SETTLEMENT AGREEMENT BETWEEN MISSOURI COMMITTEE FOR PROFESSIONAL COUNSELORS AND KEVIN CHAFIN

Kevin Chafin ("Licensee"), and the Missouri Committee for Professional Counselors ("Committee"), enter into this settlement agreement ("Agreement") for the purpose of resolving the question of whether Licensee's license as a professional counselor will be subject to discipline.

Pursuant to the terms of § 536.060, RSMo,[1] the parties hereto waive the right to a hearing before the Administrative Hearing Commission of the State of Missouri ("AHC") regarding cause to discipline Licensee's license, and additionally, the right to a disciplinary hearing before the Committee under § 621.110, RSMo.

Licensee acknowledges that Licensee understands the various rights and privileges afforded Licensee by law, including the right to a hearing of the charges against Licensee; the right to appear and be represented by legal counsel; the right to have all charges against Licensee proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Licensee; the right to present evidence on Licensee's own behalf at the hearing; the right to a decision upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against Licensee and, subsequently, the right to a disciplinary hearing before the committee at which time Licensee may present evidence in mitigation of discipline; and the right to recover attorney's fees incurred in defending this action against this license. Being aware of these rights provided Licensee by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this settlement agreement and agrees to abide by the terms of this document, as they pertain to Licensee.

Licensee acknowledges that Licensee has received a copy of the investigative report and other documents relied upon by the Committee in determining there was cause to discipline Licensee's license, along with citations to law and/or regulations the Committee believes were violated.

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

For the purpose of settling this dispute only, Licensee stipulates that the factual allegations contained in this settlement agreement are true and stipulates with the Committee that Licensee's license, numbered 2003029830 is subject to disciplinary action by the Committee in accordance with the provisions of Chapters 621 and 337, RSMo.

Joint Stipulation of Fact and Conclusions of Law

1. The Missouri Committee for Professional Counselors is an agency of the State of Missouri, created and existing pursuant to § 337.535, RSMo, for the purpose of carrying out the provisions of §§ 337.500 through 337.540, RSMo.

2. Kevin Chafin is licensed by the Committee as a professional counselor, license number 2003029830. Licensee's professional counselor license was at all times relevant herein, and is now, current and active.

3. On or about August 11, 2016, the Committee received a complaint regarding Licensee from J.W. J.W. stated he was a court ordered client of Licensee and during his counseling sessions, Licensee was rude to him and favored his ex-wife's position on child custody. J.W. also stated that Licensee threatened to testify against him in court and provided the Committee a recording of Licensee demeaning J.W. in therapy and using rude language. More specifically, J.W. stated that the court ordered he and his ex-wife to attend counseling with Licensee due to a motion to modify the parenting plan in 2015. J.W. stated they had 9 sessions beginning in February 2016. J.W. stated that he believed the purpose of the court ordered therapy was "for he and his ex-wife to learn to get along with each other to avoid future court hearings." J.W. stated that he told Licensee after the first session that he did not want to attend and was coming only because the court ordered him to do so. J.W. stated Licensee was "favoring his ex-wife over him in the therapy sessions and had a bad attitude towards him." J.W. stated Licensee tried to get him to agree to change the current parenting plan to benefit his ex-wife and Licensee got angry when J.W. stated he needed to consult his attorney first. J.W. stated his ex-wife went to additional sessions with Licensee alone and that Licensee would "open up new issues to deal with in therapy, which [J.W] believed his ex-wife had complained about" in their private sessions. At the August 2016 session, J.W. stated that "Licensee and his ex-wife were not getting what she wanted and Licensee called him an "a**hole" on several occasions." J.W. stated that Licensee even told him to "shut the f**k up" and threatened to testify against him in court. J.W. stated that Licensee's rude

behavior made it more difficult to communicate with his ex-wife. He stated that Licensee kicked him out of a session for recording it and to his knowledge, Licensee had not authored a report for the court. J.W. stated he did not recall signing anything saying he would not record the sessions but did acknowledge he did not tell anyone he was recording it.

