

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
MELISSA GAY ZAHN
TO PRACTICE AS A LICENSED
SUBSTANCE ABUSE COUNSELOR
IN THE STATE OF UTAH

ORDER REINSTATING LICENSE

Case No DOPL-2006-44

BY THE DIVISION:

Respondent has satisfied the terms and conditions as set forth in the Division's Stipulation and Order, dated February 27, 2006, in the above-referenced case

IT IS HEREBY ORDERED the probation on the license of MELISSA GAY ZAHN to practice as a licensed substance abuse counselor is terminated and said license be reinstated with full privileges effective the date of this Order.

Dated this 13 day of April, 2009

F. David Stanley
F David Stanley
Division Director



L MITCHELL JONES (U S B 5979)
Assistant Attorney General
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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)
MELISSA GAY ZAHN) **STIPULATION AND ORDER**
TO PRACTICE AS A LICENSED)
SUBSTANCE ABUSE COUNSELOR) **CASE NO. DOPL 2006- 44**
IN THE STATE OF UTAH)

MELISSA GAY ZAHN (“Respondent”) and the **DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING** of the Department of Commerce of the State of Utah (“Division”) stipulate and agree as follows

- 1 Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action
- 2 Respondent acknowledges that Respondent enters into this Stipulation knowingly and voluntarily
- 3 The Respondent understands that Respondent has the right to be represented by counsel in this matter and Respondent’s signature below signifies that Respondent has either

consulted with an attorney or Respondent waives Respondent's right to counsel in this matter

4 Respondent understands that Respondent is entitled to a hearing before the Utah State Substance Abuse Counselor Licensing Board, or other Division Presiding Officer, at which time Respondent may present evidence on Respondent's own behalf, call witnesses, and confront adverse witnesses Respondent acknowledges that by executing this document Respondent hereby waives the right to a hearing and any other rights to which Respondent may be entitled in connection with said hearing

5 Respondent waives the right to the issuance of a Petition and a Notice of Agency Action in this matter

6 Respondent acknowledges that this Stipulation and Order, if adopted by the Director of the Division, will be classified as a public document and may be released to other persons and entities

7 Respondent admits the following facts

- a Respondent was the primary substance abuse counselor for Ms B (name withheld for purposes of confidentiality) from about December 2005 to about January 2006, while Ms B was undergoing treatment for substance abuse and other mental health diagnoses, including but not limited to depression, at a private specialty treatment facility
- b Respondent failed to maintain appropriate boundaries with Ms B, and entered into a dual relationship with Ms B Respondent allowed Ms B to move into Respondent's home with Respondent, Respondent's partner, and Respondent's family, from about January 5, 2006, to about January 18, 2006
- c Ms B paid \$800 for the first month's rent to Respondent, none of which was refunded when Ms B moved from Respondent's dwelling after residing there for approximately two weeks

- d On two occasions in about January 2006, Respondent and Ms B drove together in Ms B's personal vehicle to Ms B's home, where Ms B had lived with her partner, Ms J (name withheld for purposes of confidentiality)
- e Respondent failed to inform Respondent's clinical supervisor about the fact that Ms B moved into Respondent's home
- f Respondent falsely documented in Ms B's clinical record that Ms B was being discharged to her a friend's home, when in fact Ms B went to Respondent's home
- g During the time that Ms B resided at Respondent's home, Respondent told Ms B that Respondent's partner was jealous of Ms B This information reportedly created substantial emotional turmoil for Ms B, who was described by a second licensed mental health therapist to be "extremely vulnerable " As a result Ms B was readmitted to residential care for stabilization

8 Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(a) and (g) and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann § 58-1-401(1)(a) Therefore, Respondent agrees that an Order shall be entered in this matter as follows

