

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
GREGORY JAMES MCSHERRY
TO PRACTICE AS A
PRIVATE PROBATION PROVIDER
IN THE STATE OF UTAH

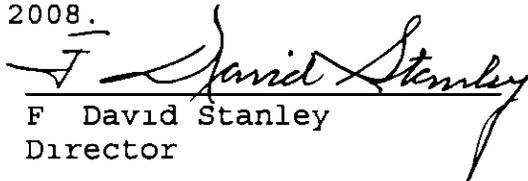
DEFAULT ORDER

Case No.
DOPL-OSC-2006-163

The attached Notice of Entry of Default and Recommended Order is hereby adopted by the Director of the Division of Occupational and Professional Licensing of the State of Utah. Respondent's license to practice as a private probation provider and any residual interest which Respondent may have to seek a reinstatement of that license is thus revoked, effective the date of this Order.

IT IS FURTHER ORDERED that the revoked license, both wall and wallet sizes, as well as any embossed certificate, thus be surrendered to the Division of Occupational and Professional Licensing

Dated this 18 day of March, 2008.


F David Stanley
Director

S E A L

Pursuant to Subsection 63-46b-11(3), Respondent may seek to set aside the above-stated default order by filing such a request with the Division consistent with the procedures outlined in the Utah Rules of Civil Procedure

1
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
GREGORY JAMES MCSHERRY
TO PRACTICE AS A
PRIVATE PROBATION PROVIDER
IN THE STATE OF UTAH

NOTICE OF ENTRY
OF DEFAULT AND
RECOMMENDED ORDER
Case No.
DOPL-OSC-2006-163

BY THE ADMINISTRATIVE LAW JUDGE:

This adjudicative proceeding was initiated pursuant to the issuance of a January 14, 2008 notice of agency action. The notice recites Respondent was required to file a response within twenty (20) days of the mailing date of the notice. The January 14, 2008 notice was sent to Respondent's last known address of _____, Westerville Ohio 43081 by both certified and first class mail on January 14, 2008. Neither of those mailings have been returned to the Division by postal authorities as unclaimed or undeliverable.

Respondent has not filed a response in this proceeding. The Division thus filed a February 12, 2008 request for entry of Respondent's default based on his failure to have filed a response in this proceeding. Utah Code Ann. §63-46b-11(1)(c) provides an order of default may enter if a respondent in a formal adjudicative proceeding fails to file a response.

1

The Court concludes the Division has duly attempted to provide Respondent with adequate notice of this proceeding. Given Respondent's failure to have filed a response to the January 10, 2008 Verified Motion for Order to Show Cause, the Court concludes a proper basis exists to enter Respondent's default and it is so entered.

After the entry of a default order, §63-46b-11(4)(a) provides the presiding officer shall conduct further proceedings as necessary to complete the adjudicative proceeding without the participation of the party in default. §63-46b-11(4)(a) also provides a determination shall be made of all issues in the adjudicative proceeding, including those affecting the defaulting party

The Court thus adopts the allegations set forth in Paragraphs (1) through (5) of the January 10, 2008 Verified Motion for Order to Show Cause as its Findings of Fact. The Court also adopts the first paragraph of the legal argument in the Verified Motion as its Findings of Fact and Conclusions of Law.

Specifically, the Court concludes Respondent engaged in unprofessional conduct violative of §58-1-501(2)(a) when he failed to comply with various terms and conditions of the August 7, 2006 Order governing his license to practice as a private probation provider. The Court thus concludes a proper factual

{ and legal basis exists to enter a disciplinary sanction as to Respondent's license. Absent any matters offered in defense or mitigation, the Court concludes the Recommended Order set forth below is warranted.

One further issue should be addressed. The Court notes Respondent's license expired on May 31, 2007 when he failed to timely file a request to renew his license. §58-1-308(5)(a) provides:

Any license that is not renewed may be reinstated at any time within two years after nonrenewal upon submission of an application for reinstatement, payment of the renewal fee together with a reinstatement fee determined by the department under §63-38-3 2, and upon submission of documentation showing completion or compliance with renewal qualifications.

Respondent would generally have the opportunity to seek reinstatement of his license upon compliance with the requirements of §58-1-308(5)(a).

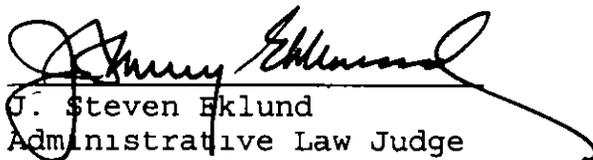
However, based on the entry of Respondent's default in this proceeding and the Recommended Order set forth herein, the Court concludes Respondent's residual rights under §58-1-308(5)(a) should also be revoked. The Court thus submits the following Recommended Order to the Division for its review and action.

RECOMMENDED ORDER

WHEREFORE, IT IS ORDERED Respondent's license to practice as a private probation provider in this state and all residual

interest which Respondent may have to seek a reinstatement of that license shall be revoked, effective the date this Recommended Order may be adopted.

I hereby certify the foregoing Notice of Entry of Default, Findings of Fact, Conclusions of Law and Recommended Order were submitted to F. David Stanley, Director of the Division of Occupational and Professional Licensing, on the 17th day of March, 2008 for his review and action.


J. Steven Eklund
Administrative Law Judge