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**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	:	RECOMMENDED ORDER ON
PATRICIA JEAN MOUNTEER	:	MOTION TO VACATE
TO PRACTICE AS A SUBSTANCE ABUSE	:	DEFAULT ORDER
COUNSELOR IN THE STATE OF UTAH	:	Case No. DOPL-OSC-2006-25

BY THE ADMINISTRATIVE LAW JUDGE:

Pursuant to an October 16, 2007 Default Order, Respondent's license to practice as a substance abuse counselor in this state was revoked. Sparing extended detail, the Court conducted a November 13, 2007 teleconference with the Division and Respondent.

Based on a November 16, 2007 Scheduling Order, Respondent was granted leave until November 30, 2007 to file any request to set aside the October 16, 2007 Default Order. Concurrent with the issuance of that Scheduling Order, the Court provided both parties with certain documents to be considered as to Respondent's expected motion.

Respondent contacted the Court by telephone on or about November 30, 2007 and she sought a brief extension of time (until December 3, 2007) to file the written request to set aside the October 16, 2007 Default Order. The Court granted that request and received Respondent's undated written request on December 5,

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2007.

The Court conducted a December 10, 2007 teleconference with the parties. Shelley K. Wismer, then counsel for the Division in this proceeding, initially asserted Respondent's submission did not address why Respondent did not file any response after this proceeding had been initiated.

Ms. Wismer also urged Respondent failed to present any claim of excusable neglect as to possibly set aside the October 16, 2007 Default Order. Moreover, she asserted Respondent has not set forth any meritorious defense to justify relief from that Order.

The Court then informed both parties that Respondent's submission failed to address the issues of any excusable neglect and whether Respondent has a meritorious defense in this proceeding. Since Respondent was representing herself in this case, the Court granted final leave to Respondent until December 26, 2007 to file any supplemental submissions as to her pending request.

A December 21, 2007 Scheduling Order recites the Court would contact a teleconference with Lenore Epstein (substitute legal counsel for the Division) and Respondent within one (1) week after the supplemental submission was made.

The December 21, 2007 Scheduling Order was sent by regular mail to Respondent's last known address of

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Woods Cross, Utah 84087. That is the same address where prior orders and notices issued in this proceeding were sent and received. This record does not reflect whether the December 21, 2007 Scheduling Order was thus received. However, there is no indication that postal authorities returned that Order to the Division as undeliverable.

The Court notes Respondent's license had expired on May 31, 2007 when she did not seek a timely renewal of her license. Respondent also did not file any supplemental submission as permitted by the December 21, 2007 Scheduling Order. The Division (through second substitute counsel Judith A. Jensen) filed a May 15, 2008 Memorandum, thus opposing Respondent's request to set aside the October 16, 2007 Default Order. That Memorandum was sent to Respondent's last known address, as referenced above.

The Division's Memorandum notes Respondent received instructive assistance from the Court and she was properly afforded an opportunity to submit any sufficient motion which could merit setting aside the October 16, 2007 Default Order. However, the Division contends Respondent has not presented any adequate factual and legal basis as to obtain any relief from that Order. The Division thus asserts Respondent's request to set aside that Order should be dismissed.

The Division filed a February 23, 2010 request for a decision

! on the relief sought by Respondent in this proceeding. That request was sent by regular mail to Respondent's last known address, as referenced above. Given Respondent's failure to perfect her filing for possible relief from the October 16, 2007 Default Order, the Division reiterates Respondent's request to set aside that Order should be denied.

Based on the foregoing, the Court concludes Respondent has failed to diligently pursue and adequately present the required factual and legal basis for any possible relief from the October 16, 2007 Default Order. The Court thus readily issues the Recommended Order set forth below as warranted in this case.

RECOMMENDED ORDER

WHEREFORE, IT IS ORDERED Respondent's request for relief from the October 16, 2007 Default Order is denied.

It is further ordered the denial shall be effective upon the Division's issuance of an Order adopting this recommendation.

I hereby certify the Recommended Order on Respondent's Motion to Vacate Default Order was submitted to Mark B. Steinagel, Director of the Division of Occupational and Professional Licensing, on the ~~21st~~ day of July 2010 for review and action by the Division.


J. Steven Eklund
Administrative Law Judge
Department of Commerce