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BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING

OF THE DEPARTMENT OF COMMERCE

OF THE STATE OF UTAH

IN THE MATTER OF THE ISSUANCE OF A PROBATIONARY LICENSE TO **AIDEE TORRES** TO PRACTICE AS A PHARMACY TECHNICIAN IN THE STATE OF UTAH	)))))	**MEMORANDUM OF UNDERSTANDING AND ORDER** **CASE NO. DOPL 2008-** 251

On or about October 6, 2008 **AIDEE TORRES** ("Respondent") submitted an application for initial licensure to practice as a pharmacy technician in the State of Utah to the Division of Occupational and Professional Licensing, Department of Commerce, State of Utah ("Division") On or about March 2, 2007 Respondent was convicted of one count of possession of cocaine, a felony, in Fifth District Court, Washington County, Utah

Based upon Respondent's conduct described above, Respondent and Division, as evidenced by their signatures on this Memorandum of Understanding and Order, agree that Respondent shall be issued a probationary license to practice as a pharmacy technician in the State of Utah, subject to terms and conditions, which shall be in effect for a period of three years, commencing upon the date this Memorandum of Understanding and Order is approved by the Division Director as evidenced by his signature The Division may terminate the probation at an earlier date if the Division and Board determine that early termination is appropriate

1 Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(c) Respondent understands the issuance of the Order in this matter is disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann § 58-1-401(2)

2 Respondent acknowledges that Respondent enters into this Memorandum of Understanding and Order knowingly and voluntarily, and other than what is contained in this Memorandum of Understanding and Order, no promise or threat whatsoever has been made by the Division, or any member, officer, agent or representative of the Division to induce Respondent to enter into this agreement

3 Respondent understands that Respondent has the right to be represented by an attorney in this matter, and the Respondent has either sought the advice of counsel or knowingly waives Respondent's right to counsel in this matter

4 Respondent acknowledges that this Memorandum of Understanding 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

5 Respondent's license shall be revoked, the revocation immediately stayed, and Respondent's license shall be subject to the following terms and conditions during the probationary period

(a) 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

(b) Respondent shall work under the supervision of a pharmacist licensed in good standing with the Division Respondent shall provide a copy of this Stipulation and Order to Respondent's supervisor and cause Respondent's supervisor er to acknowledge to the Division and Board in writing that a copy of the Order has been provided to the supervisor The supervisor shall submit supervisor 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 supervisor shall write the Division and indicate whether the employer will provide the periodic supervisor reports

(c) Respondent may not be alone at any time in a pharmacy during either work or non-work hours

(d) Respondent shall successfully complete a chemical dependency evaluation from a Division approved evaluator The evaluator shall evaluate Respondent's ability to safely and competently practice pharmacy 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

(f) 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 progress reports to be submitted to the Division and Board at the frequency set forth in subparagraph (o) below Respondent shall be responsible for all treatment expenses

(g) Although the use and possession of alcohol is generally legal for persons age 21 and older, Respondent agrees to abstain from the personal use or possession of alcohol in any form Respondent agrees to abstain from the personal use or possession of controlled substances and prescription drugs, unless such controlled substance or prescription drug is lawfully prescribed to Respondent for a current bona fide illness or condition by a licensed practitioner and taken by Respondent in accordance with that practitioner's instructions Respondent shall abstain from the use of any and all other mood altering substances or use of mood altering substances for any other purpose than the purpose for which the substance is intended

(h) Respondent shall complete all terms and conditions of any criminal sanctions, incurred before or during the period of this agreement, including probation or parole If Respondent has not successfully completed all the terms and conditions of Respondent's criminal probation at the time Respondent's administrative probationary period ends, the period of

Respondent's administrative probation shall be extended until all the conditions of Respondent's criminal probation have been successfully completed

(i) Unless otherwise approved by the Division, Respondent shall, except as provided otherwise herein, receive prescriptions from only one prescribing practitioner, and Respondent shall fill prescriptions at only one pharmacy Respondent shall not obtain the same or equivalent prescription drug or controlled substance from more than one practitioner All prescribing practitioners must be informed of any and all of Respondent's addiction/abuse problems Respondent shall not undertake, under any circumstance, to obtain prescription drugs in quantities or types that are not legitimately required Respondent shall submit the names of the prescribing practitioner and pharmacy to the Division and Board for approval Respondent shall provide the Division with a copy of all Respondent's prescriptions for prescription drugs, controlled substances, or any other mood altering substance, within forty-eight (48) hours after the prescription has been written

(j) Prescriptions from an emergency practitioner or referral practitioner must be submitted to the Division within forty-eight (48) hours of being issued Respondent shall report to the Division within forty-eight (48) hours any and all medications and controlled substances administered or dispensed to Respondent by any other individual

(k) Respondent shall report to the Division within forty-eight (48) hours any and all medications or controlled substances ingested by Respondent from any source

(l) Respondent shall provide to the primary prescribing practitioner a copy of this Stipulation and Order and cause the practitioner to acknowledge to the Board in writing that a copy of this Stipulation and Order ahs been provided to the primary prescribing practitioner

