

L MITCHELL JONES (U S B 5979)
Assistant Attorney General
MARK L SHURTLEFF (U S B 4666)
Attorney General
Commercial Enforcement Division
Heber M Wells Building
Box 146741
Salt Lake City, UT 84114-6741
TEL (801) 366-0310

—

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING

OF THE DEPARTMENT OF COMMERCE

OF THE STATE OF UTAH

—

IN THE MATTER OF THE LICENSES OF)
TAD H. BUTTERFIELD) **STIPULATION AND ORDER**
TO PRACTICE AS A DENTIST AND TO)
ADMINISTER AND PRESCRIBE) **CASE NO DOPL 2008- 255**
CONTROLLED SUBSTANCES)
IN THE STATE OF UTAH)

—

TAD H. BUTTERFIELD (“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 Dentist and Dental Hygienist 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 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 waives all rights to any administrative and judicial review as set forth in §§ 63G-4-301 through 63G-4-405 and Utah Administrative Code R156-46b-12 through R156-46b-15

5 Respondent understands 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

6 Respondent admits the following facts are true

- a Respondent was first licensed to practice as dentist and to administer and prescribe controlled substances in the State of Utah on or about October 11, 1990
- b Between on or about July 20, 2007 and November 8, 2007 the Division received four complaints from L L , P M , G M , and E W , whose identities are being withheld for purposes of confidentiality, who were current or former

patients of Respondent. Each of the complaints alleged that Respondent failed to complete dental work that Respondent had started and that Respondent had stopped communicating with them. Division investigator John Sims contacted Respondent after receiving each complaint and informed Respondent of the content of each complaint. On November 27, 2007 the Division issued a "Letter of Concern" to Respondent warning him of possible future disciplinary action by the Division.

- c. On or about April 4, 2007 Respondent treated patient M G , age 71. Respondent told M G that she needed a bridge. Respondent installed a temporary bridge and told M G that the permanent bridge would be ready in a few weeks. M G paid Respondent \$1,800.00 (one-thousand eight-hundred dollars) out-of-pocket for the complete bridge procedure. M.G had to take out a loan to obtain the \$1,800.00. Respondent set up two appointments to finish the bridge procedure, but cancelled both at the last minute. M G did not hear from Respondent again despite M G leaving numerous messages for Respondent at his office. M G is still waiting for the placement of the permanent bridge, 18 months after the temporary bride was placed. M G was quoted a price of \$1,500.00 (one-thousand five hundred dollars) by a second dentist to place the permanent bridge. M G filed her complaint with the Division on or about August 7, 2008.
- d. In about June 2007 Respondent treated patient V S. Respondent told V S that he needed a three piece bridge procedure performed. Respondent completed preparatory work, told V S that the bridge would be ready in a few weeks and that Respondent would call V S when the bridge was ready. V S paid Respondent \$2,000.00 (two thousand dollars) for the entire bridge procedure and other procedures using a credit card. V S called Respondent in about August 2007 to set up an appointment to have the permanent bridge installed, but Respondent told V S that Respondent was not satisfied with the quality of the permanent bridge that Respondent had received from the maker. V S attempted to contact Respondent on numerous occasions over the next year to set up an appointment to have the bridge procedure completed. Respondent told V S that because of personal issues, moving, and construction delays, Respondent could not complete the procedure. V S ran into Respondent in a library in July 2008. Respondent would still not commit to complete the procedure. V S still has a temporary bridge in place waiting for Respondent to complete the procedure 16 months after the temporary bridge was installed. V S filed his complaint with the Division on or about September 29, 2008.
- e. In about January 2008 Respondent treated patient S H. Respondent told S H that she needed a new bridge for her lower right jaw. On or about January 3, 2008 Respondent completed preparatory work and told S.H that the bridge

would be ready in a few weeks and that Respondent would call S H when the bridge was ready S H paid Respondent \$1,900 00 (one-thousand nine-hundred dollars) on or about January 3, 2008 S H did not hear from Respondent again despite S H leaving repeated messages for Respondent at his office After Respondent made a complaint to the Division, the Division investigator instructed S H to mention the Division investigator's name to Respondent After S H mentioned the Division investigator's name on a message left at Respondent's office, Respondent called S H on or about March 24, 2008 and set up an appointment to complete the work on April 4, 2008 Respondent later cancelled S H's April 4th appointment Respondent later set up and cancelled appointments with S H on April 9, 2008, April 11, 2008, June 5, 2008, June 6, 2008, and June 11, 2008 Respondent never communicated with S H after June 11, 2008 S H went to another dentist, Dr Keith Lever Dr Lever determined that the temporary bridge placed by Respondent was still in place, but that it was "leaking badly at the cervical margin with decay observed deep on root into furcation area The posts and old build up were no longer bonded to the tooth because of tooth decay the crept underneath After removing decay there was not much healthy tooth structure remaining which leaves in question whether the tooth can even be saved" Dr Lever's staff made numerous attempts to contact Respondent but was unable to communicate with him A root canal procedure was required for S H's Tooth #28 S H's Tooth #30 had to be extracted A partial denture still needs to be put in its place S H paid Dr Lever \$1,300 00 (one-thousand three-hundred dollars) to complete the root canal, extraction, and to put a crown in place

