

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

In the Matter of
Richard Dauer, LADC
License No. 301150

**STIPULATION AND
CONSENT ORDER**

IT IS HEREBY STIPULATED AND AGREED by Richard Dauer, LADC (“Licensee”), and the Minnesota Board of Behavioral Health and Therapy (“Board”) Complaint Resolution Committee (“Committee”) as follows:

1. During all times herein, Licensee has been and now is subject to the jurisdiction of the Board from which he holds a license 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. On March 31, 2009, Licensee’s license as an alcohol and drug counselor lapsed. Between April 1, 2009, and June 8, 2010, Licensee practiced as a licensed alcohol and drug counselor in Minnesota without an active license from the Board.

REGULATIONS

3. The Board views Licensee’s practices as described in paragraph 2 above to be in violation of statutes and rules enforced by the Board. Licensee agrees that the conduct cited above constitutes a violation of Minn. Stat. § 148C.09, subd. 1(2) (violation of statute or rule Board is empowered to enforce), Minn. Stat. § 148C.05, subd. 6(d) and Minn. R. 4747.0700,

subp. 4(C) (practice with lapsed 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 all the files, records, and proceedings herein, and without further notice or hearing, the Board enters an order as follows:

- a. Licensee is hereby **REPRIMANDED**.
- b. Licensee shall pay a **CIVIL PENALTY** to the Board in the amount of one thousand dollars (\$1,000.00) for engaging in the conduct and violations described in paragraphs 2 and 3 above. Payment of \$1,000.00 shall be remitted in full to the Minnesota Board of Behavioral Health and Therapy, Suite 210, 2829 University Avenue SE, Minneapolis, Minnesota 55414, within sixty (60) days of the date this Stipulation and Consent Order is adopted by the Board.

5. If any due date required by this Stipulation and Consent Order is not met, the Committee may fine Licensee \$100 per violation. Licensee shall pay the fine and correct the violation within five days after service on Licensee of a demand for payment and correction. If Licensee 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. Licensee 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.

6. Licensee is responsible for all costs incurred as a result of compliance with this Stipulation and Consent Order.

7. If Licensee 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 Licensee a notice of the violation alleged by the Committee and of the time and place of the hearing. Licensee shall submit a response to the allegations at least three days prior to the hearing. If Licensee does not submit a timely response to the Board, the allegations may be deemed admitted.

At the hearing before the Board, the Committee and Licensee 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. Licensee 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 Licensee's practice, or suspension, or revocation of Licensee's license.

8. This stipulation shall not in any way limit or affect the authority of the Board to temporarily suspend Licensee's license under Minn. Stat. § 148C.091, subd. 3, or to initiate contested case proceedings against Licensee on the basis of any act, conduct, or omission of Licensee 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 Licensee agrees that should the Board reject this stipulation and this case proceeds to hearing, Licensee 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. Licensee 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, Licensee has knowingly and expressly waived that right. The Committee is represented by Benjamin R. Garbe, Assistant Attorney General.

12. Licensee waives all formal hearings on this matter and all other procedures before the Board to which Licensee 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. Licensee 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 Licensee under the Americans With Disabilities Act or the Minnesota Human Rights Act relative to the action taken or authorized against Licensee's license to practice as a licensed alcohol and drug counselor under this stipulation.

14. Licensee 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, Licensee 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 Licensee, the stipulation will then take effect and the order as modified will be issued. If the changes are unacceptable to Licensee 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 Licensee.

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.

LICENSEE

Richard Dauer LADC
RICHARD DAUER, LADC

COMPLAINT RESOLUTION COMMITTEE

Duane Reynolds
DUANE REYNOLDS, LADC

Dated: 7-27-12

Walter Roberts Jr.
WALTER ROBERTS, JR., EdD, LPCC

Dated: July 27, 2012

Marlae Cox-Kolek
MARLAE COX-KOLEK, MS, LADC, LPCC

Dated: 7/27/12

ORDER

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

IT IS HEREBY ORDERED that Licensee is REPRIMANDED and that all other terms of this stipulation are adopted and implemented by the Board this 27th day of July,
2012.

MINNESOTA BOARD
OF BEHAVIORAL HEALTH AND THERAPY

Kari Rechtzigel
KARI RECHTZIGEL
Executive Director

AG: #2847676-v1