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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 )  
**DAVID WILHELM WILKES** ) STIPULATION AND ORDER  
TO PRACTICE AS A )  
CLINICAL SOCIAL WORKER ) CASE NO DOPL 2008- *188*  
IN THE STATE OF UTAH )

**DAVID WILHELM WILKES** ("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 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 State of Utah's Social Worker Licensing Board ("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 understands that by signing this document Respondent hereby knowingly and intelligently waives the right to a hearing, the right to present evidence on Respondent's own behalf, the right to call witnesses, the right to confront adverse witnesses, and any other rights to which Respondent may be entitled in connection with said hearing Respondent understands that by signing this document Respondent hereby knowingly and intelligently waives the right to all administrative and judicial review as set forth in Utah Code Ann §§ 63G-4-204 to 63G-4-209 and Utah Administrative Code R156-46b-12 through R156-46b-15

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 The Division may release this Stipulation and Order, and will release other information about this disciplinary action against Respondent's license, to other persons and entities

7 Respondent admits the following facts are true

- a. Respondent was first licensed as a clinical social worker in the State of Utah on or about September 2, 1999 Respondent is not currently and has never been licensed as a contractor in the State of Utah
- b. Respondent provided mental health therapy in a clinical relationship to John Doe and Jane Doe (identities withheld for purposes of confidentiality), a married couple, from about September 2002 to 2005
- c. While providing mental health therapy to John and Jane Doe, Respondent also acted as a contractor for the Does by repairing and remodeling a part of the Doe's home in Utah between about August 2004 and about April 2005 The Does paid Respondent approximately \$40,000 for labor, materials, tool purchase and tool rental Some of the work Respondent completed did not comply with Utah building regulations The Does hired a second contractor to complete work that Respondent did not complete The clinical relationship between Respondent and the Does was terminated because of Respondent's failure to complete the contracting job in a satisfactory manner
- d. James Roe (identity withheld for purposes of confidentiality), a former client, worked on Respondent's car in exchange for Respondent providing mental health therapy to Roe Respondent formed a partnership with James Roe to assist Respondent with some of the contracting work Respondent was performing for John Doe
- e. Between early 2004 and late 2005 Respondent also engaged in an inappropriate dual relationship with a client to whom Respondent provided mental health therapy Respondent went to several movies, attended a religious conference, and rode to a part-time job with the client
- f. Respondent failed to maintain accurate, sufficient, and timely records to facilitate delivery of services and ensure continuity of services provided to clients in the future

8 Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(a) and (b), Utah Administrative Code R156-60a-502(9), (10), (16), (18), and (24), and Principles 1.06(a) and (c) and 3.04(a) and (b) of the Code of Ethics of the National Association of Social Worker, and unlawful conduct as

defined in Utah Code Ann § 58-1-501(1)(a) and §§ 58-55-101 to 58-55-604, and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann § 58-1-401(2)(a) and (b) Respondent agrees that an Order, which constitutes disciplinary action against Respondent's license by the Division pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann § 58-1-401(2), shall be entered in this matter as follows

- (1) Respondent's license shall be revoked That revocation shall be immediately stayed and Respondent's license shall be subject to a term of probation for a period of three 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 or 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 practice only under the supervision of a Division and Board pre-approved supervisor during the term of Respondent's probation. Any changes in supervision may be made only with the consent of the Division and Board Respondent shall deliver a copy of this Order to Respondent's supervisor (within ten days of the establishment of the supervisory relationship) and cause Respondent's supervisor to notify the Division in writing that a copy has been received
  - (b) Respondent shall meet weekly with Respondent's supervisor Supervision goals shall include concurrent management, oversight of therapeutic intervention services, and professional relationships and practices The supervisor shall sit in on, videotape, or audio tape, at least two clinical sessions per month The supervisor shall choose which clinical sessions to sit in on, videotape, or audio tape The supervisor shall review 20% of Respondent's current patient files. The supervisor shall choose which files shall be reviewed
  - (c) If Respondent is self-employed in private practice, Respondent shall hire a supervisor, pre-approved by the Board and Division
  - (d) The supervisor shall oversee clinical interventions and review records The supervisor shall also address issues pertaining to boundary violations, dual relationships, transference and counter-transference, and other issues the supervisor determines are pertinent to ethical practice

