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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)
JONATHAN FLANAGAN COLEMAN) **STIPULATION AND ORDER**
TO PRACTICE AS A)
DENTIST AND TO)
ADMINISTER AND PRESCRIBE) **CASE NO. DOPL 2010- 445**
CONTROLLED SUBSTANCES)
IN THE STATE OF UTAH)

JONATHAN FLANAGAN COLEMAN (“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 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 knowingly and intelligently waives the right to all administrative and judicial review as set forth in Utah Code Ann. §§ 63G-4-301 through 63G-4-405, and Utah Administrative Code R151-46b-12 through R151-46b-15. Respondent and the Division hereby express their intent that this matter be resolved expeditiously through stipulation as contemplated in Utah Code Ann. § 63G-4-102(4).

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 August 6, 1993 Respondent was first licensed to practice as a dentist and to administer and prescribe controlled substances in the State of Utah.
- b. Respondent has a long history of alcohol abuse resulting in criminal convictions.
- c. On or about January 30, 2006 Respondent pleaded guilty to one count of public intoxication, a Class C misdemeanor, in Summit County Justice Court.
- d. On or about January 15, 2010 Respondent was arrested on suspicion of driving under the influence of alcohol. Respondent was later charged with driving under the influence of alcohol, possessing an open container of alcohol, and speeding (50 mph in a 35 mph zone). On or about September 23, 2010 Respondent pleaded guilty to one count of driving under the influence of alcohol, a Class B misdemeanor, in Summit County Justice Court. The court has agreed to reduce the offense to "impaired driving" upon successful completion of Respondent's court probation.
- e. Respondent has engaged in conduct, including the use of intoxicants, to the extent the conduct might reasonably be considered to impair Respondent's ability to safely practice dentistry.

8. Respondent admits that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), (c), and (e). Respondent agrees that 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). Respondent agrees that an Order, which constitutes disciplinary action against Respondent's license by the Division pursuant to Utah Administrative Code R156-1-102(6) 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 subject to a term of probation for a period of five years. The period of probation shall commence on the date the Division Director signs the accompanying Order. During the period of probation Respondent's license shall be subject to all of the following

terms and conditions. If the Division and Board later deem any of the conditions unnecessary such deletions may be made by an amended order issued unilaterally by the Division and Board. Respondent may submit a request to the Division and Board for early termination of probation. There is no guarantee that the Division and/or Board will grant such a request.

- a. Respondent shall meet with the Board within thirty (30) days after the start of the probationary period. Respondent shall meet with a Division staff person prior to Respondent's first meeting with the Board to review this agreement. For the remainder of the duration of probation, Respondent shall meet with the Board or with the Division, as directed by the Division and Board, annually or at such other greater or lesser frequency as the Division and Board may direct.
- b. Respondent shall submit to the following course of treatment as part of Respondent's rehabilitation and at Respondent's own expense:
 - i. Respondent shall successfully complete a psychological/chemical dependency evaluation provided by a Division-approved licensed provider within ninety (90) days of the effective date of this Stipulation and Order. Respondent shall contact the Division-approved evaluator for an initial appointment within 10 days of the effective date of this Stipulation and Order. Respondent shall schedule the initial appointment to be held within 45 days of the effective date of this Stipulation and Order. Respondent shall attend all appointments and follow-up appointments in a timely manner. Respondent shall cooperate fully with the evaluators to ensure a fair and complete evaluation. Respondent shall notify the Division and Board immediately after successfully completing the evaluations and inform the Division and Board that Respondent has successfully completed the psychological/chemical dependency evaluation. Respondent agrees to cause the evaluation reports to be sent to the Division and Board within 90 days of the effective date of this Order.
 - ii. If Respondent fails to submit the evaluation(s) to the Division and Board within the time stated above, the Division and Board may take any action necessary pursuant

to the Utah Administrative Procedures Act, Utah Code Annotated § 63-46b.

- iii. Respondent shall successfully complete any treatment recommendations as outlined in the evaluations. If the evaluator recommends that Respondent attend ongoing therapy or counseling, then Respondent shall cause his therapist or counselor to provide summary reports to the Division and Board. The summary reports will be submitted to the Division and Board monthly for the first six months, and quarterly thereafter. Respondent shall sign any release or authorization necessary to allow release of the summary reports or other documents from the therapist or counselor to the Division and Board.
- iv. In the interest of public safety, the Division or Board may impose additional requirements above and beyond those recommended by the evaluator in the psychological/chemical dependency evaluation set forth above. Respondent agrees to comply with these additional requirements.
- c. Respondent shall successfully complete all terms and conditions of any criminal sanctions, incurred before or during the period of this agreement, including probation or parole.
- d. Unless otherwise approved by the Division and Board, 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 and Board 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.

- e. Prescriptions from an emergency practitioner or referral practitioner must be submitted to the Division and Board within forty-eight (48) hours of being issued. Respondent shall report to the Division and Board within forty-eight (48) hours any and all medications and controlled substances administered or dispensed to Respondent by any other individual.
- f. Respondent shall report to the Division and Board within forty-eight (48) hours any and all medications or controlled substances ingested by Respondent from any source.
- g. Respondent shall provide to the primary prescribing practitioner a copy of this Stipulation and Order and cause the practitioner to acknowledge to the Division and Board in writing that a copy of this Stipulation and Order has been provided to the primary prescribing practitioner.
- h. Respondent shall provide samples (urine, blood, saliva, hair, or any other type of sample requested) for drug analysis upon the request of the Division or Board, 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. Respondent shall call in to a designated phone number every day to determine if Respondent is required to provide a sample for drug analysis. The Division or Board 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 Board 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 and Board. 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.

