officer, or others within or representing the Division, will communicate directly with you.

Dan S. Jones, Bureau Manager, is designated as the coordinator for the Construction Services Commission ("Commission"). The Commission is the presiding officer over this informal proceeding. If you or your attorney has any questions regarding the procedures related to this matter, Mr. Jones can be contacted at the above address, or via telephone at (801) 530-6720 or by e-mail at dansjones@utah.gov.

The proceeding will be conducted pursuant to §63G-4-203. There is no right to a hearing in this proceeding. The decision in this matter will be based upon a review of the Division's file.

Within ten (10) days of the mailing date of this notice, you may obtain by written request a copy of the relevant and nonprivileged contents of the Division's file related to this proceeding. Your request, if any, should be submitted to the address stated below.

Within thirty (30) days of the mailing date of this notice, you are required to file a written response herein. A response may be helpful to clarify, refine, or narrow the facts and violations related to the basis for this action as contained in the Division's file.

If you fail to file a response, it will constitute a basis for entry of default, and an order will be entered by the Presiding Officer without your participation. It will be based upon a review of the Division's file and, as deemed necessary, a review and recommendation by the Commission.

If you file a response, it will be included in the Division's file and will be considered by the presiding officer. An original of your response, if any, should be mailed or hand delivered to:

DIVISION of OCCUPATIONAL and PROFESSIONAL LICENSING
Attn: Informal Disciplinary Files

(By Mail):
PO Box 146741
Salt Lake City UT 84114-6741

(By Hand Delivery):
160 East 300 South, 4th floor
Salt Lake City, Utah

If you file a Response, you will be notified if this action is placed on the Commission's agenda. Commission meetings are normally open to the public and public comment may be provided if permitted by the chair of the Commission. However, please note that if this action is placed on the Commission's agenda, it is an agenda item, not a disciplinary hearing.

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 financial in violation of Utah Code Annotated Sections 58-55-306 and 58-55-502(1) and if you have made a misrepresentation to the Division in violation of 58-1-501(9).

The maximum administrative sanction in this case is revocation of your license to practice as a contractor in the State of Utah and an administrative fine in the amount of **$1,000.**

Please conduct yourself accordingly.

Dated this 8 day of July, 2013.

W. Ray Walker
W. RAY WALKER
Regulatory and Compliance Officer