4. As a result of J.W.'s complaint, the Committee initiated an investigation. As part of the investigation, Division of Professional Registration Investigator Kevan Lager reviewed the CD of the session that J.W. provided. J.W. stated the recording was from the August 2016 session and is dated September 7, 2016. On the recording, a person believed to be Licensee is heard telling J.W. during an argument "shut the f**k up and I will tell you," "J[] get out of [the] office or shut the f**k up. Those are you[r] only options. I am tired of this bulls**t. I will fire you from coming to see me and I will testify against your ass," and is heard calling J.W. an "a**hole." Licensee is heard telling J.W. to "leave his office" for violating the agreement he signed stating he would not record the sessions. The dispute began because J.W. wanted Licensee to correct a date from the next year to the current year. J.W. stated "why would you send us an agreement for this year if we are worried about next year. We need to clarify this year first." Licensee responded that they had already clarified it and J.W. stated that they had not talked about next year during the sessions yet and what the children would do during August of the next year. Licensee responded "Shut the f**k up and I'll tell you."

5. As part of the Committee's investigation, Licensee provided a written response on or about November 9, 2016 and also spoke with Investigator Lager on December 27, 2016. Licensee stated that the sessions were an hour long and began in December 2015 and J.W.'s last session was September 2016. Licensee stated J.W. and his ex-wife had disclosed that J.W. had been "charged and convicted of domestic violence against [his ex-wife] with probation to end in 2015." Licensee stated that the court order stated that the two were "to meet monthly until both parties either were able to resolve their differences regarding the parenting plan or mutually agreed to end counseling." Licensee stated that J.W. "refused to do any work" that Licensee asked both parties to do. Licensee stated J.W. was "uncooperative" and called his ex-wife disparaging words during a session. Licensee stated each session was the same with J.W. "heckling" his ex-wife, calling her names and "refusing to work on any suggestions" Licensee had. Licensee stated during the August 2016 session, J.W. was "combative" with him and accused him of not correctly recording the information agreed to in the previous session. Licensee stated he tried to "redirect" J.W.

several times but J.W. was confrontational. Licensee stated that is when J.W. revealed he was recording the session. Licensee stated he kicked him out of the session because "each client is required to sign authorizations for treatment including an agreement not to video or audio record any counseling sessions." Licensee stated that J.W.'s complain is unfounded and he denied favoring his ex-wife. Licensee acknowledged it was his voice on the DVD recording and that the contents were from the end of the August 2016 session. Licensee stated he could not "find a less colorful means of dealing with [J.W.]'s unexpected hostility and belligerence." He stated he has not authored any report for the court.

6. Licensee appeared before the Committee at its June 23, 2017 regular meeting. Licensee testified regarding the complaint and his response and offered letters of recommendation as evidence during the appearance. The Committee accepted those letters and considered them in deliberation. Licensee testified that:

a. He worked with J.W. nine or ten months and "didn't dislike [J.W.] any more than any of the other really difficult clients that I have got. Sometimes confrontation works and sometimes it doesn't."

b. With regard to telling J.W. to "shut the f*** up," Licensee stated that he was "tearing [his ex-wife] to pieces" and so "mostly it was about I'm going to come at you as hard as I can and see if anything will slow you down."

c. He stated he was "sure he did" call J.W. derogatory names and that he would be "fascinated to hear how talking to him like that would cause [him] harm. There are some clients I would understand how it would cause them harm." He stated that his rationale for talking to him this way in the therapeutic setting was "confronting him as firmly as possible." He stated his ex-wife "needed to get a backbone and see that somebody would stand up to him."

d. He stated that he was "not sure that it was" when asked if cursing at his client was therapeutic.

e. He stated he had cursed at other clients and those resulted in complaints to the Committee. He stated he did not "frequently" call clients derogatory names.

f. He stated that "obviously there is something about that scenario that gets under my skin" when asked about the interactions J.W. and his ex-wife had.

g. He stated if he could do things differently he "wouldn't cuss my client out and throw them out of my office."

