

Dan Lau (USB No. 8233)
Assistant Attorney General
MARK L. SHURTLEFF (USB No. 4666)
Attorney General
Commercial Enforcement Division
Heber M. Wells Building, 5th Floor
Salt Lake City, Utah 84116-6741
Telephone: (801) 366-0310

DEC 11 2011

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) STIPULATION AND ORDER
CAROLYN HENRY TO PRACTICE AS A) Case No. DOPL-2011-2
A LICENSED CLINICAL SOCIAL WORKER)
IN THE STATE OF UTAH)

Carolyn Henry ("the Respondent") and the Division of Occupational and Professional Licensing ("Division") of the Department of Commerce of the State of Utah stipulate and agree as follows:

1. The Respondent admits the jurisdiction of the Division over the Respondent and over the subject matter of this action.
2. The Respondent acknowledges that she enters into this Stipulation and Order ("Stipulation") knowingly and voluntarily.
3. The Respondent has been represented by Loni Deland in this matter, and her signature below signifies that the Respondent has consulted with her attorney and still agrees to all of the provisions in this Stipulation.
4. The Respondent understands that she is entitled to be served with a Petition and a Notice of

Agency Action in this matter, and that she is further entitled to a hearing before the State of Utah Board of Social Workers (“the Board”), or other Division Presiding Officer, at which time the Respondent may present evidence on her own behalf, call witnesses, confront adverse witnesses and address adverse evidence. The Respondent acknowledges that by executing this document she is receiving a de facto Petition and Notice of Agency Action, and she is waiving her right to answer the de facto Petition and Notice of Agency Action, to participate in a hearing, to present witnesses and evidence at a hearing, to confront adverse witnesses and adverse evidence at a hearing, and to any other rights to which she may be entitled in connection with said hearing. The Respondent further understands that by signing this Stipulation she hereby waives all 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. The Respondent and the Division hereby express their intent that this matter be resolved expeditiously through a stipulation as contemplated in Utah Code Ann. § 63G-4-102(4).

5. The Respondent acknowledges that this Stipulation, if adopted by the Director of the Division, will be classified as a public document and may be released to other persons and entities.

6. The Respondent admits to the following facts:

- a. On February 16, 2010, the Respondent was charged in Eighth Judicial District Court , Vernal, Utah , with the crime of theft, a second degree felony. (*State v. Carolyn Henry Kruger*, case number 101800082).
- b. The allegations against the Respondent were that between October 2002 and February 2005, while employed by the Division of Child and Family Services, an agency within the State of Utah, she billed the State of Utah for reimbursement for which she was not entitled, i.e. work hours that were actually spent in conducting private practice related business.
- c. The amount alleged to have been obtained unlawfully was \$32,794.26.
- d. The Respondent contested the criminal charges.

- e. On or about March 16, 2010, the Respondent entered into a Diversion Agreement with the State of Utah and the Eighth District Court.
- f. On or about March 30, 2010, the Respondent, without admitting guilt, paid \$32,794.26 restitution to the State of Utah.
- g. On September 27, 2010 Judge A. Lynn Payne, a judge on the Eighth District Court, signed an order, dismissing with prejudice the charges against the Respondent.

7. The Respondent admits that the underlying conduct described above constitutes unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a), (b), and (h); Utah Admin. Code R156-60a-502(24), and the National Association of Social Workers Code of Ethics Ethical Standards 3.09 (failing to adhere to commitments made to an employer), 4.04 (participating in deceptive and fraudulent conduct), and 5.01 (failing to uphold the values and ethics of the profession). The Respondent further admits that said conduct justifies disciplinary action against her professional license pursuant to Utah Code Ann. § 58-1-401(2)(a) (1996).

Therefore, the Respondent agrees that an Order shall be entered in this matter as follows:

Probation: The Respondent's licensed clinical social worker license, number 128931-3501, shall be immediately placed on probation for a period of three (3) years. The period of probation shall commence on the effective date of this Stipulation, which is the date the Division Director signs the Stipulation. During the period of probation, the Respondent shall be responsible for and 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. **Meeting with a Compliance Specialist:** The Respondent shall contact a Division Compliance Specialist within two weeks of the effective date of this Stipulation to schedule a meeting for the purpose of discussing the terms and conditions of this Stipulation. An appointment with a compliance specialist can be scheduled by contacting the Susan Higgs by

telephone at (801) 530-6428 or via email at shiggs@utah.gov.

b. Meetings with the Board and Written Plan: The Respondent will meet with the Board and Division at the first scheduled Board meeting after the effective date of this Stipulation. Prior to the first scheduled Board meeting, the Respondent shall submit to the Division a written report/plan that summarizes how the Respondent will comply with the terms of her probation. The Respondent shall meet with the Board and the Division on a bi-monthly basis for the first six months and then quarterly thereafter, or at such greater or lesser frequency as determined by the Board and the Division. Since the criminal aspect of the underlying conduct described in provision 6 of this Stipulation has been settled and dismissed, the Respondent understands and agrees to discuss openly any and all elements of her misconduct with the Board and the Division.

