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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
MARTIN JOSEPH MACNEILL
TO PRACTICE AS AN OSTEOPATHIC
PHYSICIAN AND SURGEON AND
TO ADMINISTER AND PRESCRIBE
CONTROLLED SUBSTANCES
IN THE STATE OF UTAH

STIPULATION AND ORDER

Case No. DOPL 2009- 401

ADMINISTRATIVE LAW JUDGE J. STEVEN EKLUND

STIPULATION

MARTIN JOSEPH MACNEILL ("Respondent") and the DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING of the Department of Commerce of the State of Utah

(the "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 is represented in the above-entitled matter by attorney Randall K. Spencer and signs this Stipulation and Order with the advice of counsel.

4. Respondent understands that Respondent is entitled to a hearing before the Utah Osteopathic Physician and Surgeon's Licensing Board ("the 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 UTAH CODE ANN. §§ 63G-4-301 through 63G-4-405 and UTAH ADMIN. CODE R151-46b-12 through R151-46b-15.

5. Respondent waives the right to the issuance of a Petition in this matter. Respondent understands that a proposed Notice of Agency Action accompanies this Stipulation and Order, acknowledges receiving the proposed Notice of Agency Action, and agrees that the Notice of Agency Action is issued by the Division contemporaneously with this Stipulation and Order and becomes effective contemporaneously with this Stipulation and Order when it is signed by the Division's Director. Respondent understands and agrees that the issuance of the Notice of Agency Action initiates a formal adjudicative proceeding against Respondent pursuant

to UTAH CODE ANN. § 63G-4-201, and this Stipulation and Order contemporaneously concludes the formal adjudicative proceeding through settlement as set forth in UTAH CODE ANN. § 63G-4-102(4). The Division waives the right to a written response to the Notice of Agency Action. Respondent agrees that the agency's file number will be assigned when the Stipulation and Order and Notice of Agency Action are issued. Respondent agrees that Respondent shall be served with the Notice of Agency Action by United States Mail, first class, postage prepaid, mailed to Respondent's attorney, Randall K. Spencer, Fillmore and Spencer, L.L.C., 3301 North University Avenue, Provo, Utah 84604 along with a copy of the Stipulation and Order after all parties have signed this Stipulation and Order and Notice of Agency Action.

6. Respondent admits the following facts are true:
 - a. In or about 2007, Respondent knowingly and intentionally aided and abetted G.W. (name withheld to protect confidentiality) to obtain false identification cards, a Utah State Identification Card and a United States Military Identification Card, using the Social Security Number that had been lawfully assigned to Respondent's adopted child and using a name for G.W. that incorporated the adopted child's name.
 - b. On August 30, 2007, Respondent went with G. W. to an office of the United States military to apply for and obtain for G.W. a Uniformed Services Identification Card in the fraudulent name of "Jillian G. MacNeill". On the application for the Uniformed Services Identification Card, Respondent stated, and/or directed G.W. to state, that her name was "Jillian MacNeill" and that Social Security Number XXX-XX-8175 was her Social Security Number in the "Jillian MacNeill" persona. Respondent also stated and directed G.W. to state that G.W. (in the "Jillian MacNeill" persona) and he were married on April 14, 2007. Respondent intended to deceive the military by giving them a false Social Security Number for

G.W., a false name for G.W., and false information that G.W. and he were married. Respondent knew that this Social Security Number was not assigned to G.W. or "Jillian MacNeill," that "Jillian MacNeill" does not exist, and that the Social Security Number was in fact assigned to a real individual, G.M.M., who was Respondent's adopted child.