7. Licensee's actions as described above in paragraphs 3 through 6 constitute a violation of, or assisting or enabling any person to violate, any provision of sections 337.500 to 337.540 or of any lawful rule or regulation adopted pursuant to sections 337.500 to 337.540; constitute a violations of any professional trust or confidence.

8. Regulation 20 CSR 2095-3.010 states, in relevant part

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> (9) For the purposes of these ethical standards for counselors, an exploitive relationship shall be defined as any relationship between the registered supervisor and counselor-in-training or provisional licensed professional counselor, or counselor and client that may exploit or cause harm to the counselor-in-training, provisional licensed professional counselor or client.
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> (A) For the purposes of these standards, to exploit means to take unfair advantage of the client, counselor-in-training, or provisional licensed professional counselor.

9. Cause exists for the Committee to take disciplinary action against Licensee's license under § 337.525.2(6) and (13), RSMo, which states in pertinent part:

> 2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621 against any holder of any license required by sections 337.500 to 337.540 or any person who has failed to renew or has surrendered his license for any one or any combination of the following causes:
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> ...
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> (6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.500 to 337.540 or of any lawful rule or regulation adopted pursuant to sections 337.500 to 337.540;
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> ...
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> (13) Violation of any professional trust or confidence[.]

Joint Agreed Disciplinary Order

Based upon the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary Order entered by the Committee in this matter under the authority of § 621.045.3, RSMo.

10. The terms of discipline shall include that the professional counselor license of Kevin Chafin, license number 2003029830, is placed on **PROBATION** for a period of one (1) year ("disciplinary period"). During Licensee's probation, Licensee shall be entitled to offer and engage in the practice of professional counseling under §§ 337.500 through 337.540, RSMo, provided Licensee adheres to all of the terms of this Settlement Agreement.

11. SPECIFIC REQUIREMENTS

a. During the disciplinary period, Licensee shall perform all professional counseling services under the bi-weekly (every other week) supervision of a licensed professional counselor, a licensed psychologist or a licensed psychiatrist approved by the Committee. Costs for such supervision shall be Licensee's responsibility.
   i. Within thirty (30) days of the effective date of this Settlement Agreement, Licensee shall submit to the Committee office at least three (3) names of potential supervisors for consideration as Licensee's supervisor during the disciplinary period.
   ii. The supervisor shall not be a relative of Licensee in any degree, by blood, marriage or adoption or a personal friend to Licensee;
   iii. Licensee must provide a copy of the *Settlement Agreement* and *Supervision* Contract, provided by the Committee, to the supervisor. The Committee must receive a signed copy of the Supervision Contract within thirty (30) days of the beginning of supervision.
   iv. Supervision shall be well-documented and shall also include:
      1. All sessions must include a discussion of why Licensee was placed under supervision;
      2. A discussion of how Licensee views counseling versus mediation; how Licensee's counseling sessions are different from his mediation sessions; what happens when the counseling and mediation starts to merge; and how many counseling sessions in comparison to mediations Licensee facilitates.
      3. The supervisor must assist Licensee in identifying how his words and actions in counseling have an impact upon his clients; what message Licensee is sending when Licensee rescues clients from anyone Licensee believes is bullying them; and the possible consequences of strong versus nuanced confrontation; and
      4. The supervisor must routinely assist Licensee in examining Licensee's own countertransference issues with male and female clients.
   v. Licensee shall facilitate such supervisor's timely submission of quarterly written reports to the Committee. Reports must be completed in compliance with the terms of the Supervision Contract and this Settlement Agreement, as detailed in paragraph 11.a. above. The first quarterly report shall be due four (4) months following the Committee's approval of Licensee's supervisor.
   vi. As part of each quarterly report, the supervisor shall select ten (10) of Licensee's clients for a records review. The records shall be redacted as necessary. The supervisor shall review billing records, assessments, diagnoses, treatment plans and progress notes for

each of the ten randomly selected clients, along with any other records deemed necessary by the supervisor to adequately inform the supervisor, and ultimately the Committee, of Licensee's compliance with professional ethics and the statutes and regulations pertaining to the practice of professional counseling.

