ORIGINAL

BEFORE THE STATE BOARD OF CONTRACTORS

STATE OF IDAHO

In the Matter of the Registration of: COLIN STEWART CONSTRUCTION, Registration No. RCE-17096, Respondent.	Case No. CON-2009-10 **FINAL ORDER**

THIS MATTER is before the Board pursuant to the Default Order and Findings of Fact, Conclusions of Law and Recommended Order issued by Paul Penland, the designated Hearing Officer, on May 29, 2009. Because the Respondent failed to answer or appear in this matter, a Default Order was issued. The factual allegations set forth in the Complaint against Respondent were deemed true, and therefore, no formal hearing was held.

The Board, having conducted an independent review of the record and having considered the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommended Order and all other matters of record, and good cause appearing therefor, the Board adopted the following Order.

IT IS HEREBY ORDERED as follows:

1. Default is hereby entered as against Respondent, and the Hearing Officer's Findings of Fact and Conclusions of Law are hereby adopted and incorporated herein by this reference.

2. That the factual allegations set forth in the Complains against this Respondent shall be deemed true.

3. That Respondent's actions constitute a violation of Idaho Code Sections 54-

52-5204(1) (unlawful to engage in contracting or hold oneself out as a contractor unless properly registered), 54-5215(2)(a) (contractors shall not violate the Idaho Contractor Registration Act), and 54-5215(2)(h) (contractors shall not fail to meet the generally accepted standard of care in the practice of construction). The Board therefore imposes the following disciplinary sanctions upon Respondent:

a. That Respondent's registration and right of reinstatement or renewal shall be revoked.

b. That Respondent shall pay the costs and attorney fees incurred by the State. The State shall submit an Affidavit of Costs and Attorney Fees incurred in this matter within thirty (30) days from the date of this Order. Respondent shall submit any objection to the costs and fees submitted by the State and request a hearing within thirty (30) days from the receipt of the State's Affidavit. Thereafter, the Board shall determine the amount of costs and fees awarded against Respondent, and in the event Respondent fails to object to the costs and fees claimed by the State, Respondent shall pay the costs and fees set forth in its Affidavit. The Respondent shall pay the costs and fees as determined by the Board, or as set forth in this section, within ninety (90) days from the date of this Order.

c. That Respondent shall pay a fine in the amount of One Thousand Dollars ($1,000.00). The fine shall be paid within sixty (60) days from the date of this Order.

4. This is the Final Order of the Board.

a. Any party may file a Petition for Reconsideration of this Final Order within fourteen (14) days of the service date of this Final Order. The Board will dispose of the Petition for Reconsideration within twenty-one (21) days of its receipt, or the Petition will be

considered denied by the operation of law. (*See*, Idaho Code Section 67-5247(4)).

b. Pursuant to Idaho Code Sections 67-5270 and 57-5272, any party aggrieved by this Final Order, or orders previously issued in this case, may appeal this Final Order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (i) a hearing was held; (ii) the final agency action was taken; or (iii) the party seeking review of this Final Order resides.

c. An appeal must be taken within twenty-eight (28) days: (i) of the service date of this Final Order; (ii) of any order denying petition for reconsideration; or (iii) of the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. (*See*, Idaho Code Section 67-5273.) The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

5. The Bureau Chief of the Bureau of Occupational Licenses shall cause a true and correct copy of this Final Order to be served upon the Respondent and the State's attorney by mailing a copy to them at their addresses as provided.

DATED this 28th day of July, 2009.

IDAHO STATE CONTRACTORS BOARD

By _____
Art Elliott, Chairman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28th day of July, 2009, I caused to be served, by the method(s) indicated, a true and correct copy of the foregoing upon:

Colin Stewart Construction Colin Stewart 5652 Colburn Culver Sandpoint, ID 83864	✓ U.S. Mail ✓ Hand Delivered ✓ Certified Mail ___ Facsimile
Karin Magnelli Deputy Attorney General Office of the Attorney General P.O. Box 83720 Boise, ID 83720-0010	___ U.S. Mail ✓ Hand Delivered ✓ Statehouse Mail ___ Facsimile

Tana Cory

Tana Cory, Bureau Chief

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