

BEFORE THE MISSOURI DENTAL BOARD

MISSOURI DENTAL BOARD)	
)	
Petitioner,)	
)	
v.)	No. 2012-006037
)	
)	
GEORGE GRAHAM, DDS)	
)	
Respondent.)	

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND DISCIPLINARY ORDER**

At its scheduled meeting on October 25, 2012, and pursuant to notice described in the Findings of Fact, the Missouri Dental Board (Board) took up the violation of disciplinary order complaint alleging that George Graham, DDS (Licensee) has failed to comply with the terms of his April 25, 2012 disciplinary order.

The Board appeared at the hearing through Attorney Tina Crow Halcomb, Attorney at Law. Licensee was present at the hearing and was represented by counsel Johnny Richardson. Division of Professional Registration Legal Counsel Sarah Ledgerwood served as the Board's legal advisor at the hearing, during deliberations, and in the preparation of this order.

Findings of Fact

1. The Board is an agency of the state of Missouri created and established pursuant to § 332.021, RSMo,¹ for the purpose of licensing all persons engaged in the practice of dentistry in this state. The Board has control and supervision of the licensed occupations and enforcement of the terms and provisions of Chapter 332, RSMo.

2. Licensee George Graham holds dentist license number 014368 issued by the Board. Licensee's license was current and active at all relevant times. Licensee's license is currently on probation.

3. The Administrative Hearing Commission determined that Licensee's dental license was subject to discipline by the Board pursuant to § 332.321.2(1), (5), (13), (15), and (20),

¹ All statutory references are to Missouri Revised Statutes 2000, as amended, unless otherwise indicated.

RSMo, in the case of *Missouri Dental Board v. George Graham, D.D.S.*, case number 10-0008 DB.

4. The Board entered a disciplinary order (Disciplinary Order) on April 25, 2012, suspending Licensee's license for thirty days followed by five years probation.

5. Licensee appealed the Disciplinary Order. The period of suspension was stayed pending the appeal. During the pendency of the appeal, the Court ordered Licensee to comply with the terms of probation in the Board's Disciplinary Order but excluded the time for appeal as part of the term of probation. Licensee dismissed his appeal on August 9, 2012.

6. As of September 12, 2012, Licensee completed his suspension but remained on probation.

7. On August 2, 2012, Licensee provided a urine sample for a random drug screen as ordered pursuant to the terms of his probation. The sample tested positive for alcohol.

8. Licensee returned to treatment at the Florida Recovery Center where he had previously received treatment in 2011. During treatment Licensee admitted to consuming O'Douls and gin, both of which contain alcohol.

9. Based on the recommendations from the Florida Recovery Center, Licensee "cannot practice dentistry with reasonable skill and safety at this time and is in need of treatment." The recommendation also stated that Licensee should return to treatment at a residential level of care at an institution with expertise in treatment a healthcare professional.

10. The recommendation from the Florida Recovery Center also states it recommends that after Licensee completes in-patient treatment, he should be out of dentistry for at least a year to prove he can maintain sobriety.

11. Licensee informed the Missouri Well Being Committee that he will not comply with the recommendations of the Florida Recovery Center in that he will not complete in-patient treatment. He did inform the Well Being Committee he is working to sell his dental practice. Licensee testified during the October 25, 2012 probation violation hearing that he did not have the financial means to attend in-patient treatment.

12. Upon his return from the Florida Recovery Center, Licensee was receiving aftercare services from the Center for Addictions at Cox North in Springfield, Missouri. As of September 28, 2012, Licensee was no longer participating in the aftercare program at Cox North.

13. Licensee was asked to leave the Cox North aftercare program because he refused to provide information related to his addiction and recovery. Licensee testified at the October 25, 2012 violation hearing that he refused to provide information because he had signed a confidentiality agreement related to the sale of his practice.

14. Licensee's admitted use of alcohol is a violation of the terms of his probation contained in paragraph G of the Disciplinary Order.

15. Licensee's positive screen for alcohol use is a violation of the terms of his probation contained in paragraph H of the Disciplinary Order.