- c. On October 3, 2007, Respondent went with G. W., posing as "Jillian MacNeill," to a branch of Zions First National Bank ("Zions Bank") to open account number XXXXXX1056 at Zions Bank, with both "Jillian MacNeill" and Respondent listed as authorized signers on the account. On the account application Respondent stated, and/or directed G.W. to state, that her name was "Jillian MacNeill" and that her Social Security Number was XXX-XX-8175 in the "Jillian MacNeill" persona. G.W., directed and assisted by Respondent, used her previously-obtained military identification card to identify herself as "Jillian MacNeill". Respondent intended to deceive Zions Bank by giving them a false Social Security Number and name for G.W. Respondent knew that this Social Security Number was not assigned to G.W. or "Jillian MacNeill," that "Jillian MacNeill" does not exist, and that the Social Security Number was in fact assigned to a real individual, G.M.M., who was Respondent's adopted child.
- d. Based upon Respondent's conduct described in Subparagraphs 6(a), (b), and (c) above, a criminal Indictment was filed against Respondent in United States vs. Martin Joseph MacNeill, Case No. 2:09 CR 36 DB, before the United States District Court, District of Utah, Central Division. On June 4, 2009, Respondent pled guilty to **two counts of Aggravated Identity Theft and Aiding and Abetting** in violation of 18 U.S.C. §§ 1028A and 2 in Case No. 2:09 CR 36 DB. Said crimes are crimes of moral turpitude. On August 8, 2009, Respondent was sentenced on his pleas of guilty in Case No. 2:09 CR 36 DB to serve a term of forty-eight (48) months in Federal prison.
- e. On or about September 28, 2007, in Utah County, Utah, Respondent knowingly and intentionally obtained and recorded a quit claim deed on real property to avoid probate. On September 21, 2009, and based upon the foregoing conduct, Respondent entered a plea of guilty to the criminal charge of **Recording a False or Forged Instrument, a Third Degree Felony**, in violation of UTAH CODE ANN. § 76-8-414, in State of Utah vs. Martin MacNeill,

Fourth Judicial District Court, State of Utah, Case No. 091402739. Said crime is a crime of moral turpitude.

- f. On or about December 26, 2007, in Utah County, Utah, Respondent knowingly and intentionally reported items were stolen from his home, or failed to report the fact that the items which he had reported to be stolen were not stolen and remained in his possession. Respondent kept the money paid to him by the insurance company for said items reported as stolen but which in fact remained in his possession. On September 21, 2009, and based upon the foregoing conduct, Respondent entered a plea of guilty to the criminal charge of **Accepting Benefits from False or Fraudulent Insurance Claim, a Third Degree Felony**, in violation of UTAH CODE ANN. § 76-6-521, in State of Utah vs. Martin MacNeill, Fourth Judicial District Court, State of Utah, Case No. 091402739. Said crime is a crime of moral turpitude.
- g. On or about February 12, 2008, in Utah County, Utah, Respondent knowingly and intentionally provided false information to the Court to obtain a fraudulent birth certificate for another person. On September 21, 2009, and based upon the foregoing conduct, Respondent entered a plea of guilty to the criminal charge of **False or Inconsistent Material Statements, a Second Degree Felony**, in violation of UTAH CODE ANN. § 76-8-502, in State of Utah vs. Martin MacNeill, Fourth Judicial District Court, State of Utah, Case No. 091402739. Said crime is a crime of moral turpitude.
- h. On September 21, 2009, and based on Respondent's guilty pleas in Case No. 091402739 to the felony charges of False or Inconsistent Material Statements, Recording False or Forged Instrument, and Accepting Benefits from False or Fraudulent Insurance Claim, the Utah District Court sentenced Respondent to prison on each count, suspended the prison terms, and ordered Respondent serve 365 days jail on each count to run concurrently with the Federal sentence.

7. Respondent acknowledges the following:

- a. At all times material to the violations admitted in Paragraph 8 below, the Division of Occupational and Professional Licensing Act, UTAH CODE ANN. § 58-1-401, has provided in relevant part as follows:

- (1) The Division shall refuse to issue a license to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee who does not meet the qualifications for licensure under this title.
 - (2) The Division may refuse to issue a license to an applicant and may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public or private reprimand to, or otherwise act upon the license of any licensee in any of the following cases:
 - (a) the applicant or licensee has engaged in unprofessional conduct, as defined by statute or rule under this title;
 - (b) the applicant or licensee has engaged in unlawful conduct as defined by statute under this title;
- b. At all times material to the violations admitted in Paragraph 8 below, the Division of Occupational and Professional Licensing Act, UTAH CODE ANN. § 58-1-501(1) has defined "Unlawful Conduct" in relevant part as follows:
- (e) obtaining a passing score on a licensure examination, applying for or obtaining a license, or otherwise dealing with the division or a licensing board through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission;
- c. At all times material to the violations admitted in Paragraph 8 below, the Division of Occupational and Professional Licensing Act, UTAH CODE ANN. § 58-1-501(2) has defined "Unprofessional Conduct" in relevant part as follows:
- (a) violating, or aiding or abetting any other person to violate, any statute, rule, or order regulating an occupation or profession under this title;
 - (c) engaging in conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of

probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license was issued or is to be issued, bears a reasonable relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession.

