FILED
JUL 08 2008
ADMINISTRATIVE HEARING COMMISSION

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

COMMITTEE FOR PROFESSIONAL COUNSELORS	)	
Petitioner,	)	
v.	)	**No.**
CHARRIE DIXON	)	
Respondent.	)	

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JOINT MOTION FOR CONSENT ORDER, WAIVER OF HEARINGS BEFORE THE ADMINISTRATIVE HEARING COMMISSION AND STATE COMMITTEE FOR PROFESSIONAL COUNSELORS, JOINT STIPULATION OF FACTS AND CONCLUSIONS OF LAW, AND DISCIPLINARY ORDER

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission ("Commission"), 1 CSR 15-3.440(3), and pursuant to the terms of § 536.060, RSMo,[1] as it is made applicable to the Commission by § 621.135, RSMo, Charrie Dixon ("Dixon") and the State Committee for Professional Counselors (Committee) hereby waive the right to a hearing of the above-styled case before the Commission and, additionally, the right to a disciplinary hearing before the Committee pursuant to § 621.110, RSMo, and jointly stipulate to the facts and consent to the imposition of disciplinary action against Respondent's professional counselor license for violations of statutes and lawful rules and regulations set forth below.

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

Respondent acknowledges that she has received and reviewed a copy of the Complaint filed by the Committee in this case, and the parties submit to the jurisdiction of the Commission.

Respondent acknowledges that she is aware of the various rights and privileges afforded her by law, including the right to appear and be represented by counsel; the right to have a copy of the Complaint served upon her by the Commission prior to the entering of its order; the right to have all charges against her proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondent; the right to present evidence on her own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial Commissioner concerning the complaint pending against Respondent; and the right to a ruling on questions of law by a Commissioner. Being aware of these rights provided the Respondent by operation of law, Respondent knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Motion for Consent Order, Waiver of Hearings Before the Administrative Hearing Commission and State Committee for Professional Counselors, Joint Stipulation of Facts and Conclusions of Law, and Disciplinary Order ("Joint Stipulation") and agrees to abide by the terms of this document as they pertain to Respondent.

JOINT STIPULATION OF FACTS

Based upon the foregoing, and for the purpose of settling this dispute, the Committee and Dixon jointly stipulate to the following and request that the Commission adopt as its

own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Commission's Findings of Fact and Conclusions of Law:

1. The Committee for Professional Counselors ("Committee") is an agency of the state of Missouri created and existing pursuant to § 337.535, RSMo,[2] for the purpose of carrying out the provisions of §§ 337.500 to 337.540, RSMo, relating to professional counselors.

2. Respondent, Charrie Dixon ("Dixon"), is licensed by the Committee as a professional counselor, License No. 00361 ("License").

3. Dixon's license was issued on September 16, 1987, and expires on June 30, 2009. Her license is currently active.

4. Dixon was employed as a counselor by the Parkview High School ("Parkview") in Springfield, Missouri at all times relevant herein.

5. On or about November 5, 2004, Dixon pleaded guilty to two counts of Class C felony operating a vehicle while intoxicated, causing injury pursuant to § 565.060, RSMo in the Circuit Court of Christian County in case number 04N8-CR00590-01.

6. Dixon's convictions resulted from a traffic accident in which she rear-ended a vehicle which struck another vehicle. The drivers of both vehicles received minor injuries.

7. As a result of her guilty plea, Dixon was sentenced to 3 years incarceration, suspended execution of sentence, 5 years supervised probation. Dixon was released from her

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

probation on November 1, 2007.

JOINT CONCLUSIONS OF LAW

1. Section 337.525.2, RSMo, sets forth the grounds for discipline and states in pertinent part:

> The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, 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:
>
> ...
>
> (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 engage in the occupation of professional counselor;
>
> (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a professional counselor; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed[.]

2. Section 337.500(7), RSMo (Cum.Supp. 2006), defines professional counseling and states in pertinent part:

> (a) The use of verbal or nonverbal counseling or both techniques, methods, or procedures based on principles for assessing, understanding, or influencing behavior (such as principles of learning, conditioning, perception, motivation, thinking, emotions, or social systems)[.]

3. Dixon elected to drive a vehicle while she was intoxicated. She committed an offense containing an act of violence when she struck another vehicle causing injury to two people.

4. The Missouri Supreme Court has defined moral turpitude as an act that is contrary to the accepted and customary rules and duties between people or an act done contrary to justice, honesty, modesty and good morals. *In re Frick*, 694 S.W.2d 473, 479 (Mo. Banc 1985).