c. Supervisor Requirement: The Respondent shall practice only under the supervision of a Division and Board-approved supervisor during the terms of his probation. The Respondent understands that she is responsible for any and all costs associated with this supervision. Any changes made in supervision may only be made with the consent of the Division and the Board. The Respondent shall deliver a copy of this Stipulation to her supervisor within ten (10) days of the start of the supervisory relationship and cause her supervisor to notify the Division in writing that a copy of this Stipulation has been received.

d. Meeting with Supervisor: The Respondent shall meet weekly with her supervisor or at such frequency as determined by the Board and the Division. Supervision goals shall include discussion of professional ethics, adhering to professional commitments, avoiding deceptive or dishonest conduct and dealings, review of 20 percent of the Respondent's files and

oversight of professional relationships and practices.

e. **Supervisor Reports:** The Respondent shall cause her supervisor to submit reports to the Division and the Board on a monthly basis for the first six months and then quarterly thereafter, or at such a frequency as directed by the Board and the Division. These reports should assess the Respondent's compliance with the terms of her probation and her professional ethics. The receipt of an unfavorable report or the failure to turn in a report may be considered a violation of the Respondent's probation.

f. **Notification to Employer:** The Respondent shall notify any employer or practice associate of her restricted status and the terms of this Stipulation. The Respondent shall provide a copy of this Stipulation to her employer and cause her employer to acknowledge to the Board and Division in writing that it has received a copy of this Stipulation.

g. **Prohibition against Supervising Other Licensed Professionals or Students:** The Respondent shall not supervise other licensed mental health professionals or students.

h. **Changes in Employment:** The 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 the Respondent is employed in her chosen profession of medicine.

i. **Continuing Education:** The Respondent shall complete 20 additional hours of continuing professional education, pre-approved by the Division and Board, in clinical social work practice with emphasis in the areas of professional ethics, integrity and avoiding fraudulent conduct/deceptive professional conduct. These 20 additional hours shall be completed within 12 months of the effective date of this Stipulation. Further, these 20 additional hours shall NOT

count towards the regular continuing professional education requirements for professional license renewal. The Respondent shall provide proof/documentation to the Board and Division of successful completion of the 20 additional hours of continuing professional education.

j. **Volunteer Work Requirement:** The Respondent will perform two (2) hours of volunteer work a week for any Division-approved non-profit company for the first year of her probation. Proof of the volunteer work must be submitted to the Division and Board on a monthly basis. Failure to submit proof of volunteer work will be considered a probation violation.

k. **Essay:** The Respondent shall submit an essay of at least 500 words to the Division and Board that provides an assessment of lessons learned from the Respondent's violations. The essay should reference topics, materials and experiences covered or learned in the continuing education classes. The essay should be submitted to the Division and the Board within two weeks of the Respondent completing her continuing education requirements. The essay should also address the importance of the provisions of the NASW Code of Ethics, laws, rules or regulations that the Respondent admitted to have violated.

l. **Limitations in Practice:** The Respondent shall limit her practice in accordance with the terms of this probation, unless the Division and the Board authorize change.

m. **Notification of Leaving the State:** If the Respondent leaves the State of Utah for a period longer than sixty (60) days, she shall notify the Division and Board in writing of the dates of her departure and return. The licensing authorities of the jurisdiction to which the Respondent moves shall be notified by her in writing of the provisions of this Stipulation. Periods of residency or practice outside the State of Utah may apply to the reduction of the

Periods of residency or practice outside the State of Utah may apply to the reduction of the period this Stipulation is in effect, if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Stipulation.

n. **Periods of Unemployment:** In the event the Respondent does not practice for a period of sixty (60) days or longer, the Respondent shall notify the Division and Board in writing of the date she ceased practicing. The period of time in which the Respondent does not practice shall not be counted toward the probationary time period of this Stipulation and Order. It shall be within the discretion of the Division and Board to modify this requirement if the Respondent satisfactorily explains to the Division and Board that compliance in her case was impractical or unduly burdensome. If the Respondent works less than full-time as a licensed clinical social worker, 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 a week.

o. **Other Examples of Unprofessional Conduct/Probation Violations:** Should other acts of unprofessional conduct come to the attention of the Division or Board which have occurred prior to the entry of the Stipulation in this case, or should the Respondent violate her probation in any respect, the Division may, in addition to taking action as provided for herein, after giving the Respondent notice and the opportunity to be heard, revoke the Respondent's probation or impose sanctions in accordance with applicable law and rules.