- d. At all times material to the violations admitted in Paragraph 8 below, the Utah Osteopathic Medical Practice Act, UTAH CODE ANN. § 58-68-302(1) has provided in relevant part as follows:

An applicant for licensure as an osteopathic physician and surgeon, except as set forth in Subsection (2) or (3), shall:

(c) be of good moral character;

- e. At all times material to the violations admitted in Paragraph 8 below, the Utah Controlled Substances Act Rules, UTAH ADMIN. CODE R156-37-401, has provided as follows:

Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.

- f. In accordance with UTAH CODE ANN. § 58-37-6(1)(a) and UTAH ADMIN. CODE R156-37-301, Respondent's licensure to administer and prescribe controlled substances in the State of Utah is based in part upon his licensure to practice as an Osteopathic Physician and Surgeon in the State of Utah.

8. Based upon the facts admitted in Paragraph 6 herein, Respondent admits the following:

- a. In or about 2007 and 2008, Respondent engaged in conduct that resulted in his entry of pleas of guilty on June 4, 2009, and conviction on August 8, 2009, in United States vs. Martin Joseph MacNeill, United States District Court, District of Utah, Central Division, Case No. 2:09 CR 36 DB, to two counts of Aggravated

Identity Theft and Aiding and Abetting in violation of 18 U.S.C. §§ 1028A and 2. Said crimes are crimes of moral turpitude. Based upon the foregoing, Respondent engaged in "Unprofessional Conduct" pursuant to UTAH CODE ANN. § 58-1-501(2)(c), and said conduct and convictions constitute grounds to revoke Respondent's licenses to practice as an Osteopathic Physician and Surgeon and to administer and prescribe controlled substances in the State of Utah pursuant to UTAH CODE ANN. § 58-1-401(2)(a).

- b. In or about 2007 and 2008, Respondent engaged in conduct that resulted in his entry of pleas of guilty on September 21, 2009, in State of Utah vs. Martin MacNeill, Fourth Judicial District Court, State of Utah, Case No. 09400178, to the following crimes of moral turpitude:
- (1) Recording a False or Forged Instrument, a Third Degree Felony, in violation of UTAH CODE ANN. § 76-8-414,
 - (2) Accepting Benefits from False or Fraudulent Insurance Claim, a Third Degree Felony, in violation of UTAH CODE ANN. § 76-6-521, and
 - (3) False or Inconsistent Material Statements, a Second Degree Felony, in violation of UTAH CODE ANN. § 76-8-502.

Based upon the foregoing, Respondent engaged in "Unprofessional Conduct" pursuant to UTAH CODE ANN. § 58-1-501(2)(c), and said conduct and convictions constitute grounds to revoke Respondent's licenses to practice as an Osteopathic Physician and Surgeon and to administer and prescribe controlled substances in the State of Utah pursuant to UTAH CODE ANN. § 58-1-401(2)(a).

- c. Respondent does not meet the requirements for licensure pursuant to UTAH CODE ANN. § 58-68-302(1)(c) to practice as an Osteopathic Physician and Surgeon in the State of Utah and thus grounds exist to revoke Respondent's license to practice as an Osteopathic Physician and Surgeon in the State of Utah pursuant to UTAH CODE ANN. § 58-1-401(1).

9. Respondent desires to surrender his licenses to practice as an Osteopathic Physician and Surgeon and to administer and prescribe controlled

substances in the State of Utah in lieu of any further disciplinary proceedings against his licenses.