- (e) Respondent shall cause Respondent's supervisor to submit reports to the Board and Division assessing Respondent's compliance with the terms of Respondent's probation and ethics. The reports shall be submitted monthly for the first six months and quarterly thereafter, or at such frequency as directed by the Board and Division. The receipt of an unfavorable report may be considered to be a violation of probation.
- (f) If Respondent is not currently employed in Respondent's licensed profession, Respondent shall submit the supervisor report form on the date it is due and indicate on the form that Respondent is not currently employed in Respondent's licensed profession, or that Respondent is not currently working.
- (g) Respondent shall notify any employer of Respondent's restricted status and the terms of this Stipulation and Order. Respondent shall provide a copy of this Stipulation and Order to Respondent's employer and cause Respondent's employer to acknowledge to the Division and Board in writing that a copy of the Order has been provided to the employer. The employer shall submit employer reports to the Division and Board on a monthly basis for the first six months and quarterly thereafter, or at such frequency as directed by the Division or Board. The employer shall write the Division and indicate whether the employer will provide the periodic employer reports.
- (h) Respondent shall not clinically supervise other licensed mental health professionals or students.
- (i) Respondent shall pay a fine to the Division in the amount of \$1,000.00 (one-thousand dollars) pursuant to Utah Code Ann. § 58-55-503(4). The fine shall be paid in full within six months of the effective date of this Stipulation and Order.
- (j) Respondent shall cease and desist from acting as a contractor in the State of Utah as defined in Utah Code Ann. § 58-55-101 through § 58-55-604, until Respondent is properly licensed to do so. Respondent agrees to obey the Order and cease and desist from acting as a contractor as defined in Utah Code Ann. § 58-55-101 through § 58-55-604, until Respondent is properly licensed to do so. Respondent understands that failure to comply with the cease and desist Order may subject Respondent to a civil penalty of up to \$2,000 (two-thousand dollars) for each day the order is violated pursuant to Utah Code Ann. § 58-1-503(1).

- (k) Respondent shall complete eight additional hours of continuing professional education, pre-approved by the Board and Division, in the area of Respondent's licensed field of practice, with emphasis in the areas of professional ethics, values, and boundaries. The eight additional hours of continuing professional education shall be completed within eight months from the date of this Stipulation and Order. The eight additional hours of continuing education hours shall not count toward the regular continuing professional education requirement for license renewal. Respondent shall provide documentation to the Division and Board of successful completion of the eight additional hours.
- (l) Respondent shall successfully complete a psychological evaluation from a Board and Division approved licensed psychologist. The evaluator shall evaluate Respondent's problems relating to boundary violations, dual relationships, professional competency, and any other areas the evaluator identifies as concerns. The evaluator must not be known by Respondent professionally or personally and Respondent will cause a report of the evaluation to be sent to the Division and Board along with any recommended treatment plan. Said evaluation will be completed within ninety (90) days of the date of this Order. Respondent will execute the appropriate written release forms to authorize the evaluating practitioner to report to the Division and Board any report, diagnosis, supporting information, testing and measures administered, interpretation of the tests and treatment recommendations. Respondent shall be responsible for all expenses related to the evaluation.
- (m) Respondent shall follow any treatment recommendations made by the evaluator, the Division, and/or the Board. A therapist approved by the Division and Board shall conduct any treatment. Respondent shall execute any necessary releases to allow the therapist to provide reports to the Division and Board regarding Respondent's progress. Respondent's therapy should focus on the areas of concern identified by the evaluator. Respondent shall cause quarterly progress reports to be submitted to the Division and Board by the therapist. Respondent shall be responsible for all treatment expenses.
- (n) Respondent shall notify the Division and Board within one (1) week of any change of employer or employment status. This is required regardless of whether Respondent is employed in Respondent's licensed occupation. The notification shall be in writing.
- (o) Respondent shall meet with the Board and Division 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 and Division at the first scheduled Board meeting after the effective date of the Order with a plan for Respondent's probation, including the name(s) of evaluator(s)

- (p) Respondent shall limit Respondent's practice in accordance with the terms of probation, unless the Division and the Board authorize changes
- (q) In the event that Respondent leaves Utah 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 terms and conditions
- (r) 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 Respondent's licensed occupation during Respondent's 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 in Respondent's licensed occupation, 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
- (s) Should other acts of unprofessional conduct come to the attention of the Division or Board 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
- (t) If a petition is filed against Respondent during Respondent's probation, the period of probation shall be extended until the matters alleged in the petition are fully resolved
- (u) Respondent shall immediately notify the Division, in writing, of any changes in private or professional 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 via first class U S Mail, and shall constitute notice to Respondent

- (v) 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 and Board's discretion to set a time for completion
- (w) Respondent agrees to keep Respondent's Utah license current during the period of probation
- (x) Respondent shall notify the Division immediately if Respondent 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 non-criminal administrative 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 licensed 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 Respondent shall not take

any action or make any public statement that creates, or tends to create, the impression that any of the matters set forth in this Stipulation and Order are without factual basis. A public statement includes statements to one or more Board members during a meeting of the Board. Any such action or statement shall be considered a violation of this Stipulation and Order.

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

BY   
RICHARD J. OBORN  
Bureau Manager

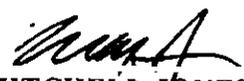
DATE 9-16-08

RESPONDENT

BY   
DAVID WILHELM WILKES

DATE 9-16-08

MARK L. SHURTLEFF  
ATTORNEY GENERAL

BY   
L. MITCHELL JONES  
Counsel for the Division

DATE 16 Sep 2008

**ORDER**

THE ABOVE STIPULATION, in the matter of **DAVID WILHELM WILKES**, 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 issuance of this Order is disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann § 58-1-401(2). The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 17 day of September, 2008

DIVISION OF OCCUPATIONAL AND  
PROFESSIONAL LICENSING



for E. DAVID STANLEY  
Director  
Clyde Ormond, Acting Director

Investigator: Dee Thorell