16. Licensee's acknowledgement that he will not comply with the recommendations of the Florida Recovery Center and the Well Being Committee is a violation of his probation contained in paragraph A of the Disciplinary Order.

17. Licensee's inability to "practice dentistry with reasonable skill and safety," as determined by the Florida Recovery Center places him in violation of § 332.321.2(1) and (20), RSMo. Licensee's violation of § 332.321.2(1) and (20), RSMo, places him in violation of his probation, paragraph II.D. of the Disciplinary Order.

Conclusions of Law

18. The Board has jurisdiction in this proceeding, pursuant to the Disciplinary Order to determine whether Licensee has violated the terms and conditions of the Disciplinary Order.

19. The Board also has jurisdiction pursuant to § 324.042, RSMo, to determine whether Licensee has violated the terms and conditions of the Disciplinary Order. Section 324.042, RSMo, states, in pertinent part:

Any board, commission, or committee within the division of professional registration may impose additional discipline when it finds after hearing that a licensee, registrant, or permittee has violated any disciplinary terms previously imposed or agreed to pursuant to settlement. The board, commission, or committee may impose as additional discipline, any discipline it would be authorized to impose in an initial disciplinary hearing.

20. The Board has jurisdiction pursuant to regulation 20 CSR 2110-2.160 to determine whether Licensee has violated the terms and conditions of the disciplinary order.

Regulation 20 CSR 2110-2.160 states, in relevant part:

(6) Any violation of a suspension order or a post-order requirement shall constitute grounds for the Missouri Dental Board to impose a further suspension or to revoke the licensee's certificate of registration, license to practice dentistry, or both.

(7) Any violation of a probationary agreement shall constitute grounds for the Missouri Dental Board to impose a further period of probation, a period of suspension or to revoke the licensee's certificate of registration, license to practice dentistry, or both.

21. The Board also has jurisdiction to discipline Licensee pursuant to § 332.321.2 and .3, RSMo. Section 332.321.2 and .3, RSMo states, in relevant part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any permit or license required by this chapter or any person who has failed to renew or has surrendered his or her permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

...

(20) Being unable to practice as a dentist, specialist or hygienist with reasonable skill and safety to patients by reasons of professional incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition[.]

...

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination:

...

(3) Revoke the license, certificate, or permit. In any order of revocation, the board may provide that the person shall not apply for licensure for a period of not less than one year following the date of the order of revocation[.]

22. Licensee's conduct, as described in paragraphs 3 through 17 above, gives cause for the Board to impose further discipline upon Licensee's dental license pursuant to the Disciplinary Order, § 324.042, RSMo., § 332.321.2(1) and (20), RSMo and 20 CSR 2110-2.160(6) and (7).

23. The Disciplinary Order, § 324.042, RSMo, § 332.321.2(1) and (20), RSMo, and 20 CSR 2110-2.160 allow the Board to take such disciplinary action that the Board deems appropriate for failure to comply with the terms of the Disciplinary Order.

24. The Board has determined this Order is necessary for the protection of the public.

Decision and Order

25. It is the decision of the Board that Licensee has violated the terms of the Disciplinary Order, and that his license is, therefore, subject to further disciplinary action.

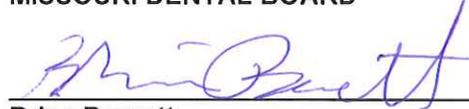
26. The Board orders that the dental license of Licensee, license number 014368, shall be **REVOKED**. Licensee shall be precluded from re-applying for a Missouri dental license for **ONE YEAR** from the date of this Order.

Licensee shall return all indicia of licensure to the Board immediately.

This Order will be maintained as an open record of the Board as provided in Chapters 332, 610, 324, RSMo.

SO ORDERED this 9th day of November, 2012.

MISSOURI DENTAL BOARD



**Brian Barnett,
Executive Director**

BEFORE THE MISSOURI DENTAL BOARD

MISSOURI DENTAL BOARD)	
)	
Petitioner,)	
)	
v.)	No. 10-0008 DB
)	
)	
GEORGE G. GRAHAM, JR., D.D.S.)	
)	
Respondent.)	