10. Based upon the foregoing, Respondent agrees that an Order, which constitutes disciplinary action against Respondent's licenses by the Division pursuant to UTAH ADMIN. CODE R156-1-102(7) and UTAH CODE ANN. § 58-1-401(2), may be entered in this matter as follows:

- a. The surrender of Respondent's licenses to practice as an Osteopathic Physician and Surgeon and to administer and prescribe controlled substances in the State of Utah shall be effective immediately upon the date of entry (the "effective date") of the Order herein.
- b. On the effective date of the Order herein, Respondent forfeits all rights to practice as an Osteopathic Physician and Surgeon and to administer and prescribe controlled substances in the State of Utah.
- c. As a condition of the surrender of Respondent's licenses, Respondent agrees that, for a period of ten (10) years from the effective date of the Order herein, Respondent shall not submit to the Division any application for license to practice as an Osteopathic Physician and Surgeon or for license to administer and prescribe controlled substances.
- d. As a condition of the surrender of Respondent's licenses, Respondent agrees that if, after the period of ten (10) years from the effective date of the Order, Respondent submits any application to the Division for license to practice as an Osteopathic Physician and Surgeon or for license to administer and prescribe controlled substances, Respondent shall comply with the following conditions and shall provide written verification thereof to the Division:
 - (1) In all state and federal criminal cases against Respondent as a Defendant, Respondent shall verify to the Division that he has completed all of the terms and conditions of incarceration, probation, and parol and has paid all fines,

fees, and restitution ordered in said cases. Further, Respondent shall verify to the Division that all state and federal criminal cases against Respondent have been closed or otherwise dismissed.

- (2) Within six (6) months prior to the date of any such future application for licensure, Respondent shall successfully complete a comprehensive psychological, psychiatric, and neuropsychological evaluation ("Comprehensive Evaluation") conducted by a Division-approved evaluator. As part of the Comprehensive Evaluation, the approved evaluator shall assess (a) whether Respondent is able to practice as an Osteopathic Physician and Surgeon with reasonable skill and safety despite all mental, medical, and physical conditions and (b) whether because of said condition(s) Respondent demonstrates a threat or potential threat to the public health, safety, or welfare. Respondent shall cooperate fully with the evaluator to ensure a fair and complete evaluation. Respondent shall provide a copy of this Stipulation and Order to the evaluator and Respondent shall notify the evaluator of all neuropsychological evaluations, psychological evaluations, medical evaluations, and psychiatric evaluations that previously have been performed on Respondent. Respondent shall authorize the release to the approved evaluator of all said previous neuropsychological, psychological, medical, and psychiatric evaluations for use in performing the Comprehensive Evaluation. Respondent shall cause the complete report of the Comprehensive Evaluation to be sent to the Division and the Board.
- (3) In addition to the licensure application forms and documentation otherwise required by the Division, Respondent shall also submit to the Division the following documentation with any future application for license to practice as an Osteopathic Physician and Surgeon or to administer and prescribe controlled substances:
 - (a) Respondent shall submit certified transcripts from all osteopathic, medical, and health care schools, colleges, and universities that Respondent has attended, including, but not limited to, the Universidad

Autonoma de Guadalajara, Guadalajara, Jalisco, Mexico, and the College of Osteopathic Medicine of the Pacific, Pomona, California and its successor, the Western University of Health Sciences, Pomona, California.

- (b) Respondent shall submit verification that Respondent (1) has met all of the educational requirements for a doctoral degree in Osteopathic Medicine and has earned a valid doctoral degree of Osteopathic Medicine or (2) has obtained current certification by the Educational Commission for Foreign Medical Graduates.
 - (c) Respondent shall submit certified documentation verifying that Respondent has successfully completed the term of progressive resident training after earning a valid degree of doctor of Osteopathic Medicine that is required for licensure as an Osteopathic Physician and Surgeon.
- (4) Within six (6) months prior to the date of any such future application for licensure, Respondent shall successfully complete a comprehensive evaluation by the Colorado Personalized Education for Physicians ("CPEP"). Respondent shall provide a copy of this Stipulation and Order to the evaluators and Respondent shall cooperate fully with the CPEP evaluators to ensure a fair and complete evaluation. Respondent shall cause the complete evaluation report to be sent to the Division. Respondent shall complete all education and treatment recommended by CPEP prior to submitting any such application for licensure.

