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BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH

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IN THE MATTER OF THE LICENSE OF  
ROBERT E. HARRIS  
TO PRACTICE AS A  
HEARING INSTRUMENT SPECIALIST  
IN THE STATE OF UTAH

**STIPULATION AND ORDER**

Case No. DOPL 2012-260

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Robert E. Harris ("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 Paul T. Moxley and signs this Stipulation (the "Stipulation") with the advice of counsel.

4. Respondent understands that Respondent is entitled to a hearing before the Utah Hearing Instrument Specialist 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 Administrative Code R151-4-901 through R151-4-907 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 A Notice of Agency Action, Petition, and Amended Petition have been filed and served upon Respondent in the above-entitled case.

6. Respondent understands that this Stipulation and Order, if adopted by the Director of the Division or by his designee, 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:

- a. On July 8, 2011, in the case of State of Utah Attorney General vs. Harris, Respondent entered pleas of guilty to be held in abeyance to one count of Failure to File a Return, a Third Degree Felony, and one count of Attempted Tax Evasion, a Third Degree Felony, before the Third District Court, Salt Lake County, State of Utah, in the case of State of Utah Attorney General vs. Harris, Case No 091908060.
- b. The Court ordered said guilty pleas be held in abeyance for a period of 36 months on terms and conditions including Respondent shall complete community service hours and comply fully with and pay restitution to the Utah State Tax Commission.

- c. **Based on the foregoing, Respondent has engaged in unprofessional conduct as defined by Utah Code Ann. 58-1-501(2)(c), and the Division is justified in taking disciplinary action against Respondent's licenses pursuant to Utah Code Ann. § 58-1-401(2)(a) and Utah Code Ann. § 58-1-106(1)(d)**

**8 Respondent agrees that the Division may enter 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)(a), and which places Respondent's licenses to practice as a hearing instrument specialist in the State of Utah on probation for a period of three (3) years. The period of probation shall commence when the Division Director or his designee signs the Order in this matter. During the period of probation, Respondent's licenses shall be subject to all of the following terms and conditions. If the Division or Board later deems any of the conditions unnecessary, such deletions may be made by an amended order issued unilaterally by the Division and Board.**

- a. **Within thirty (30) days of the effective date of this Stipulation and Order, which is the day it is signed by the Director of the Division or by his designee, Respondent shall meet with an assigned Division staff member**
- b. **After meeting with the Division staff member as provided in subparagraph 8(a) herein, Respondent shall meet with the Board at its next scheduled Board meeting. Thereafter, Respondent shall meet with the Board every six (6) months. Said meetings may be at such greater or lesser frequency as the Division may direct.**
- c. **Respondent shall not supervise hearing instrument interns during the period of this agreement.**
- d. **Respondent shall maintain a current license at all times during the period of this agreement.**
- e. **Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address**
- f. **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.**

- g. If Respondent is employed as a hearing license specialist, Respondent shall comply with the following terms:**
- (1) Respondent shall notify any employer(s) of Respondent's restricted status and the terms of this agreement,**
  - (2) Respondent shall provide to Respondent's employer(s) a copy of this Stipulation and Order and cause each employer to acknowledge to the Board in writing that a copy of this Stipulation and Order has been provided to the employer,**
  - (3) Respondent shall further cause Respondent's employer(s) to submit performance evaluations to the Board on a monthly basis for the first six (6) months of probation and every six (6) months thereafter, and**
  - (4) The receipt of an unfavorable report from an employer may be considered to be a violation of the terms of this Stipulation and Order.**
- h. If Respondent is either (a) self-employed or (b) not employed as a hearing instrument specialist, Respondent shall comply with the following terms**
- Respondent shall complete the Division's "employer report form" and submit the report to the Board on a monthly basis for the first six (6) months of probation and every six (6) months thereafter. Respondent shall state on the employer report form that Respondent is "self-employed" or "not currently employed as a hearing instrument specialist "**
- i. In the event Respondent does not practice as a hearing instrument specialist 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 sixteen (16) hours per week and no more than sixty (60) hours per week to be considered "practicing" in Respondent's profession.**
- j. 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**

- k. 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.**
- l. If 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 and Order, 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**
- m. 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 or by his designee, this Stipulation and Order shall be the final compromise and settlement of this non-criminal administrative matter. Respondent acknowledges that the Director or his designee is not required to accept the terms of this Stipulation and Order and that if the Director or his designee 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 or his designee 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 practice as a hearing instrument specialist. If the Division files a Petition alleging that Respondent has engaged in new misconduct or files an Order to Show Cause Petition alleging that Respondent has violated any of the terms and conditions contained in this Stipulation and Order, the period of Respondent's**

probation shall be tolled during the period that the Petition or Order to Show Cause Petition has been filed and is unresolved

11 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.

12. The terms and conditions of this Stipulation and Order become effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director or by his designee. Respondent shall comply with all the terms and conditions of this Stipulation immediately following the signing of the Order page of this Stipulation and Order by the Division Director or by his designee. Respondent shall comply with and timely complete all the terms and conditions of the Stipulation and Order. 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. Failure to comply with or timely complete a term or condition shall constitute a violation of the Stipulation and Order and may subject Respondent to revocation or other sanctions. 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.

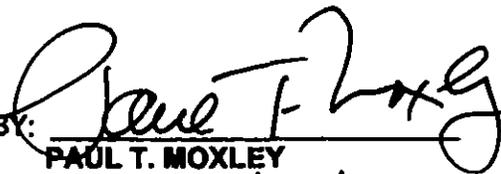
13 Respondent understands that the disciplinary action taken by the Division in this Stipulation and Order may adversely affect any license that Respondent may possess in another state or any application for licensure Respondent may submit in another state.

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.

RESPONDENT

BY:   
ROBERT E. HARRIS  
DATE: 3/26/13

PARSONS KINGHORN HARRIS

BY:   
PAUL T. MOXLEY  
Counsel for Respondent  
DATE: 3/29/13

DIVISION OF OCCUPATIONAL &  
PROFESSIONAL LICENSING

BY:   
APRIL ELLIS  
Bureau Manager  
DATE: 4/9/2013

MARK L. SHURTLEFF  
UTAH ATTORNEY GENERAL

BY:   
JUDITH A. JENSEN  
Counsel for the Division  
DATE: 4-5-13

**ORDER**

THE ABOVE STIPULATION, in the matter of **ROBERT E. HARRIS**, 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)(a). The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 9 day of April, 2013.

**DIVISION OF OCCUPATIONAL AND  
PROFESSIONAL LICENSING**



  
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**RAY WALKER**  
Acting Director  
Division of Occupational and Professional Licensing