

**BEFORE THE MINNESOTA
BOARD OF BEHAVIORAL HEALTH AND THERAPY**

In the Matter of
Sean Michael Anderson
Applicant for Licensure as a
Licensed Alcohol and Drug Counselor

**STIPULATION AND
CONSENT ORDER**

IT IS HEREBY STIPULATED AND AGREED by Sean Michael Anderson (Applicant) and the Minnesota Board of Behavioral Health and Therapy (Board) as follows:

1. During all times herein, Applicant has been and now is subject to the jurisdiction of the Board from which he held a temporary permit and has applied for licensure to practice as a licensed alcohol and drug counselor in the State of Minnesota.

FACTS

2. For the purpose of this stipulation, the Board may consider the following facts as true:

a. By letters dated July 21, 2005, Applicant was granted Temporary Permits to practice alcohol and drug counseling at two locations. Applicant's permit letters notified him that his permit expires July 31, 2006, and a renewal application was due 30 days before the date of expiration.

b. A Renewal Notice and Application, dated May 10, 2006, was mailed to Applicant. The renewal notice notified Applicant his permit expires July 31, 2006, and his renewal fee of \$163 must be received by July 1, 2006, to avoid a 25 percent late fee.

c. By letter dated August 9, 2006, the Board notified Applicant that his Temporary Permit expired on July 31, 2006. Applicant did not renew his temporary permit by the expiration date. Applicant was notified that practicing without a permit (engaging in

unlicensed practice) is prohibited by law and that the Board may take legal action against persons who engage in illegal practice.

d. On October 30, 2006, Applicant renewed his Temporary Permit and paid the renewal fee and late fee in the amount of \$203.75. Applicant's permit letter notified him that his permit expires July 31, 2007, and a renewal application was due 30 days before the date of expiration.

e. A Renewal Notice and Application, dated May 22, 2007, was mailed to Applicant. The renewal notice notified Applicant his permit expires July 31, 2007, and his renewal fee of \$150 must be received by July 1, 2007, to avoid a 25 percent late fee.

f. By letter dated August 21, 2007, the Board notified Applicant that his Temporary Permit expired on July 31, 2007. Applicant did not renew his temporary permit by the expiration date. Applicant was notified that practicing without a permit (engaging in unlicensed practice) is prohibited by law and that the Board may take legal action against persons who engage in illegal practice.

g. On September 13, 2007, Applicant appeared in person at the Board office and spoke to the LADC Licensing Coordinator. He told her he did not renew his permit because he did not have the money to do so. Applicant stated he received the letter notifying him that his permit expired. Applicant admitted practicing after his permit expired. The Licensing Coordinator told Applicant the expiration letter states that practicing without a permit is prohibited, advised Applicant he should not practice alcohol and drug counseling without an active permit, and advised Applicant to renew his permit immediately.

h. On September 14, 2007, Applicant renewed his Temporary Permit and paid the renewal fee and late fee in the amount of \$187.50. Applicant's permit letter, dated

September 18, 2007, notified him that his permit expires July 31, 2008, and a renewal application is due 30 days before the date of expiration.

REGULATIONS

3. The Board views Applicant's practices as described in paragraph 2 above to be in violation of statutes and rules enforced by the Board. Applicant agrees that the conduct cited above constitutes a violation of Minn. Stat. § 148C.09, subd. 1(2) (2006) (violation of statute or rule Board is empowered to enforce), and Minn. Stat. § 148C.10, subd. 1 (2006) (practicing alcohol and drug counseling without a permit or license), and constitutes a reasonable basis in law and fact to justify the disciplinary action provided for in the order.

REMEDY

4. Upon this stipulation and without any further notice or proceedings, the Board places Applicant's license in a suspended status. Applicant's retention of his license is conditional upon complying with the following:

a. ***Reprimand.*** Applicant is reprimanded for engaging in the conduct and violations described in paragraphs 2 and 3 above.

b. ***Stayed Suspension.*** Applicant's license to practice alcohol and drug counseling is suspended for a minimum of two license renewal cycles. The suspension is stayed provided that Applicant renews his license in a timely fashion or, in the event that Applicant does not renew his license, he does not practice while his license is expired.