ORDER OF THE MISSOURI DENTAL BOARD
DISCIPLINING THE DENTAL LICENSE OF
GEORGE G. GRAHAM, JR., D.D.S.

On or about March 13, 2012, the Administrative Hearing Commission entered its Consent Order in the case of *Missouri Dental Board v. George Graham, D.D.S.*, Case No. 10-0008 DB. In that Consent Order, based upon the parties' Joint Motion for Consent Order, Joint Stipulation of Facts and Conclusions of Law, and Waiver of Hearing, the Administrative Hearing Commission found that Respondent George Graham, D.D.S.'s dental license (license # 014368) is subject to disciplinary action by the Board pursuant to § 332.321.2(1), (5), (13), (15) and (20), RSMo 2000.

The Board has received and reviewed the record of the proceedings before the Administrative Hearing Commission and the Consent Order of the Administrative Hearing Commission. The record of the Administrative Hearing Commission is incorporated herein by reference in its entirety.

Pursuant to notice and §§ 621.110 and 332.321.3, RSMo 2000, the Board held a hearing on April 20, 2012, at approximately 2:00 p.m., at the Missouri Council for School Administrators, 3550 Amazonas Drive, Jefferson City, Missouri, for the purpose of determining

the appropriate disciplinary action against Respondent's license. The Board was represented by Legal Counsel Tina Crow Halcomb. Respondent appeared in person and by counsel, Johnny Richardson, Brydon, Swearngen & England, P.C.. After being present and considering all of the evidence presented during the hearing, the Board issues the following Findings of Facts, Conclusions of Law and Order.

I.

Based upon the foregoing the Board hereby states:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Board is an agency of the state of Missouri created and established pursuant to § 332.021, RSMo Cum. Supp. 2011, for the purpose of licensing all persons engaged in the practice of dentistry in this state. The Board has control and supervision of the licensed occupations and enforcement of the terms and provisions of Chapter 332, RSMo (as amended).

2. The Board hereby adopts and incorporates by reference the Consent Order and record of the Administrative Hearing Commission in *Missouri Dental Board v. George Graham, D.D.S., Case No. 10-0008 DB*, in its entirety.

3. The Board set this matter for disciplinary hearing and served notice of the disciplinary hearing upon Respondent in a proper and timely fashion.

II.

CONCLUSIONS OF LAW

4. This Board has jurisdiction over this proceeding pursuant to §§ 621.110 and 332.321.3, RSMo.

5. The Board expressly adopts and incorporates by reference the joint stipulations of fact contained in the Joint Motion for Consent Order, Joint Stipulations of Facts and Conclusions

of Law, and Waiver of Hearing Before the Administrative Hearing Commission referenced in the Consent Order issued by the Administrative Hearing Commission in its Consent Order dated March 12, 2012, and hereby enters its Conclusions of Law consistent therewith.

6. As a result of the foregoing, and in accordance with the Administrative Hearing Commission's Consent Order dated March 12, 2012, Respondent's dental license is subject to disciplinary action by the Board pursuant to § 332.321.2(1), (5), (13), (15) and (20), RSMo 2000.

7. The Board has determined that this Order is necessary to ensure the protection of the public.

III.

ORDER

Having fully considered all the evidence before the Board, and giving full weight to the Decision of the Administrative Hearing Commission, it is the **ORDER** of the Board that the dental license of George G. Graham, Jr., D.D.S., (license no. 014368) is hereby **SUSPENDED** for thirty (30) days beginning fifteen days after the date of this Order. This suspension shall be immediately followed by five (5) years **PROBATION**. During the aforementioned probation, George G. Graham, Jr., D.D.S. shall be entitled to practice as a licensed dentist subject to the following terms and conditions.

IV.

