

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
TEL (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)
WASELAND SCOTT WILLIAMS) **STIPULATION AND ORDER**
TO PRACTICE AS A PHARMACIST AND TO)
DISPENSE CONTROLLED SUBSTANCES) **CASE NO DOPL 2012- 296**
IN THE STATE OF UTAH)

WASELAND SCOTT WILLIAMS (“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 him and over the subject
matter of this action

2 Respondent acknowledges that he enters into this Stipulation knowingly and
voluntarily

3 Respondent has been represented in the drafting of this Agreement by counsel of
his choosing

4 Respondent understands that he is entitled to a hearing before the State of Utah's Board of Pharmacy ("Board"), or other Division Presiding Officer, at which time he may present evidence on his own behalf, call witnesses, and confront adverse witnesses. Respondent understands that by signing this Agreement he hereby waives the right to a hearing, the right to present evidence on his own behalf, the right to call witnesses, the right to confront adverse witnesses, and any other rights to which he may be entitled in connection with said hearing. Respondent understands that by signing this document he hereby waives 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 While Respondent disputes certain facts asserted by the Division, he does not contest the following:

a Respondent was licensed to practice as a pharmacist and to dispense controlled substances in the State of Utah (the "License") at all times relevant to this Stipulation and Order.

b On or about January 13, 2010 Respondent voluntarily entered into a Stipulation and Order in DOPL Case No 2010-11 wherein Williams Family Video and Variety, a pharmacy owned by Respondent, had its licenses placed on probation subject to terms and conditions due to concerns noted during an inspection as well as Respondent submitting incorrect information to the Utah Controlled Substance Database In 2010 Respondent entered into a Stipulation and Order in DOPL Case No 2010-9 wherein Respondent's License was publicly reprimanded and additional continuing education was required

c While on probation two pharmacy inspections were conducted by Division investigators at the pharmacy on February 15, 2011 and December 8, 2011 Similar violations were allegedly observed during each of the inspections as those documented in Order 2010-11 The alleged violations included

- (i) failure to document the offer to counsel,
- (ii) overconcentration of stock inventory and multiple outdates within the inventory,
- (iii) failure to document pharmacy temperature and incomplete documentation on the refrigerator temperature,
- (iv) security concerns regarding access to the pharmacy's records, outdated drugs, and prescription records by unauthorized individuals,
- (v) annual inventory was not done in accordance with rule requirements (A) On February 15, 2011 there was no CII inventory and the III-V inventory was not signed, and (B) On 12/8/11, the II and III-V inventories were conducted on different dates and weeks apart and the III-V inventory was hand written, and

(vi) because the pharmacist in charge personally knew many of his customers he failed to formally obtain and record positive ID for each controlled substance dispensed

d Prescription records were reviewed and the following concerns were noted

(i) The pharmacy submitted incorrect information to the CSDB on multiple occasions,

(ii) Respondent dispensed prescriptions and then billed insurance at a later date,

(iii) Respondent has incorrectly partially filled multiple controlled substance prescriptions as follows (A) Respondent dispensed the remainder of CII prescriptions after 72 hours had passed, and (B) There was improper recording of partial orders and assigned two prescription number records to the same prescription, and

(iv) Controlled substances were refilled prior to eighty percent consumption rule being met

8 Respondent does not contest the Division's assertion that the conduct described above is unprofessional conduct as defined in Utah Code Ann § 58-1-501(2)(a), § 58-17b-602(1)(f), (g), and (h), § 58-37f-203(1) and (2), Utah Administrative Code R156-37-502(2), R156-37-603(7), R156-17b-610, R156-17b-614a(1)(a), (c), and (e), (2), and (7), R156-17b-605(1)(d), (e), (f) (g), (h), (i), (j), and (3), and 21 CFR 1306 13, 1306 23, and 1311 100 Respondent acknowledges that his decision to not contest the aforesaid assertions entitles the Division to take disciplinary action against his License pursuant to Utah Code Ann § 58-1-

401(2)(a) and (b) Respondent stipulates that an Order, which constitutes disciplinary action against his 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 action against Respondent's License, as described herein Respondent's License shall be revoked That revocation shall be immediately stayed Respondent's License 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 attached Order During the period of probation Respondent's License shall be 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 Respondent shall meet with the Board at the Board's next scheduled meeting following the signing of the accompanying Order Respondent shall meet with a Division staff person prior to Respondent's first meeting with the Board to review this agreement At his first meeting with the Board Respondent shall submit to the Board a "supervisor plan" describing how Respondent will be "generally supervised," which plan must be pre-approved by the Board before it can be implemented by Respondent and his supervising licensee(s) For the remainder of the duration of probation, Respondent shall meet with the Board or with the Division, as directed by the Division, annually or at such other greater or lesser frequency as the Division may direct The Board reserves the right, upon written notice to Respondent, to revisit the terms of Respondent's "supervisor plan," including by requiring Respondent to be "directly supervised" for a minimum number of hours, if circumstances hereafter develop which cause the Board to be concerned regarding the "general supervision" of Respondent as anticipated by and provided for herein
- b Respondent shall not work as a pharmacist-in-charge