5. Dixon committed an act of moral turpitude when she elected to drive while intoxicated and caused injury to another vehicle and two people because drinking and driving is a crime and therefore contrary to the accepted and customary rules and duties between people and is an act contrary to justice, honesty, modesty and good morals.

6. Dixon's guilty plea to operating a vehicle while intoxicated resulting in injury is grounds for discipline under § 337.525.2(1) and (2), RSMo, in that it constitutes use of a controlled substance such that it impaired Dixon's ability to engage in the occupation of professional counselor and was a plea of guilty for which an essential element was fraud, dishonesty or an act of violence or was an act of moral turpitude.

7. Cause exists to discipline Dixon's License pursuant to § 337.525.2(1) and (2), RSMo.

JOINT AGREED DISCIPLINARY ORDER

Based on 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 § 621.110, RSMo.

1. The parties jointly request that the Commission issue a consent order finding that grounds exist under § 337.525.2, RSMo for the Committee to discipline Dixon's License.

2. Upon the Commission's approval of this joint stipulation and its issuance of a consent order, Dixon's professional counselor license, License No.00361, is hereby immediately CENSURED.

3. The parties to the Joint Stipulation understand that the Committee will maintain this agreement as an open record of the Committee as provided in Chapter 337, 610, and 620, RSMo.

4. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and its settlement.

5. 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.

6. Dixon hereby waives and releases the Committee, its members and any of its employees, agents, or attorneys, including any former Committee members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claims for attorneys 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, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this Joint Stipulation. The parties acknowledge that this paragraph is severable from the remaining portions of this Joint Stipulation in that it survives in perpetuity even in the event that any court of law deems this Joint Stipulation or any portion thereof void or unenforceable.

7. This disciplinary order will be effective immediately upon the issuance of the Consent Order of the Commission without further action by either party.

In consideration of the foregoing, the parties consent to the entry of record and approval of this Joint Motion for Consent Order, Waiver of Hearings Before the Administrative Hearing Commission and State Committee for Professional Counselors, Joint Stipulation of Facts and Conclusions of Law, and Disciplinary Order and to the termination of any further proceedings before the Administrative Hearing Commission based upon the Complaint filed by Petitioner in the above-styled action.

CHARRIE DIXON

06/06/08
Date

LOREE KESSLER
Executive Director
State Committee for Professional Counselors

6/27/08
Date

JEREMIAH W. (JAY) NIXON
Attorney General

SARAH E. LEDGERWOOD
Assistant Attorney General
Missouri Bar No. 53205

Broadway State Office Building
221 West High Street, 7th Floor
P.O. Box 899
Jefferson City, MO 65102
Telephone: 573-751-5064
Telefax: 573-751-5660
Email: sarah.ledgerwood@ago.mo.gov

Attorneys for State Committee for
Professional Counselors

6-13-08
Date

Before the
Administrative Hearing Commission
State of Missouri

COMMITTEE FOR PROFESSIONAL COUNSELORS,	)	
Petitioner,	)	
vs.	)	No. 08-1078 PC
CHARRIE A. DIXON,	)	
Respondent.	)	

CONSENT ORDER

The licensing authority filed a complaint. Section 621.045, RSMo Supp. 2007, gives us jurisdiction.

On July 8, 2008, the parties filed a "Joint Motion for Consent Order, Waiver of Hearings Before the Administrative Hearing Commission and State Committee for Professional Counselors, Joint Stipulation of Facts and Conclusions of Law, and Disciplinary Order." Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. Because the parties have agreed to these facts, we incorporate them into this order and adopt them as stipulated. ***Buckner v. Buckner***, 912 S.W. 2d 65, 70 (Mo. App., W.D. 1995). We conclude that the licensee is subject to discipline under § 337.525.2(1) and (2), RSMo 2000. We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order. We certify the record to the licensing agency under § 621.110, RSMo 2000.

The only issue before this Commission is whether the stipulated conduct constitutes cause to discipline the license. The appropriate disciplinary action is not within our power to decide; that is subject to the licensing authority's decision or the parties' agreement. Section 621.110, RSMo 2000.

No statute authorizes us to determine whether the agency has complied with the provisions of § 621.045.4. RSMo Supp. 2007. We have no power to superintend agency compliance with statutory procedures. ***Missouri Health Facilities Review Comm. v. Administrative Hearing Comm'n***, 700 S.W. 2d 445, 450 (Mo. banc 1985). Therefore, we do not determine whether the agency complied with such procedures.

SO ORDERED on July 9, 2008.

DOUGLAS M. OMMEN
Commissioner