TERMS AND CONDITIONS

During the aforementioned probation, George G. Graham, Jr., D.D.S. ("Licensee") shall be entitled to perform as a dentist subject to the following terms and conditions:

I. REQUIREMENTS REGARDING THE MISSOURI DENTAL WELL-BEING COMMITTEE

- A. During the disciplinary period, Licensee shall continue to participate in the Missouri Dental Well-Being Committee (Committee) and continue to follow all recommendations for treatment or aftercare made by the treating professional and/or Committee which Licensee received upon enrolling in the program pursuant to the Settlement and/or which Licensee may receive during the disciplinary period.
- B. If Licensee has not already done so pursuant to the Settlement Agreement, Licensee shall execute a medical release or other appropriate release that shall remain in effect for the entire disciplinary period authorizing the Board to obtain records of Licensee's treatment for chemical dependency. Licensee shall not take any action to cancel this release. Licensee shall take any and all steps necessary to continue the release in effect and shall provide a new release when requested.
- C. Licensee shall cause a letter of ongoing treatment evaluation from the treating professional to be submitted to the Board by January 1 and July 1 during each year of the disciplinary period beginning the effective date of this disciplinary agreement.
 - (1) The letter shall include an evaluation of Licensee's current progress and status related to the treatment recommendations/plan and Licensee's current prognosis and treatment recommendations/plan.
 - (2) The letter shall be sent by the treating professional and/or the Committee addressed to: Missouri Dental Board, P.O. Box 1367, Jefferson City, MO 65102.
- D. If the treatment of Licensee is successfully completed at any time during the disciplinary period, Licensee shall cause the treating professional and/or the Committee to submit a letter of final evaluation/summary that includes a statement that Licensee has successfully completed treatment and indicates whether Licensee should continue in a 12-step program. If continuance in a 12-step program is recommended, Licensee shall comply with terms of documentation as outlines in paragraph E below.
- E. If attendance is recommended, Licensee shall submit evidence of weekly (or as recommended) attendance at Alcoholics Anonymous, Narcotics Anonymous, or other support group meetings to the Board by January 1 and July 1 during each year of the disciplinary period beginning the effective date of this disciplinary agreement. The documentation shall include the date, time and place of the meeting and shall bear a signature or abbreviated signature of another person verifying attendance.
- F. During the disciplinary period, Licensee shall abstain completely from the personal use or possession of any controlled substance or other drug for which a prescription is required unless that use of the drug has been prescribed by a person licensed to

prescribe such drug and with whom Licensee has a bona-fide relationship as a patient. Licensee shall forward to the Board written documentation of any such prescription within ten (10) days of issuance of the prescription specifying the medication prescribed, dosage prescribed, and the condition for which the substance was prescribed. Upon request, Licensee shall execute a medical release authorizing the Board to access all records pertaining to Licensee's condition, treatment and prescription maintained by the health care professional that authorized the prescription.

- G. During the disciplinary period, Licensee shall abstain completely from the use or consumption of alcohol. The presence of any alcohol whatsoever in a biological fluid sample shall constitute a violation of Licensee's discipline.
- H. During the disciplinary period, Licensee shall, at Licensee's expense, submit to drug screens as required by the Board. Licensee shall, upon demand and without delay, provide a biological sample to the Board's designated representative, including allowing the Board's designated representative to obtain witnessed biological fluid samples and shall cooperate fully and completely with the Board's designated representative in providing such samples. The presence of any controlled substance, alcohol, or any drug whatsoever in a drug screen, for which Licensee does not hold a valid prescription, shall constitute a violation of this Order.

II. GENERAL REQUIREMENTS

- A. Licensee shall meet with the Board or its representatives at such times and places as required by the Board after notification of a required meeting.
- B. Licensee shall submit reports to the Missouri Dental Board, P.O. Box 1367, Jefferson City, Missouri 65102, stating truthfully whether he has complied with all the terms and conditions of this Settlement Agreement by no later than January 1 and July 1 during each year of the disciplinary period.
- C. Licensee shall keep the Board apprised of his current home and work addresses and telephone numbers. Licensee shall inform the Board within ten days of any change of home or work address and home or work telephone number.
- D. Licensee shall comply with all provisions of the Dental Practice Act, Chapter 332, RSMo; all applicable federal and state drug laws, rules, and regulations; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.
- E. During the disciplinary period, Licensee shall timely renew his license and timely pay all fees required for licensing and comply with all other board requirements necessary to maintain Licensee's license in a current and active state.