- c Failure of Respondent to pay the supervision costs associated with this Stipulation and Order constitutes a violation of the Stipulation and Order
- d All reports and documentation required in this Stipulation and Order shall be submitted to the Board on a monthly basis, on the first day of each month, 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 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
- e Respondent shall complete and submit to the Board a self-assessment report at the frequency described in subparagraph (d) above. The self-assessment report shall be completed on a form prescribed by the Division
- f Respondent shall notify any pharmacy employing him of his restricted status and the terms of this agreement. Respondent shall further cause any pharmacy employing him to submit performance evaluations to the Board at the frequency described in subparagraph (d) above. The receipt of an unfavorable report from a pharmacy employing Respondent may be considered a violation of Respondent's probation. If Respondent is not employed as a pharmacist, Respondent shall submit the employer report form on the date it is due and indicate on that form that he is not employed in his licensed profession or that he is not currently working
- g Respondent shall provide to any pharmacy employing him a copy of this Stipulation and Order and cause each any pharmacy employing him to acknowledge to the Board, in writing, that a copy of this Stipulation and Order has been provided to it
- h If Respondent chooses to work as a pharmacist during the term of his probation, Respondent shall practice only under the general supervision of a pharmacist in good standing with the Division (or the professional licensing division of a sister state). The supervising pharmacist shall be primarily one person who may periodically delegate his or her supervisory responsibilities over Respondent to other qualified personnel. The supervising pharmacist shall be pre-approved by the Division and Board. Respondent shall cause his supervising pharmacist to read this Stipulation and Order in its entirety and cause the supervisor to provide input on Respondent's employer evaluations to the Division and Board. The supervisor reports shall be submitted to the Division and Board on pre-

approved forms, at the frequency set forth in subparagraph (d) above "General supervision" as defined in Utah Administrative Code R156-1-102a(4)(c) means that the supervising licensee (i) has authorized the work to be performed by the person being supervised, (ii) is available for consultation with the person being supervised by personal face-to-face contact, or direct voice contact by telephone, radio or some other means, without regard to whether the supervising licensee is located on the same premises as the person being supervised, and (iii) can provide any necessary consultation within a reasonable period of time and personal contact is routine. Additionally, Respondent shall take the steps necessary to ensure that his supervising licensee(s) (i) reviews records reflecting all (100%) of the controlled substances dispensed by Respondent during any period(s) that Respondent is not directly supervised (as defined by Utah Administrative Code R156-1-102a(4)(a)) by the supervising licensee(s), and (ii) periodically reviews Respondent's medication profiles and billing records for the periods that Respondent is not directly supervised by the supervising licensee(s). "Supervising licensee" as defined in Utah Administrative Code R156-1-102a(5) means a licensee who has satisfied any requirements to act as a supervisor and has agreed to provide supervision of an unlicensed individual or a licensee in a classification or licensure status that requires supervision in accordance with the provisions of Utah Administrative Code R156-1-102a

- I In the event Respondent does not practice as a pharmacist for a period of sixty (60) days or longer, Respondent shall notify the 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 Board to modify this requirement if Respondent satisfactorily explains to the 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 forty (40) hours per week to be considered "practicing" in Respondent's profession. Nothing herein is intended or shall be construed to have the effect of preventing Respondent from working as a pharmacist for fewer than sixteen (16) hours per week, however, Respondent understands and acknowledges that such work shall not be counted toward the time period of this Stipulation and Order.

- J Respondent shall notify the Board in writing within one (1) week of any change in the identity of a pharmacy employing him, of any change in his employment status as a pharmacist, or change in his pharmacy practice status.

- k If Respondent moves out of the State of Utah (i.e., permanently changes his domicile from Utah to another state, not merely a vacation) for a period longer than sixty (60) days, Respondent shall notify the Division and Board in writing of the dates of his departure and return. The licensing authorities of the jurisdiction to which Respondent moves shall, if Respondent intends to practice his profession in that jurisdiction, be notified by him 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.

- l If Respondent is arrested or charged with more than a Class C misdemeanor or any drug-related criminal offense by any law enforcement agency, in any jurisdiction, inside or outside the State of Utah, 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 or enters a plea in abeyance to a criminal offense more than a Class C misdemeanor or any drug-related criminal offense, 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 maintain a current active License at all times during the period of this agreement.

- n Respondent shall immediately notify the Division in writing of any change in Respondent's residential or business address.

- o 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 may be considered a violation of this Stipulation and Order.

9 Upon approval by the Director of the Division, this 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 his licensed practice. If the Division files and prevails against Respondent on a Petition alleging that Respondent has engaged in new misconduct or files and prevails on 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 was pending and 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 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

13 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

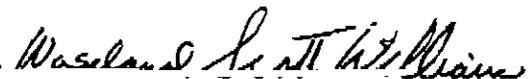
14 Respondent understands that the disciplinary action taken by the Division in this Stipulation and Order may adversely affect any License that Respondent may possess in another state or any application for licensure Respondent may submit in another state

15 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

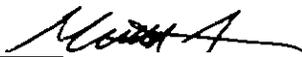
RESPONDENT

BY: 
DEBRA F. HOBBS, DNP, APRN, LSAC
Bureau Manager

BY: 
WASELAND SCOTT WILLIAMS
Respondent

DATE: 6/25/12
MARK L. SHURTLEFF
ATTORNEY GENERAL

DATE: 6 21/12
JONES WALDO HOLBROOK &
McDONOUGH PC

BY: 
L. MITCHELL JONES
Counsel for the Division

BY: 
JOHN C. ROCKER
Counsel for Respondent

DATE: 21 Jun 2012

DATE: 6 21 12

ORDER

THE ABOVE STIPULATION, in the matter of **WASELAND SCOTT WILLIAMS**, 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 25th day of June, 2012

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING

W. Rust Walther, Acting Director
for **MARK B. STEINAGEL**
Director

