

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 :
CHADWICK MAXWELL SMITH : **ORDER REINSTATING LICENSE**
TO PRACTICE AS A PHARMACIST :
AND TO DISPENSE CONTROLLED SUBSTANCES :
IN THE STATE OF UTAH : Case No. DOPL-2009-1

BY THE DIVISION:

Respondent has satisfied the terms and conditions as set forth in the Division's Stipulation and Order, dated January 5, 2009, in the above-referenced case number.

IT IS HEREBY ORDERED the probation on the licenses of CHADWICK MAXWELL SMITH to practice as a pharmacist and to dispense controlled substances is terminated and said licenses be reinstated with full privileges effective the date of this Order.

this 30 day of June, 2009.




Mark B. Steinagel
Director

L. MITCHELL JONES (U.S.B. 5979)
Assistant Attorney General
MARK L. SHURTLEFF (U.S.B. 4666)
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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 LICENSES OF)	
CHADWICK MAXWELL SMITH)	STIPULATION AND ORDER
TO PRACTICE AS A PHARMACIST AND)	
TO DISPENSE CONTROLLED SUBSTANCES)	CASE NO. DOPL 2009-1
IN THE STATE OF UTAH)	

CHADWICK MAXWELL SMITH ("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 Board of Pharmacy ("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 hereby waives all 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 waives the right to the issuance of a Petition and a Notice of Agency Action in this matter.

6. 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 licenses, to other persons and entities.

7. Respondent admits the following facts are true:

- a. On or about May 23, 2003 Respondent was first licensed to practice pharmacy and to dispense controlled substances in the State of Utah.

- b. On or about February 6, 2007 Respondent was arrested by police in Draper, Utah. Respondent was later charged with driving under the influence of drugs. Respondent consumed the prescription drugs Soma and Prozac just prior to his arrest. Respondent had been prescribed the Soma and Prozac by a physician and taken as ordered. On or about July 12, 2007 Respondent pleaded guilty to one count of reckless driving in Draper Justice Court.

8. Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(c); and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a). Respondent agrees that an Order, which constitutes disciplinary action against Respondent's licenses by the Division pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2)(a), shall be entered in this matter as follows:

- (1) Respondent's licenses shall be revoked. Those revocations shall be immediately stayed and Respondent's licenses shall be subject to term of probation for a period of six months. 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 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 his prescribing practitioners. Respondent shall meet with a Division staff member to review the Stipulation and Order prior to meeting with the Board.
 - (b) Respondent shall work under the general supervision of a pharmacist licensed in good standing with the Division. Respondent shall notify any employer of Respondent's restricted status and the terms of this

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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 quarterly basis, 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.

- (c) Unless otherwise approved by the Division, Respondent shall, except as provided otherwise herein, receive prescriptions from only two prescribing practitioners (one of which shall be Respondent's psychiatrist), 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. 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.
- (d) 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.
- (e) Respondent shall report to the Division within forty-eight (48) hours any and all medications or controlled substances ingested by Respondent from any source.
- (f) Respondent shall provide to the primary prescribing practitioners 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 has been provided to the primary prescribing practitioner.
- (g) 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.

- (h) 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.
- (i) 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. Respondent must work at least sixteen (16) hours per week and no more than fifty-two (52) hours per week to be considered "practicing" in Respondent's profession.
- (j) 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.
- (k) 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.
- (l) 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.
- (m) 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.

- (n) Respondent shall keep Respondent's Utah licenses current during the period of probation.
- (o) 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. Respondent shall notify the Division if Respondent is hospitalized or enters into a treatment program.
- (p) Respondent shall pay an administrative penalty to the Division in the amount of \$500.00 (five hundred dollars), pursuant to Utah Code Ann. § 58-17b-401(6), § 58-17b-504(5), and Utah Administrative Code R156-17b-402, within 90 days of the effective date of this Stipulation and Order. *paid 1/13/69*
- (q) Respondent's license shall be publicly reprimanded for the conduct described above.

9. 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 prejudgment they might otherwise have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

10. Respondent shall 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

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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 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 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. 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.

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: *Laura Poe*
LAURA POE
Bureau Manager

BY: *Chadwick Maxwell Smith*
CHADWICK MAXWELL SMITH

DATE: 1-5-09

DATE: 1/5/09

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY: *L. Mitchell Jones*
L. MITCHELL JONES
Counsel for the Division

DATE: 5 Jan 2009

ORDER

THE ABOVE STIPULATION, in the matter of **CHADWICK MAXWELL SMITH**, 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 5 day of January 2009 ~~2008~~ *HS*

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

F. David Stanley
F. DAVID STANLEY
Director

Investigator: Lynn Hooper