- F. If at any time during the disciplinary period, Licensee removes himself from the state of Missouri, ceases to be currently licensed under provisions of Chapter 332, or fails to advise the Board of his current place of business and residence, the time of his absence, unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed in accordance with § 332.321.6, RSMo.
- G. During the disciplinary period, Licensee shall accept and comply with unannounced visits from the Board's representatives to monitor his compliance with the terms and conditions of this Settlement Agreement.
- H. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Board may impose such additional or other discipline that it deems appropriate, (including imposition of the revocation).
- I. This Settlement Agreement does not bind the Board or restrict the remedies available to it concerning any other violation of Chapter 332, RSMo, by Licensee not specifically mentioned in this document.

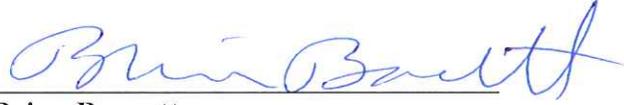
III. ADDITIONAL REQUIREMENTS

- A. Licensee shall not allow his license to lapse.
- B. Licensee shall notify, within 15 days of the effective date of this Settlement Agreement, all hospitals, nursing homes, out-patient centers, surgical centers, clinics, and all other facilities where Licensee practices or has privileges of Licensee's disciplinary status. Notification shall be in writing and Licensee shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Board for verification by the Board or its designated representative.
- C. Licensee shall take and pass the Board's designated jurisprudence examination within six (6) months of the start of the disciplinary period. Licensee shall contact the Board office to request a current law packet and permission to set for the jurisprudence examination no less than thirty (3) days prior to the date Licensee desires to take the examination. Licensee shall submit the required re-examination fee to the Board prior to taking the examination. Failure to take and pass the examination during the first six (6) months of the disciplinary period shall constitute a violation of the terms of discipline.

This Order will be maintained as an open record of the Board as provided in Chapters 332, 610, and 324, RSMo.

SO ORDERED this 25th day of April, 2012.

MISSOURI DENTAL BOARD



**Brian Barnett,
Executive Director**

Mar. 8, 2012 11:10AM

No. 1230 P. 2

FILED

**BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

MAR 08 2012

ADMINISTRATIVE HEARING
COMMISSION

MISSOURI DENTAL BOARD

Petitioner,

v.

GEORGE GRAHAM, D.D.S.

Respondent.

Case No. 10-0008 DB

**JOINT MOTION FOR CONSENT ORDER,
JOINT STIPULATION OF FACTS AND CONCLUSIONS OF LAW,
AND WAIVER OF HEARING BEFORE
THE ADMINISTRATIVE HEARING COMMISSION**

Respondent, George Graham, D.D.S., ("Respondent"), and Petitioner, Missouri Dental Board, ("Board"), enter into this Joint Motion for Consent Order, Joint Stipulation of Facts and Conclusions of Law, and Waiver of Hearing Before the Administrative Hearing Commission ("Joint Stipulation") for the sole purpose of resolving the Complaint filed against Respondent.

Pursuant to the rules governing practice and procedure before the AHC (1 CSR 15-3.446(5)) and pursuant to the terms of § 536.060, RSMo, as it is made applicable to the AHC by § 621.135, RSMo, the parties agree by this Joint Stipulation to waive the right to a hearing and decision by the AHC in this matter and jointly stipulate and agree that a final disposition of this matter may be effectuated as described below.

Based upon the foregoing, the Board and Respondent jointly stipulate to the following findings of fact and conclusions of law in lieu of the facts and conclusions of law as alleged in the Complaint filed in this case; however, no person other than the

parties hereto or the AHC may use any findings of fact or conclusions of law contained herein.

JOINT PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Board is an agency of the State of Missouri created and established pursuant to § 332.021, RSMo, for the purpose of executing and enforcing the provisions of Chapter 332.

