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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  
Telephone (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 LICENSE OF ) **SURRENDER**  
**ALBERT WILLIAM NIETO** ) **STIPULATION AND ORDER**  
TO PRACTICE AS A LICENSED )  
SUBSTANCE ABUSE COUNSELOR ) CASE NO DOPL 2009--59  
IN THE STATE OF UTAH )

**ALBERT WILLIAM NIETO** ("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 Substance Abuse Counselor 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 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 R151-46b-12 through R151-46b-15 Respondent waives any and all rights set forth in Utah Code Ann § 58-1-404(14) regarding the right to an order show cause hearing Respondent waives any and all rights set forth in Utah Code Ann § 58-1-404(14)(c) which provides that Respondent's license shall be suspended, and the suspension stayed, in favor of the sanctions set forth below in this providing that Respondent's license shall be revoked and the revocation stayed, along with all other sanctions contained herein Respondent further waives any and all rights set forth in Utah Code Ann § 58-1-404(14)(h) providing Respondent with the right to a further formal adjudicative proceeding to contest the lifting of the suspension of Respondent's license that Respondent waived in the prior sentence, in favor of the sanction set forth below providing that Respondent's license shall be revoked and the revocation stayed,

along with all other sanctions contained herein Respondent waives all other procedural and substantive rights contained in Utah Code Ann § 58-1-404

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, to other persons and entities

7 Respondent admits the following facts are true

- (a) On Respondent was first licensed as a licensed substance abuse counselor in the State of Utah on or about March 10, 1997
- (b) Respondent entered the Division's Utah Recovery Assistance Program ("Diversion") on or about August 11, 2008 when Respondent voluntarily signed a diversion agreement with the Division Respondent admitted that he was an alcoholic and that his behavior was a threat to the public Respondent agreed to certain terms and conditions contained in the diversion agreement The period of the agreement was five years from the effective date of the diversion agreement
- (c) Respondent has violated the terms and conditions of his diversion agreement by failing to go to URAP meetings, failing to take drug tests, and failing to complete his drug treatment programs between December 2008 and January 2009
- (d) Respondent currently works as a bus driver and has no plans to work as a substance abuse counselor
- (e) Respondent desires to terminate his participation in the Division's Diversion program and desires to terminate his diversion agreement Respondent desires to surrender Respondent's license to practice as a licensed substance abuse counselor in the State of Utah, along with all residual rights regarding said license

8 Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(a), and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann § 58-1-401(2)(a) Respondent hereby surrenders Respondent's license to practice as a licensed substance abuse counselor in the State of Utah, along with all residual rights regarding said license Respondent's diversion agreement and Respondent's participation in the Division's Diversion program are immediately terminated Respondent agrees that the issuance of the Order in this matter constitutes disciplinary action by the Division pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann § 58-1-401(2)(a) and (b) Respondent agrees not to reapply for licensure in mental health therapy in the State of Utah for a period of five years from the date the Division Director signs this Stipulation and Order The Division does not guarantee that any future application by Respondent for licensure will be granted If the Division Director accepts the terms of this Stipulation and Order, Respondent forfeits all rights to practice as a licensed substance abuse counselor in the State of Utah Respondent understands that Respondent will not receive any refund of license or renewal fees previously paid to the Division

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 Respondent waive any claim of bias or prejudgment Respondent might otherwise have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification

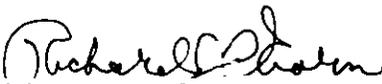
10 This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order. There are no verbal agreements that modify, interpret, construe or affect this Stipulation.

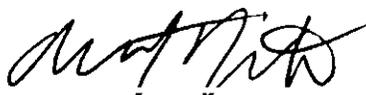
11 If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanction, in the manner provided by law.

12 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   
RICHARD J. OBORN  
Bureau Manager

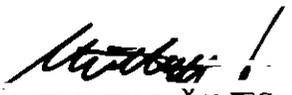
BY   
ALBERT WILLIAM NIETO

DATE 3/2/09

DATE 3-2-09

MARK L. SHURTLEFF  
ATTORNEY GENERAL

*I witnessed signature  
on March 2, 2009  
K. Howell, Investigator*

BY   
L. MITCHELL JONES  
Counsel for the Division

DATE 2 Mar 2009

**ORDER**

THE ABOVE STIPULATION, in the matter of **ALBERT WILLIAM NIETO**, 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)(a) and (b). The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 2 day of March, 2009

DIVISION OF OCCUPATIONAL AND  
PROFESSIONAL LICENSING



F DAVID STANLEY  
Director

Investigator Dee Thorell