- f In about December 2007 and January 2008 Respondent treated patient K W Respondent told K W that she needed a crown Respondent completed preparatory work and told K W that the crown would be ready in a few weeks and that Respondent would call K W when the crown was ready K W paid Respondent about \$285 00 (two hundred eighty-five dollars) of out-of-pocket funds for the entire procedure K W's insurer paid a matching amount to Respondent K W did not hear from Respondent for six months despite K W leaving repeated messages for Respondent at his office In about June 2008 Respondent called K W and set up an appointment to finish the crown procedure, but cancelled the appointment at the last minute K W found a new dentist who eventually completed the crown work in July 2008 K W had to pay an additional approximately \$300 00 (three hundred dollars) out of pocket to the new dentist to complete the crown procedure
- g Respondent did not provide any of the aforementioned patients with adequate notice or the opportunity to obtain the services of another dentist Respondent ceased communicating with the patients without attempting to refer them to

another dentist

7 Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(a), (b), and (g), and Principle 2 F of the Code of Ethics of American Dental Association Respondent agrees by engaging in such conduct the Division is justified in taking 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), may be issued in this matter providing for the following action against Respondent's license

- (1) Respondent's licenses shall be revoked Those revocations shall be immediately stayed and Respondent's licenses 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 or at the frequency the Division and Board may otherwise direct Supervision goals shall include concurrent management, clinical services, and professional relationships and practices The supervisor shall review 10% 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 patient care 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 complete six 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. The six additional hours of continuing professional education shall be completed within eight months from the date of this Stipulation and Order. The six 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 six additional hours.
- (i) Respondent shall successfully complete a psychological evaluation from a Board and Division approved licensed psychologist. The evaluator shall

evaluate Respondent's problems relating to 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.

- (j) 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.
- (k) 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.
- (l) 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).
- (m) Respondent shall limit Respondent's practice in accordance with the terms of probation, unless the Division and the Board authorize changes.
- (n) 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.

- (o) 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.
- (p) 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.
- (q) 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.
- (r) 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.
- (s) 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.
- (t) Respondent agrees to keep Respondent's Utah license current during the period of probation.
- (u) 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

- (v) Respondent shall complete in a timely manner all dental procedures that Respondent has already initiated, including all procedures initiated for patients mentioned in this Stipulation and Order
- (w) Respondent shall submit an essay to the Division and Board describing the effects of Respondent's misconduct on himself, his patients, and the profession, as well as Respondent's plan for future practice. The essay shall be submitted within 90 days of the effective date of this Stipulation and Order

8 Upon approval by the Director of the Division, this Stipulation and Order 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 prejudice they might otherwise have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

9 Respondent shall abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's licensed practice.

10 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 agrees not to 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

1 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

11 The accompanying Order becomes effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director Respondent shall 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 comply with and timely complete all the terms and conditions of probation 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 comply with and timely complete a term or condition shall constitute a violation of the Stipulation and Order and may subject Respondent to revocation or other sanctions

12 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

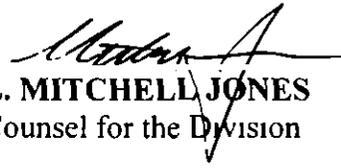
13 Respondent has read each and every paragraph contained in this Stipulation and Order Respondent understands each and every paragraph contained in this Stipulation and Order Respondent has no questions about any paragraph or provision contained in this Stipulation and Order

1
DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY 
for NOËL TAXIN
Bureau Manager

DATE 18 Dec 2008

MARK L SHURILEFF
ATTORNEY GENERAL

BY 
L. MITCHELL JONES
Counsel for the Division

DATE 18 Dec 2008

RESPONDENT

BY 
TAD F. BUTTERFIELD
Respondent

DATE 17 Dec 2008

ORDER

THE ABOVE STIPULATION, in the matter of **TAD H. BUTTERFIELD**, 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 18 day of December, 2008

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING



F. DAVID STANLEY
Director

Investigator John Sims