- (1) The Respondent's license shall be revoked That revocation shall be immediately stayed and the Respondent's license shall be subject to a term of probation for a period of three (3) years The period of probation shall commence on the effective date of this Stipulation and Order, which is the date the Division Director signs the Order During the period of probation, Respondent shall be subject to all of the following terms and conditions If the Board/Division later deems any of the conditions unnecessary, such deletions may be made by an amended order issued unilaterally by the Division
 - a Respondent shall notify the Board, and receive approval, prior to accepting employment and/or any change in employment Within fourteen (14) days of obtaining employment as a Substance Abuse Counselor. Respondent shall notify the Board of (a) the identity of Respondent's employer, (b) Respondent's job title and job description, and (c) the name of Respondent's supervisor Respondent must deliver a copy of this Stipulation and Order to Respondent's employer (within ten days of

starting employment) and cause Respondent's employer to notify the Division in writing that they have received a copy of this Stipulation and Order

- b The focus of the supervision goals will be concurrent management and the overseeing of substance abuse treatment services, professional relationships and practices, and clinical and administrative record keeping Respondent shall cause Respondent's supervisor to submit reports to the Board assessing Respondent's licensed practice, adherence to the ethics and standards of Respondent's profession and compliance with the terms of Respondent's probation on a monthly basis for the first six months of probation, and on a quarterly basis thereafter
- c Respondent shall notify any employer of Respondent's restricted status and the terms of this agreement Respondent shall further cause Respondent's employer to submit performance evaluations to the Board as described above The receipt of an unfavorable report may be considered to be a violation of probation If Respondent is not employed as a Substance Abuse Counselor, Respondent shall submit the employer report form on the date it is due and indicate on that form that current employment is not in Substance Abuse counseling, or that Respondent is not currently working during a particular timeframe
- d Respondent shall not supervise other licensed professionals or students
- e Respondent shall complete an additional ten hours of continuing professional education pre-approved by the Board, with emphasis in the areas of record keeping, professional ethics, standard of practice, boundaries, transference and counter-transference within one year of the effective date of this Stipulation and Order These additional 10 hours are in addition to the regular continuing education hours required for license renewal Respondent shall provide the Division/Board with written proof of all completed continuing professional education
- f Respondent shall, at her own expense, submit to a psychological evaluation from a Board and Division approved licensed psychologist or mental health therapist, indicating that Respondent has been evaluated for problems relating to co-dependency, boundary violations, dual relationship and any mental health symptoms or problems Respondent has ever experienced The evaluating psychologist/mental health therapist must not be previously known by Respondent, professionally or personally Respondent will cause a report of the evaluation to be sent to the Board along with any recommended treatment plan This evaluation must be

completed within ninety (90) days of the date of the effective date of this Order Respondent shall execute the appropriate written release forms to authorize the evaluating practitioner to release reports to the Division and Board including any diagnoses, supporting information, testing results and measures administered, interpretation of tests, and treatment recommendations

- g Respondent shall, at her own expense, follow any treatment recommendations made by the evaluator and/or the Division and Board A therapist pre-approved by the Division and Board must conduct any treatment and Respondent must execute all necessary releases to allow the therapist to freely report to the Division and Board regarding Respondent's progress Respondent's therapy will include, but not be limited to, retrospective exploration of the therapeutic impact and implications of dual relationships, boundary issues with clients, and transference/counter-transference The therapist will provide reports to the Board on a monthly basis or at such frequency as the Division and Board set
- h Respondent shall notify the Division and Board within one (1) week, in writing, of any change of employer or employment status This is required regardless of whether Respondent is employed in the field of Substance Abuse Treatment
- i Respondent shall meet with the Board within thirty (30) days of signing of the accompanying Order and on a quarterly basis, or at other greater or lesser frequency as determined by the Board and Division for the duration of the probationary period thereafter to assess the progress of Respondent's probation Respondent shall meet with the Board at the first scheduled meeting after the effective date of the Order with a plan for Respondent's psychological evaluation including the name(s) of evaluator(s)
- j In the event that Respondent leaves the State for a period longer than 60 days, Respondent shall notify the Division and the Board in writing of the dates of departure and return The licensing authorities of the jurisdiction to which Respondent moves must be promptly notified of the provisions of this Stipulation and Order Periods of residency or practice outside Utah may apply to the reduction of the probation period if the new state of residency places Respondent's license on probation with equal or greater severity of terms and conditions
- k Periods of unemployment or employment in other fields of practice shall be reported by Respondent to the Division and shall not count toward