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- i. Failure of Respondent to pay the costs associated with this Stipulation and Order constitutes a violation of the Stipulation and Order.
 - j. The Division and Board may take appropriate action to impose sanctions if: (i) Respondent tests positive for a prescription drug, a controlled substance, alcohol, 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.
 - k. All reports and documentation required in this Stipulation and Order shall be submitted to the Division and 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 Division and 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 Division or Board.
 - l. Respondent shall participate in all therapy and aftercare recommended by the evaluator. Respondent shall authorize all approved treatment programs or therapists from whom Respondent has received or will receive treatment to discuss Respondent's diagnosis, treatment, and prognosis with the Division and Board. The program or therapist must also be directed to submit evaluations to the Division and Board that address Respondent's progress in treatment and Respondent's prognosis at the frequency described in subparagraph (k) above. Respondent may be subject to re-evaluation upon notice and opportunity to be heard.
 - m. If so recommended by the evaluator, Respondent shall participate in a professional support group to address Respondent's use of alcohol 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 and Board at the frequency described in subparagraph (k) above. Regular attendance for the purpose of this paragraph shall be at least twice a month.

- n. 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 (k) above to the Division and Board documenting Respondent's participation. The frequency of participation shall be approved by the Division and Board. Unless otherwise directed, Respondent shall attend at least two times per month.
- o. Respondent shall notify any employer or practice associate of Respondent's restricted status and the terms of this Stipulation and Order. Respondent shall further cause Respondent's employer and practice associates to notify the Division and Board in writing that the employer has received a copy of this Stipulation and Order. If Respondent is self-employed Respondent shall complete a form provided by the Division and submit the form to the Division.
- p. In the event Respondent does not practice for a period of sixty (60) days or longer, Respondent shall notify the Division and Board in writing of the date Respondent ceased practicing. The period of time in which Respondent does not practice shall not be counted toward the time period of this Stipulation and Order. It shall be within the discretion of the Division and Board to modify this requirement if Respondent satisfactorily explains to the Division and Board that compliance in Respondent's case was impractical or unduly burdensome. Respondent must work at least 16 hours per week and no more than 48 hours per week to be considered "practicing" in Respondent's profession. This clause is not a restriction on Respondents license, but rather a term and condition.
- q. Respondent shall notify the Division and Board in writing within one (1) week of any change of employer, employment status, or practice status. This notification is required regardless of whether Respondent is employed in Respondent's profession.
- r. If Respondent leaves the State of Utah for a period longer than sixty (60) days, Respondent shall notify the Division and Board in writing of the dates of Respondent's departure and return. The

licensing authorities of the jurisdiction to which Respondent moves shall be notified by Respondent in writing of the provisions of this Stipulation and Order. Periods of residency or practice outside the State of Utah may apply to the reduction of the period this Stipulation and Order is in effect, if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Stipulation and Order.

- s. If Respondent is arrested or charged with a criminal offense by any law enforcement agency, in any jurisdiction, inside or outside the State of Utah, for any reason, or should Respondent be admitted as a patient to any institution in this state or elsewhere for treatment regarding the abuse of or dependence on any chemical substance, or for treatment for any emotional or psychological disorder, Respondent agrees to cause the Division and Board to be notified immediately. If Respondent at any time during the period of this agreement is convicted of a criminal offense of any kind, or enters a plea in abeyance to a criminal offense of any kind, including a pending criminal charge, the Division may take appropriate action against Respondent, including imposing appropriate sanctions, after notice and opportunity for hearing. Such sanctions may include revocation or suspension of Respondent's license, or other appropriate sanctions.
- t. Respondent shall maintain current Utah licenses at all times during the period of this agreement.
- u. Respondent shall immediately notify the Division and Board in writing of any change in Respondent's residential or business address.
- v. Respondent shall submit reports on the date they are due and shall appear at scheduled meetings with the Division and Board promptly. Failure to do so shall be considered a violation of this Stipulation and Order.

9. Upon approval by the Director of the Division the 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.

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. 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 the Stipulation and Order are without a 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. If the Division files a Petition against Respondent alleging violation of this Stipulation and Order by Respondent, the period of probation shall be tolled until the allegations contained in the Petition are fully resolved. Pursuant to Utah Cod Ann. § 58-1-503, violation of this Order may result in a civil penalty of up to \$2,000.00 for each day the Order is violated.

13. 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.

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 Division or 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.

14. Respondent understands that the disciplinary action taken by the Division in this Stipulation and Order may adversely affect any license that Respondent may possess in another state or any application for licensure Respondent may submit in another state.

15. 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.

16. 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: 
NOEL TAXIN
Bureau Manager

BY: 
JONATHAN FLANAGAN COLEMAN
Respondent

DATE: 12/13/10

DATE: 12/6/10

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY: 
L. MITCHELL JONES
Counsel for the Division

DATE: 13 Dec 2010

ORDER

THE ABOVE STIPULATION, in the matter of **JONATHAN FLANAGAN COLEMAN**, 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(6) 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 14 day of December, 2010.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING



MARK STEINAGEL
Director

Investigator: Brittany Butsch