c. ***Civil Penalty.*** Applicant shall pay a civil penalty to the Board in the amount of seven hundred and fifty dollars (\$750) for engaging in the conduct and violations described in paragraphs 2 and 3 above. Payment of the civil penalty is stayed unless the stay of suspension of Applicant's license is removed pursuant to paragraph 4.f. below. If the stay of suspension of his license is removed, Applicant will be required to pay the civil penalty; payment

of \$750 shall be remitted in full to the Minnesota Board of Behavioral Health and Therapy at Suite 210, 2829 University Avenue SE, Minneapolis, Minnesota 55414 within sixty (60) days after service on Applicant of an Order of Removal of Stay of Suspension of his license pursuant to paragraph 4.f. below.

d. ***Fine for Violation of Order.*** If any due date required by this Stipulation and Consent Order is not met, the Complaint Resolution Committee (Committee) may fine Applicant \$100 per violation. Applicant shall pay the fine and correct the violation within five days after service on Applicant of a demand for payment and correction. If Applicant fails to do so, the Committee may impose additional fines not to exceed \$500 per violation. The total of all fines may not exceed \$5,000. Applicant waives the right to seek review of the imposition of these fines under the Administrative Procedure Act, by *writ of certiorari* under Minn. Stat. § 480A.06, by application to the Board, or otherwise. Neither the imposition of fines nor correction of the violation will deprive the Board of the right to impose additional discipline based on the violation.

e. ***Costs.*** Applicant is responsible for all costs incurred as a result of compliance with this Stipulation and Consent Order.

f. ***Removal of Stay.*** If the Committee has probable cause to believe Applicant failed to renew his license in a timely fashion and that he has practiced alcohol and drug counseling without a license, the Committee may remove the stay of suspension pursuant to the procedures outlined in paragraph 7 below, with the following additions and exceptions:

1) The removal of the stay of suspension shall take effect upon service of an Order of Removal of Stay of Suspension (Order of Removal). Applicant agrees that the Committee is authorized to issue an Order of Removal, which shall remain in effect and shall have the full force and effect of an order of the Board until the Board makes a final

determination pursuant to the procedures outlined in paragraph 7 below. The Order of Removal shall confirm the Committee has probable cause to believe Applicant failed to renew his license in a timely fashion and that he has practiced alcohol and drug counseling without a license.

2) The Committee shall schedule the hearing pursuant to paragraph 7 below to be held within 30 days of the date of service of the Order of Removal.

3) Applicant further agrees an Order of Removal issued pursuant to this paragraph shall be deemed a public document under the Minnesota Government Data Practices Act. Applicant waives any right to a hearing before removal of the stay of suspension.

5. After at least two license renewal cycles from the date of this Stipulation and Consent Order and upon completion of all terms, provisions, and conditions of this Stipulation and Consent Order, Applicant may petition the Board for an unconditional license. The Board may, at any regularly scheduled meeting at which Applicant has made a timely petition, take any of the following actions:

- a. Remove the conditions attached to the license of Applicant;
- b. Amend the conditions attached to the license of Applicant;
- c. Continue the conditions attached to the license of Applicant upon his failure to meet his burden of proof; or
- d. Impose additional conditions on the license of Applicant.

6. In the event Applicant resides or practices outside the State of Minnesota, Applicant shall promptly notify the Board in writing of the location of his residence and all work sites. Practice outside of Minnesota will not be credited toward any period of Applicant's suspended, limited, conditioned, or restricted license in Minnesota unless Applicant demonstrates to the satisfaction of the Board that the practice in another jurisdiction conforms

completely with Applicant's Minnesota licensure requirements to practice as a licensed alcohol and drug counselor.

7. If Applicant shall fail, neglect, or refuse to fully comply with each of the terms, provisions, and conditions herein, the Committee shall schedule a hearing before the Board. The Committee shall mail Applicant a notice of the violation alleged by the Committee and of the time and place of the hearing. Applicant shall submit a response to the allegations at least three days prior to the hearing. If Applicant does not submit a timely response to the Board, the allegations may be deemed admitted.

At the hearing before the Board, the Committee and Applicant may submit affidavits made on personal knowledge and argument based on the record in support of their positions. The evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Applicant waives a hearing before an administrative law judge and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

At the hearing, the Board will determine whether to impose additional disciplinary action, including additional conditions or limitations on Applicant's practice, or suspension, or revocation of Applicant's license.