In the event that CPEP refuses admission to Respondent for the purpose of conducting an evaluation or in the event that CPEP does not exist as an evaluative facility at the time of such application for license by Respondent, Respondent shall obtain an evaluation that is comparable to a comprehensive evaluation by CPEP and that is conducted by a facility approved by the Division.

- (5) Within six (6) months prior to the date of any such future application for licensure, Respondent shall obtain a passing score on the Special Purpose Examination of the Federation of State Medical Boards (SPEX).

11. If after ten (10) years from the effective date of the Order herein Respondent applies to the Division for a license to practice as an Osteopathic Physician and Surgeon and/or to administer and prescribe controlled substances, the Division and the Board shall have the discretion to grant or deny any such application(s) by Respondent, and nothing herein limits the Division's and the Board's discretion regarding any such application(s) which Respondent may make.

12. If after ten (10) years from the effective date of the Order herein Respondent applies to the Division for license to practice as an Osteopathic Physician and Surgeon and/or to administer and prescribe controlled substances, the Division and the Board, as part of their deliberations in considering whether to grant or deny such application(s), shall consider information pertinent to Respondent's qualifications and competency for licensure and to the protection of public health, safety, and welfare including, but not limited to, the following:

- a. The Division and Board shall consider any conviction, plea of nolo contendere, or plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that bears a reasonable relationship to Respondent's ability to practice safely and/or competently as an Osteopathic Physician and Surgeon and/or to administer and prescribe controlled substances. The Division and Board shall consider any such criminal conviction or plea regardless of whether the conduct underlying the crime occurred prior to or after the entry of the Stipulation and Order herein.

- b. The Division and Board shall consider all information pertinent to determining whether Respondent in fact meets all of the qualifications for licensure, including, but not limited to, the requirements for education, resident training, and good moral character.

13. In the event that after ten (10) years from the effective date of the Order herein the Division grants an application by Respondent for license to practice as an Osteopathic Physician and Surgeon and/or to administer and prescribe controlled substances, the Division may impose whatever restrictions or conditions on said license(s) that the Division deems necessary to protect public health, safety, and welfare.

14. Respondent shall not receive any refund of license or license renewal fees previously paid to the Division and no representation of future waiver of license requirements has been extended to Respondent.

15. Respondent shall be ordered to surrender to the Division all current indicia of licensure including all copies of wall certificates and wallet cards within fourteen (14) days of the entry of the Order herein.

16. Respondent affirms that the only promises or understandings he has obtained from the Division regarding the surrender of his licenses are contained in this Stipulation.

17. Respondent acknowledges and agrees that, upon approval by the Director of the Division, the surrender of Respondent's licenses and the terms and conditions of

said surrender as provided in the Stipulation and Order herein shall constitute a finding of disciplinary action.

18. 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 licenses, to other persons and entities.

19. 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.

20. 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 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.

21. 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.

22. Respondent has read each and every paragraph contained in this

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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.

RESPONDENT

COUNSEL FOR RESPONDENT

BY: 

MARTIN JOSEPH MACNEILL
Respondent

DATE: 12/7/09

BY: 

RANDALL K. SPENCER
Attorney at Law

DATE: _____

UTAH DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

MARK L. SHURTLEFF
UTAH ATTORNEY GENERAL

BY: 

NOEL TAXIN
Bureau Manager

DATE: 12/23/09

BY: 

JUDITH A. JENSEN
Counsel for the Division

DATE: December 23, 2009

UTAH DIVISION OF OCCUPATIONAL
AND PROFESSIONAL LICENSING
Heber M. Wells Building
160 East 300 South
P.O. Box 146741
Salt Lake City, UT 84114-6741
Telephone: (801) 530-6628

**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
MARTIN JOSEPH MACNEILL
TO PRACTICE AS AN OSTEOPATHIC
PHYSICIAN AND SURGEON AND
TO ADMINISTER AND PRESCRIBE
CONTROLLED SUBSTANCES
IN THE STATE OF UTAH**