vii. The supervisor shall be responsible for the control, oversight, guidance and professional responsibility of Licensee.

viii. In the event the supervisor is unable to provide supervision, Licensee shall advise the Committee and submit the names of two (2) potential supervisors to the Committee for consideration within fifteen (15) days of termination of the supervision.

ix. All costs associated with supervision shall be the responsibility of Licensee.

b. During the disciplinary period, Licensee shall complete thirty (30) hours of professional ethics training/continuing education. Prior to enrolling in a continuing education course or seminar, licensee shall submit the course of study for approval by the Committee. Licensee shall be responsible for any expense incurred in completing the professional ethics training/continuing education and shall provide the Committee written documentation from the training/education provider demonstrating Licensee's successful completion of the thirty (30) hours of professional ethics courses. *Such hours shall not apply to the forty (40) hours of continuing education required* to renew the license as a professional counselor.

12. GENERAL REQUIREMENTS

a. Licensee shall meet with the Committee or its representatives at such times and places as required by the Committee after notification of a required meeting.

b. Licensee shall submit reports to the Missouri Committee for Professional Counselors, Post Office Box 1335, Jefferson City, Missouri 65102, stating truthfully whether Licensee 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. The first report shall be due January 1, 2018.

c. Licensee shall keep the Committee apprised of Licensee's current home and work addresses and telephone numbers. Licensee shall inform the Committee 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 §§ 337.500 through 337.540, 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 Licensee's license(s) and timely pay* all fees required for licensing and comply with all other Committee requirements necessary to maintain Licensee's licenses in a current and active state.

f. If at any time during the disciplinary period, Licensee removes Licensee from the state of Missouri, ceases to be currently licensed under provisions of §§ 337.500 through 337.540, RSMo, or fails to advise the Committee of Licensee's current place of business and residence, the time of her 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 § 337.525.4, RSMo.

g. If Licensee fails to comply with the terms of this Settlement Agreement, in any respect, the Committee may impose such additional or other discipline that it deems appropriate, (including imposition of a revocation).

h. This Settlement Agreement does not bind the Committee or restrict the remedies available to it concerning any other violation of §§ 337.500 through 337.540, RSMo, by Licensee not specifically mentioned in this document.

13. The parties to this Agreement understand that the Committee will maintain this Agreement as an open record of the Committee as provided in Chapters 337, 610 and 324, RSMo.

14. The terms of this settlement agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise provided herein, neither this settlement agreement 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.

15. Licensee, together with his heirs and assignees, and his attorneys, do hereby waive, release, acquit and forever discharge the Committee, its respective members and any of its employees, agents and attorneys, including any former Committee members, employees, agents and attorneys of, and from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arising out of, or relate to any of the matters raised in this case, its settlement, or from the negotiation or execution of this settlement agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement agreement in that it survives in perpetuity even in the event that any court of law deems this settlement agreement or any portion thereof to be void or unenforceable.

16. If no contested case has been filed against the Licensee, Licensee has the right, either at the time the settlement agreement is signed by all parties or within fifteen days thereafter, to submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement agreement constitute grounds for denying or disciplining the license of the Licensee. **If Licensee desires the Administrative Hearing Commission to review this Agreement, Licensee may submit this request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65101.**

17. If licensee has requested review, Licensee and the Committee jointly request that the Administrative Hearing Commission determine whether the facts set forth herein are grounds for disciplining Licensee's license and issue findings of fact and conclusions of law stating that the facts agreed to by the parties are grounds for disciplining Licensee's license. Effective the date of the Administrative Hearing Commission determines that the agreement sets forth cause for disciplining Licensee's license, the agreed upon discipline set forth herein shall go into effect.

18. If the licensee does not request review by the Administrative Hearing Commission, the agreement will become effective thirty (30) days after the agreement is signed by the committee's Executive Director.

LICENSEE

Kevin Chafin

Date: 10-02-2017

COMMITTEE

Loree Kessler, Executive Director
Committee for Professional Counselors

Date: 10/3/17