8. This stipulation shall not in any way limit or affect the authority of the Board to temporarily suspend Applicant's license under Minn. Stat. § 148C.091, subd. 3, or to initiate contested case proceedings against Applicant on the basis of any act, conduct, or omission of Applicant justifying disciplinary action occurring before or after the date of this Stipulation and Consent Order which is not related to the facts, circumstances or requirements referenced herein.

9. In the event the Board at its discretion does not approve this settlement or a lesser remedy than indicated in this settlement, then, and in that event, this stipulation is withdrawn and

shall be of no evidentiary value and shall not be relied upon nor introduced by either party to this stipulation, except that Applicant agrees that should the Board reject this stipulation and this case proceeds to hearing, Applicant will assert no claim that the Board was prejudiced by its review and discussion of this stipulation or of any records relating to this matter.

10. Any appropriate court may, upon application of the Board, enter its decree enforcing the order of the Board.

11. Applicant has been advised by Board representatives that he may choose to be represented by legal counsel in this matter. Although aware of his right to representation by counsel, Applicant has knowingly and expressly waived that right. The Committee is represented by Nathan W. Hart, Assistant Attorney General.

12. Applicant waives all formal hearings on this matter and all other procedures before the Board to which Applicant may be entitled under the Minnesota or United States constitutions, statutes, or rules and agrees that the order to be entered pursuant to the stipulation shall be the final order herein.

13. Applicant hereby knowingly and voluntarily waives any and all claims against the Board, the Minnesota Attorney General, the State of Minnesota and their agents, employees, and representatives which may otherwise be available to Applicant under the Americans With Disabilities Act or the Minnesota Human Rights Act relative to the action taken or authorized against Applicant's license to practice as a licensed alcohol and drug counselor under this stipulation.

14. Applicant hereby acknowledges that he has read, understands, and agrees to this stipulation and has freely and voluntarily signed the stipulation without threat or promise by the Board or any of its members, employees, or agents. When signing the stipulation, Applicant acknowledges he is fully aware the stipulation is not binding unless and until it is approved by

the Board. The Board may either approve the Stipulation and Consent Order as proposed, approve the Stipulation and Consent Order subject to specified change, or reject it. If the changes are acceptable to Applicant, the stipulation will then take effect and the order as modified will be issued. If the changes are unacceptable to Applicant or the Board rejects the stipulation, it will be of no effect except as specified herein.

15. This Stipulation and Consent Order constitutes a disciplinary action against Applicant.

16. This Stipulation and Consent Order is a public document and will be sent to all appropriate data banks.

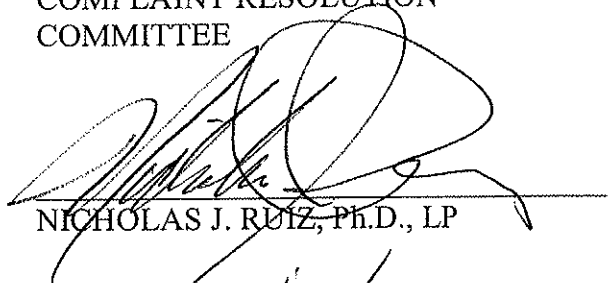
17. This stipulation contains the entire agreement between the parties there being no other agreement of any kind, verbal or otherwise, which varies this stipulation.

BOARD OF BEHAVIORAL HEALTH
AND THERAPY

COMPLAINT RESOLUTION
COMMITTEE


SEAN MICHAEL ANDERSON
Applicant

Dated: 12/12/08


NICHOLAS J. RUIZ, Ph.D., LP

Dated: 2/19/09


WALTER B. ROBERTS Jr., LPC

Dated: 2-19-09

ORDER

Upon consideration of this stipulation and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that Applicant is **REPRIMANDED**, that the license of Applicant is **SUSPENDED**, that the suspension is **STAYED** in accordance with paragraph 4 of the stipulation, and that all other terms of this stipulation are adopted and implemented by the Board this 20th day of February, 2009.

MINNESOTA BOARD

OF BEHAVIORAL HEALTH AND THERAPY


KARI RECHTZIGEL
Executive Director

AG: #2287535-v1