completion of probation. Should Respondent not be employed in practice as a Substance Abuse Counselor during her probationary period for a consecutive period of more than sixty (60) days, that period shall not apply to the reduction of probation, though the terms of probation shall remain applicable. If the respondent works less than full-time as a Substance Abuse Counselor, the reduction of any remaining probationary time shall occur on a pro-rata basis, in relation to a full-time position of 40 hours worked per week.

- l Should other acts of unprofessional conduct come to the attention of the Division which have occurred prior to the entry of the Order in this case or should Respondent violate probation in any respect, the Division may, in addition to taking action as provided for herein, after giving Respondent notice and the opportunity to be heard, revoke probation or impose sanctions in accordance with applicable law.
- m If a petition is filed against Respondent during her probation the period of probation shall be extended until the matter is final.
- n Respondent shall immediately notify the Division, in writing, of any changes of address and agrees that written communication by the Division and/or the Board shall be mailed to Respondent at the last address provided to the Division, first class U S mail, and shall constitute notice to Respondent.
- o Failure to pay for any of the costs associated with this probation shall be considered a violation of this order. Respondent further agrees to complete all conditions of probation in a timely manner. Where a specific time for completion is not stated in this Order, it shall be within the Division/Board's discretion to set a time for completion.
- p Respondent agrees to keep her licensure as a Substance Abuse Counselor current during her period of probation.
- q Respondent shall notify the Division immediately if she is charged or arrested with any criminal conduct and understands that a conviction is a violation of this agreement.

9 This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this matter. Respondent acknowledges that the Director is not required to accept the terms of this Stipulation and Order and that if the Director does not do

so, this Stipulation and the representations contained therein shall be null and void, except that the Division and the Respondent waive any claim of bias or prejudgment Respondent might have with regard to the Director by virtue of her having reviewed this Stipulation, and this waiver shall survive such nullification

10 Respondent agrees to abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's professional practice

11 This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order There are no verbal agreements that modify, interpret, construe or affect this Stipulation

12 *The terms and conditions of this Stipulation and Order become effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director Respondent must comply with all the terms and conditions of this Stipulation immediately following the Division Director's signing of the Order page of this Stipulation and Order Respondent shall complete all the terms and conditions contained in the Stipulation and Order in a timely manner If a time period for completion of a term or condition is not specifically set forth in the Stipulation and Order, Respondent agrees that the time period for completion of that term or condition shall be set by the Board Failure to complete a term or condition in a timely manner shall constitute a violation of the Stipulation and Order and may subject Respondent to revocation or other sanctions*

13 If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanction, in the

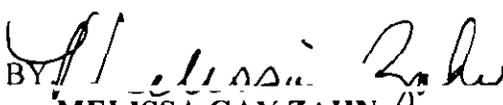
manner provided by law. Such sanction may include revocation or suspension of Respondent's license, or other appropriate sanction.

14 Respondent has read each and every paragraph contained in this Stipulation and Order. Respondent understands each and every paragraph contained in this Stipulation and Order. Respondent has no questions about any paragraph or provision contained in this Stipulation and Order.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

RESPONDENT

BY 
NOEL TAXIN
Bureau Manager

BY 
MELISSA GAY ZAHN

DATE 2/27/06

DATE 2/28/06

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY 
L. MITCHELL JONES
Counsel for the Division

DATE 27 Feb 2006

ORDER

THE ABOVE STIPULATION, in the matter of **MELISSA GAY ZAHN**, is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 27th day of February, 2006

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


J. CRAIG JACKSON
Director

Investigator Dee Thorell