(m) Respondent shall provide samples (urine, blood, saliva, hair, or any other type of sample requested) for drug analysis upon the request of the Division, to be conducted by any company with which the Division has contracted to conduct drug testing The designated company may also request such samples and Respondent shall comply with such requests The Division shall determine when and where Respondent is to submit for testing Respondent shall pay for the cost of drug testing and shall accurately complete and sign any and all release forms requested by the Division or the drug testing company with respect to drug testing, including but not limited to, forms authorizing the company to send the drug test results to the Division Any report from a drug testing company that

indicates that Respondent failed to provide a sample for drug analysis as directed will be considered a positive drug test result for Respondent and will subject Respondent to additional sanctions Any drug test result or pattern of results that indicates that the sample provided by Respondent for drug analysis is diluted to an extent that it cannot be analyzed, will be considered a positive drug test result for Respondent and will subject Respondent to additional sanctions

(n) The Division may take appropriate action to impose sanctions if (i) Respondent tests positive for alcohol, a prescription drug, a controlled substance, or any mood altering substance which cannot be accounted for by an administration or prescription by a lawful practitioner for a current medical condition, or (ii) Respondent violates any federal, state or local law relating to Respondent's practice, the Controlled Substance Act, or a term or condition of this Stipulation and Order Sanctions may include revocation or suspension of Respondent's license, or other appropriate sanction, in the manner provided by law

(o) All reports and documentation required in this Stipulation and Order shall be submitted to the Board on a monthly basis for the first six months of probation If Respondent is in compliance with all terms and conditions of the Order at the end of that time, all reports and documentation shall be submitted on a quarterly basis, or at such frequency as determined by the Board, for the remainder of probation If Respondent is not in compliance with all terms and conditions of the Order by the end of the first six (6) months of probation, all reports and documentation shall be submitted on a monthly basis until Respondent is in compliance with the Order, after which all reports shall be submitted on a quarterly basis or at such frequency as determined by the Board

(p) If so recommended by the evaluator, Respondent shall participate in a professional support group to address Respondent's use of controlled substances and shall submit documentation that reflects Respondent's continuing and regular attendance at such support group meetings Respondent shall submit such documentation to the Division at the frequency described in subparagraph (o) above Regular attendance for the purpose of this paragraph shall be at least twice a month

(q) If so recommended by the evaluator, Respondent shall attend a 12-step program, have a sponsor, work the 12-step program and submit reports at the frequency described in subparagraph (o) above to the Division documenting her participation The frequency of participation shall be approved by the Board Unless otherwise directed, Respondent shall attend at least two times per month

(s) Respondent shall submit an essay to the Division and Board focusing on the effects of her drug use on the profession, the pharmacy, and on the customers of the pharmacy The essay shall be submitted within eight months of the effective date of this Stipulation and Order

(t) Respondent shall successfully complete a course on pharmacy ethics and practice The course shall be pre-approved by the Board and Division The course shall be completed within one year of the effective date of this Stipulation and Order The course 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 course

(u) 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

(v) 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)

(w) Respondent shall limit Respondent's practice in accordance with the terms of probation, unless the Division and the Board authorize changes

(x) 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' license on probation with equal or greater terms and conditions

(y) 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

(z) 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

(aa) 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

(bb) 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

(cc) 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

(dd) Respondent agrees to keep Respondent's Utah license current during the period of probation

(ee) 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

6 Respondent agrees to abide by all applicable federal and state laws, regulations, rules or orders related to Respondent's area of licensed practice

7 Respondent understands that the issuance of a license pursuant to this Memorandum of Understanding and Order is a partial denial of licensure, and Respondent hereby waives the right to any administrative review of that partial denial of licensure

8 If Respondent successfully completes the terms of this Memorandum of Understanding and Order, the conditions on Respondent's license will be lifted and Respondent's license will not be subject to further restriction

9 If Respondent violates any term or condition of this Memorandum of Understanding 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

10 The terms and conditions of this Memorandum of Understanding and Order become effective immediately upon the approval of this Memorandum of Understanding and signing of the Order by the Division Director Respondent must comply with all the terms and conditions of this Memorandum of Understanding and Order immediately after the Division Director signs the Order page of this Memorandum of Understanding and Order The Respondent shall complete all the terms and conditions contained in the Memorandum of Understanding and Order in a timely manner If a time period for completion of a term or condition is not specifically set forth in this Memorandum of Understanding 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 Memorandum of Understanding and Order and may subject Respondent to revocation or other sanctions

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 There are no verbal agreements that modify, interpret, construe or affect this Memorandum of Understanding and Order

12 Respondent has read each and every paragraph contained in this Memorandum of Understanding and Order Respondent understands each and every paragraph contained in this Memorandum of Understanding and Order Respondent has no questions about any paragraph or provision contained in this Memorandum of Understanding and Order

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY _____
~~NOEL TAXIN~~ LAURA AOE
Bureau Manager

DATE 10-29-08

RESPONDENT

BY: _____
AIDEE TORRES

DATE 10/17/08

MARK L SHURTLEFF
ATTORNEY GENERAL

BY _____
L MITCHELL JONES
Counsel for the Division

DATE 9 Oct 2008

ORDER

THE ABOVE MEMORANDUM OF UNDERSTANDING, in the matter of **AIDEE TORRES** is hereby approved by the Division of Occupational and Professional Licensing 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 Memorandum of Understanding are incorporated herein and constitute my final Order in this case

DATED this 29 day of October, 2008

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

F. David Stanley

F DAVID STANLEY
Director