NOTICE OF AGENCY ACTION

Case No. DOPL 2009- 401
ADMINISTRATIVE LAW JUDGE J. STEVEN EKLUND

THE UTAH DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING TO
MARTIN JOSEPH MACNEILL ("Respondent"), by and through his attorney, Randall K.
Spencer, Fillmore and Spencer, L.L.C., 3301 North University Avenue, Provo, Utah
84604:

The Utah Division of Occupational and Professional Licensing (the "Division") hereby files and issues this Notice of Agency Action. The Division is a division of the Department of Commerce of the State of Utah as established by UTAH CODE ANN. §13-1-2. The Division is authorized to discipline the license of any licensee who has engaged in unprofessional or unlawful conduct pursuant to UTAH CODE ANN. § 58-1-401(1) and (2). This action is based upon the admissions of fact which constitute unprofessional and/or unlawful conduct contained in the associated Stipulation and Order.

This is a formal adjudicative proceeding. Within thirty (30) days of the mailing date of this Notice of Agency Action, you are required to file a written response with this Division. The response you file may be helpful in clarifying, refining, or narrowing the facts and violations alleged in any Verified Petition the Division may file. Your written

response shall be mailed to the following address: Division of Occupational and Professional Licensing, Attn: Disciplinary Files, 160 East 300 South, P.O. Box 146741, Salt Lake City, Utah, 84114-6741.

You may represent yourself or be represented by legal counsel, at your own expense, at all times while this action is pending. Your legal counsel shall file with the Division an Entry of Appearance. Until that Entry of Appearance is filed, the presiding officer will deal directly with you.

You are entitled by law to an evidentiary hearing to determine whether your license(s) should be subject to a disciplinary action. Unless otherwise specified by the Director of the Division, the Utah Osteopathic Physician and Surgeon's Licensing Board (the "Board") will serve as fact finder in any evidentiary hearing. You would be notified by separate notice of the date, time, and place of that evidentiary hearing and of any other hearings.

During any evidentiary hearing, you will have the opportunity to present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence to the fact finder. After any hearing, unless otherwise specified by the Division Director, the fact-finder will issue findings of fact, conclusions of law, and a recommended order to the Division Director for review and action.

The presiding officer conducting the hearing will be J. Steven Eklund, Administrative Law Judge, Department of Commerce, who will preside over any evidentiary issues and matters of law or procedure. If you or your attorney have any questions as to the procedures relative to any hearing, Judge Eklund may be contacted at P.O. Box 146701, Salt Lake City, Utah, 84114-6701. Judge Eklund's telephone number is (801) 530-6648.

Counsel for the Division in the current matter is Judith A. Jensen, Assistant Attorney General, who may be contacted at P.O. Box 140872, Salt Lake City, Utah, 84114-0872, or (801) 366-0310. Within ten (10) days after the filing of any response by you, Ms. Jensen will request the scheduling of a prehearing conference.

If you fail to file a timely response, as set forth above, or fail to attend or participate in any scheduled hearing, including any prehearing conference, you may be held in default without further notice to you. If you are held in default, the maximum administrative sanction consistent with the terms of the Verified Petition may be imposed against you. The maximum administrative sanction is revocation of licensure. An administrative fine may also be imposed.

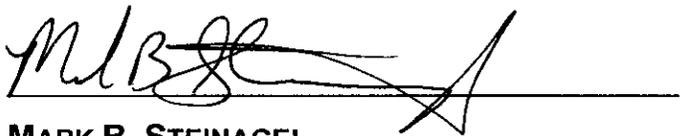
ORDER

AND NOTICE OF AGENCY ACTION

THE ABOVE STIPULATION, in the matter of the licenses of **MARTIN JOSEPH MACNEILL** to practice as an Osteopathic Physician and Surgeon and to administer and prescribe controlled substances in the State of Utah, 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 taken pursuant to UTAH ADMIN. 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. The Notice of Agency Action is issued contemporaneously with the Stipulation.

DATED this 23 day of December, 2009.

UTAH DIVISION OF OCCUPATIONAL
AND PROFESSIONAL LICENSING

A handwritten signature in black ink, appearing to read 'Mark B. Steinagel', is written over a horizontal line. The signature is stylized and includes a large, sweeping flourish at the end.

MARK B. STEINAGEL
Division Director