2. Respondent is licensed by the Board as a dentist. His Missouri license was at all times relevant herein, and is now, current and active.

3. Respondent has a history of substance abuse and treatment for cocaine dependence.

4. Following a motorcycle accident in 2004, Respondent became dependent on pain medication. Respondent continued to use alcohol. Respondent's alcohol usage remained substantial.

5. As a result of Respondent's alcohol dependence, Respondent began consuming Lorazepam to compensate for alcohol withdrawal symptoms.

6. Lorazepam is a controlled substance. Section 195.017, RSMo.

7. Respondent suffers from substance abuse disorder, specifically alcohol and narcotic abuse and dependence, ("the disorder") to such an extent that Respondent's disorder constitutes the use of a controlled substance, as defined in Chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs his ability to perform the work of a dentist.

8. On or about February 18, 2009, Respondent submitted to a random urine drug screen.

Mar. 8. 2012 11:10AM

No. 1230 P. 4

9. Respondent's February 18, 2009 urine sample tested positive for methamphetamine.

10. Pursuant to § 195.017, RSMo 2000, methamphetamine is a controlled substance.

11. Respondent's above-mentioned conduct constitutes a violation of § 195.202.1, RSMo, which states: "Except as authorized by sections 195.005 to 195.425, it is unlawful for any person to possess or have under his control a controlled substance."

12. Due to Respondent's disorder, Respondent was unable to practice as a dentist with reasonable skill and safety to patients by reasons of professional incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition.

13. Respondent's above-mentioned conduct constitutes misconduct, incompetency and gross negligence in the performance of the functions and duties of a licensed dentist.

14. Respondent's above-mentioned conduct constitutes a violation of professional trust or confidence.

15. Cause exists for the Board to take disciplinary action against Respondent's license under § 332.321.2(1), (5), (13), (15), and (20), RSMo, which states in pertinent part:

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such

use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;

....

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of, or relating to one's ability to perform, the functions or duties of any profession licensed or regulated by this chapter;

....

(13) Violation of any professional trust or confidence;

....

(15) Violation of the drug laws or rules and regulations of this state, any other state or the federal government.

....

(20) Being unable to practice as a dentist, specialist or hygienist with reasonable skill and safety to patients by reasons of professional incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition[.]

FURTHER STIPULATIONS

1. The parties agree that the Board will hold a disciplinary hearing for the sole purpose of determining what, if any, discipline shall be imposed to address Respondent's conduct. At the disciplinary hearing, Respondent shall have the opportunity to offer evidence in mitigation.

2. If Respondent is not satisfied with the discipline imposed by the Board after the hearing in this matter, then he may appeal the Board's order of discipline.

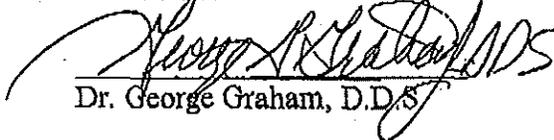
3. By entering into this Joint Stipulation, Respondent is not waiving his right to contest any order of discipline the Board may impose.

4. The terms of this Joint Stipulation are contractual, legally enforceable and binding, not merely recital. Except as otherwise contained herein, neither this Joint Stipulation nor any of its provisions may be changed, waived, discharged or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge or termination is sought.

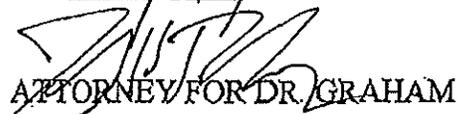
CONCLUSION

In consideration of the foregoing, the parties consent and approve of this Joint Stipulation and to the termination of any further proceedings before the AHC based upon the Complaint filed in the above-captioned cause. The parties further request that the AHC enter its consent order based on the above joint proposed findings of fact and conclusions of law.

LICENSEE


Dr. George Graham, D.D.S.

Date 03/08/2012


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BOARD


Brian Barnett
Executive Director
Missouri Dental Board

Date 3/8/12

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