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DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING

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 **BENJAMIN RONALD BROWN** TO PRACTICE AS A LICENSED PRACTICAL NURSE IN THE STATE OF UTAH	)))))	**SURRENDER** **STIPULATION AND ORDER** CASE NO. DOPL 2011-133

BENJAMIN RONALD BROWN ("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 Nursing ("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 knowingly and intelligently waives the right to a hearing, the right to call witnesses 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 license, to other persons and entities.

7. Respondent admits the following facts are true:

a. Respondent was first licensed as a licensed practical nurse in the State of Utah on or about August 31, 2006.

b. On or about November 20, 2009 Respondent voluntarily entered into a Stipulation and Order with the Division in DOPL Case No. 2009-376. Pursuant to that Stipulation and Order, Respondent's license was revoked, the revocation stayed, and Respondent license placed on probation for a period of four years, subject to certain terms and conditions.

c. In March 2011 Respondent informed the Division staff that Respondent will no longer comply with the terms and conditions of the Stipulation and Order in DOPL Case No. 2009-376.

d. Respondent desires to surrender Respondent's license to practice as a licensed practical nurse in the State of Utah along with all residual rights pertaining to 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); 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 practical nurse in the State of Utah along with all residual rights pertaining to said license. 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(6) and Utah Code Ann. § 58-1-401(2)(a). Respondent agrees not to reapply for licensure as a nurse in the State of Utah until: (1) five years has elapsed from the effective date of this Stipulation and Order; and (2) Respondent is able demonstrate that Respondent has not used alcohol or drugs for which Respondent does not have a current valid prescription, for a period of at least six months, by providing monthly drug test results to the Division for the six months just prior to application. 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 nurse 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 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. 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 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.

13. Respondent understands and agrees that if Respondent has been issued an Order

by the Division to pay an administrative penalty or a fine, and Respondent has not paid the administrative penalty or fine in full at the time this Stipulation and Order becomes effective, then Respondent may not reapply for licensure in the State of Utah, in any profession or occupation, until Respondent has paid the administrative penalty or fine in full. Respondent understands and agrees that any application for licensure submitted by Respondent shall be denied for the reason of failure to pay an administrative penalty or fine by the Division until Respondent has paid the administrative penalty or fine in full. The Division may also deny the license for any other lawful reason. Respondent understands and agrees that this surrender of Respondent's license(s) does not extinguish any obligation Respondent has to pay any administrative penalty or fine previously ordered by the Division.

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

BY: _____
NOEL TAXIN
Bureau Manager

DATE: 4/12/11

RESPONDENT

BY: _____
BENJAMIN RONALD BROWN

DATE: 04/06/11

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY: _____
L. MITCHELL JONES
Counsel for the Division

DATE: 12 Apr 11

ORDER

THE ABOVE STIPULATION, in the matter of **BENJAMIN RONALD BROWN**, 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 13 day of April, 2011.

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

MARK B. STEINAGEL
Director

Investigator: Noel Taxin