

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	.	DEFAULT ORDER
TO PRACTICE AS A LICENSED		
SUBSTANCE ABUSE COUNSELOR		Case No.
IN THE STATE OF UTAH	.	DOPL-OSC-2006-166

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 licensed substance abuse counselor 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 19 day of September, 2007




F David Stanley
Director

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

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OF THE STATE OF UTAH**

IN THE MATTER OF THE LICENSE OF
GREGORY JAMES MCSHERRY
TO PRACTICE AS A LICENSED
SUBSTANCE ABUSE COUNSELOR
IN THE STATE OF UTAH

. **NOTICE OF ENTRY
OF DEFAULT AND
RECOMMENDED ORDER**
Case No.
DOPL-OSC-2006-166

BY THE ADMINISTRATIVE LAW JUDGE:

This adjudicative proceeding was initiated pursuant to the issuance of an August 14, 2007 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 August 14, 2007 notice was sent to Respondent's last known address by certified mail and that notice was thus received on August 16, 2007.

Respondent has not filed a response in this proceeding. The Division thus filed a September 10, 2007 motion for entry of Respondent's default based on his failure to have filed a response. 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.

Given Respondent's failure to have filed a response to the July 11, 2007 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

Pursuant to the August 14, 2007 notice, an October 3, 2007 hearing was to be conducted before the Substance Abuse Counselor Licensing Board. Given the entry of Respondent's default for his failure to have filed a response, the Court also concludes the October 3, 2007 hearing shall be cancelled, inasmuch as this case is resolved upon entry of Respondent's default and the issuance of a Recommended Order to the Division for its review and action as set forth herein.

The Court adopts the allegations set forth in Paragraphs (1) through (3) of the July 11, 2007 Verified Motion for Order to Show Cause as its Findings of Fact. The Court also adopts the first paragraph of the legal argument contained in the July 11, 2007 Verified Motion for Order to Show Cause 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 repeatedly failed to comply with the various terms and conditions

of the August 7, 2007 Order governing his license to practice as a licensed substance abuse counselor in this state. Absent any matters offered in defense or mitigation, the Court concludes the following Recommended Order is warranted.

One further issue should be addressed. The Court notes Respondent's license expired on May 31, 2007 when Respondent did not 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 Section 63-38-3 2, and upon submission of documentation showing completion of or compliance with renewal qualifications

Pursuant to the just-quoted statute, Respondent would 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 below, 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

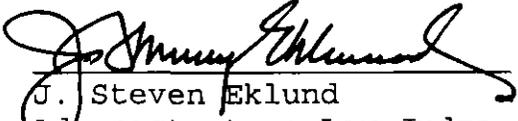
RECOMMENDED ORDER

WHEREFORE, IT IS ORDERED Respondent's license to practice as a licensed substance abuse counselor in this state shall be

revoked, effective the date this Recommended Order may be adopted by the Division

It is further ordered that any residual right Respondent would have to seek a reinstatement of his license shall be revoked upon adoption of this Recommended Order by the Division.

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 September, 2007 for his review and action


J. Steven Eklund
Administrative Law Judge