p. **Petition Filed During Probation:** If a petition is filed against the Respondent during his probation, the period of probation shall be extended until the matters alleged in this petition are fully resolved.

q. **Notification of Address Change/Constructive Notice:** The Respondent shall

addresses. The Respondent further agrees that written communication by the Division and/or the Board shall be mailed to the Respondent at the last address provided to the Division, first-class mail, and this shall constitute notice to the Respondent.

r. Failure to Pay for Any Probationary Expenses/Timeliness Requirement:

A failure to pay for any of the costs associated with this probation shall be considered a violation of this Stipulation. The Respondent further agrees to complete all conditions of probation in a timely manner. Where a specific time for completion is not stated in this Stipulation, it shall be within the Division's and Board's discretion to set a time period for completion.

s. Current License Requirement: The Respondent shall maintain current professional licenses at all times during the period of this Stipulation/probationary period.

t. Notification of Criminal Charges: If the 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 the 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, the Respondent agrees to cause the Division and Board to be notified immediately. Minor traffic violations shall not be considered a criminal offense by the Division. If the Respondent at any time during the period of this agreement is convicted of a criminal offense of any kind, including an offense based on the conduct described in this Stipulation, or enters a plea in abeyance or a diversion agreement to a criminal offense of any kind, including a pending criminal charge, the Division or Board may take appropriate action against the Respondent, including imposing appropriate sanctions, after notice and opportunity for hearing. Such sanctions may include the revocation or suspension of

the Respondent's license, or other appropriate sanctions

8. This Stipulation, upon approval by the Director of the Division, shall be the final compromise and settlement of this matter. The Respondent acknowledges that the Director is not required to accept the terms of this Stipulation, 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 the Respondent might have with regard to the Director by virtue of the Director having reviewed this Stipulation, and this waiver shall survive such nullification.

9. The Respondent agrees to abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's licensed practice.

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. There are no verbal agreements that modify, interpret, construe or affect this Stipulation.

11. The terms and conditions of this Stipulation become effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director. The Respondent must comply with all the terms and conditions of this Stipulation immediately following the Division Director's signing of the Order page of this Stipulation.

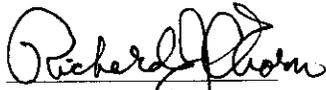
12. If the Respondent violates any term or condition of this Stipulation and Order, the Division may take action against the Respondent, including imposing appropriate sanctions in the manner provided by law. Such sanctions may include revocation or suspension of the Respondent's license, revocation of the probationary status of the license or other appropriate sanctions.

13. The Respondent has read each and every paragraph contained in this Stipulation. She understands each and every paragraph contained in this Stipulation, she has no questions about any paragraph or provision contained in this document, and she agrees with every paragraph and provision contained in this Stipulation.

14. The Respondent agrees and states that she was not coerced, unduly influenced, prejudiced or bullied in any way into entering into this Stipulation.

**DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING**

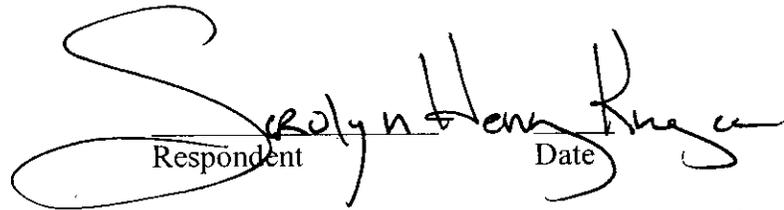
RESPONDENT



Richard J. Oborn,
Bureau Manager

1/5/2011

Date



Respondent

Date

12-28-10

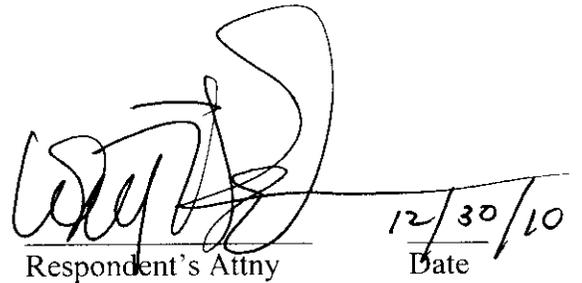
Approved as to form:



Asst Attny Gen.

1/5/2011

Date



Respondent's Attny

Date

12/30/10

ORDER

THE ABOVE STIPULATION, in the matter of Carolyn Henry, 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 a disciplinary action against the Respondent pursuant to Utah Admin. Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2). The terms and conditions of this Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 6TH day of January, ~~2010~~ 2011

DIVISION OF OCCUPATIONAL
& PROFESSIONAL LICENSING

W. Reef Walker, Acting Director
for Mark B. Steinagel
DIRECTOR