BEFORE THE
MISSOURI COMMITTEE FOR PROFESSIONAL COUNSELORS

In the Matter of the Application of:

Thomas W. Scott

ORDER ISSUING A PROBATED LICENSE

The Missouri Committee for Professional Counselors ("Committee"), pursuant to Section 324.038, RSMo[1], issues this order granting a **PROBATED PROFESSIONAL COUNSELOR LICENSE** to Thomas W. Scott ("Scott" or "Licensee"), 8425 Roe, Prairie Village, Kansas 66207.

As set forth in Section 324.038, RSMo, Licensee may submit a written request for hearing to the Administrative Hearing Commission seeking review of the Committee's decision set forth in this Order. Such written request must be filed with the Administrative Hearing Commission within 30 days of the date the Committee mails this Order to Licensee. The written request should be addressed to the Administrative Hearing Commission, Room 640, Truman State Office Building, P. O. Box 1557, Jefferson City, Missouri 65102-1557. Any such request should set forth that the applicant is qualified for nonprobated licensure pursuant to the laws and administrative regulations relating to Licensee's profession. If such review is requested, a hearing shall be held pursuant to Chapter 621, RSMo. A Commissioner of the Administrative Hearing Commission will preside over the

[1] All statutory references are to the Revised Statutes of Missouri (2000), as supplemented, unless otherwise indicated.

hearing. The hearing will be on the record and recorded by a court reporter. At the hearing, Licensee shall have the right to present testimony, call witnesses on its behalf, introduce evidence, cross-examine any witnesses called by the Committee, and object to any evidence introduced by the Committee and make legal argument to the Commission. Following the hearing, the Administrative Hearing Commission will issue an order including findings of fact, conclusions of law and a decision based on the evidence admitted at the hearing. A copy of the Administrative Hearing Commission's order will be delivered to the parties. Chapter 536, RSMo, sets forth the procedures for review of the order of the Administrative Hearing Commission.

If no written request for review is filed with the Administrative Hearing Commission within the 30-day period, the right to seek review of the Committee's decision shall be considered waived. Section 324.038.2, RSMo. Should Licensee make written request for review of this Order, the terms and conditions of this Order shall remain in full force and effect unless and until such time as the Administrative Hearing Commission or reviewing court orders otherwise.

Relevant Statutes.

1. Section 324.038, RSMo, authorizes the Committee to issue a license subject to probation in lieu of denial and states:

> 1. Whenever a board within or assigned to the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing

commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a license, may, at its discretion, issue to an applicant a license subject to probation.

2. The board shall notify the applicant in writing of the terms of the probation imposed, the basis therefor, and the date such action shall become effective. The notice shall also advise the applicant of the right to a hearing before the administrative hearing commission, if the applicant files a complaint with the administrative hearing commission within thirty days of the date of delivery or mailing by certified mail of written notice of the probation. If the board issues a probated license, the applicant may file, within thirty days of the date of delivery or mailing by certified mail of written notice of the probation, a written complaint with the administrative hearing commission seeking review of the board's determination. Such complaint shall set forth that the applicant or licensee is qualified for nonprobated licensure pursuant to the laws and administrative regulations relating to his or her profession. Upon receipt of such complaint the administrative hearing commission shall cause a copy of such complaint to be served upon the board by certified mail or by delivery of such copy to the office of the board, together with a notice of the place of and the date upon which the hearing on such complaint will be held. Hearings shall be held pursuant to chapter 621. The burden shall be on the board to demonstrate the existence of the basis for imposing probation on the licensee. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered waived.

3. If the probation imposed includes restrictions or limitations on the scope of practice, the license issued shall plainly state such restriction or limitation. When such restriction or limitation is removed, a new license shall be issued.

2. Section 337.500, RSMo, defines certain terms relevant to this Order and states, in relevant portion:

As used in sections 337.500 to 337.540, unless the context clearly requires otherwise, the following words and phrases mean:

(5) "Licensed professional counselor", any person who offers to render professional counseling services to individuals, groups, organizations, institutions, corporations, government agencies or the

general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed in counseling, and who holds a current, valid license to practice counseling;

(6) "Practice of professional counseling", rendering, offering to render, or supervising those who render to individuals, couples, groups, organizations, institutions, corporations, schools, government agencies, or the general public any counseling service involving the application of counseling procedures, and the principles and methods thereof, to assist in achieving more effective intrapersonal or interpersonal, marital, decisional, social, educational, vocational, developmental, or rehabilitative adjustments;

(7) "Professional counseling", includes, but is not limited to:

(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);

(b) Appraisal or assessment, which means selecting, administering, scoring, or interpreting instruments designed to assess a person's or group's aptitudes, intelligence, attitudes, abilities, achievement, interests, and personal characteristics;

(c) The use of referral or placement techniques or both which serve to further the goals of counseling;

(d) Therapeutic vocational or personal or both rehabilitation in relation to coping with or adapting to physical disability, emotional disability, or intellectual disability or any combination of the three;

(e) Designing, conducting, and interpreting research;

(f) The use of group methods or techniques to promote the goals of counseling;

(g) The use of informational and community resources for career, personal, or social development;

(h) Consultation on any item in paragraphs (a) through (g) above; and

(i) No provision of sections 337.500 to 337.540, or of chapter 354 or 375, shall be construed to mandate benefits or third-party reimbursement for services of professional counselors in the policies or contracts of any insurance company, health services corporation or other third-party payer; ...

3. Section 337.505, RSMo, requires a license to engage in the practice of professional counseling and states:

No person shall use the title of "professional counselor", "counselor" or "provisional licensed professional counselor" or engage in the practice of professional counseling in this state unless the person is licensed as required by the provisions of sections 337.500 to 337.540.

4. Section 337.525, RSMo, authorizes the Committee to deny an application for a professional counselor license and states, in relevant portion:

1. The committee may refuse to issue or renew any license required by the provisions of sections 337.500 to 337.540 for one or any combination of causes stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his right to file a complaint with the administrative hearing commission as provided by chapter 621.

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:

(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;

Parties and Background

5. The Committee is an agency of the State of Missouri created and established pursuant to Section 337.535, RSMo, and vested with the authority to execute and enforce the provisions of Chapter 337, RSMo, pertaining to the practice of professional counseling.

6. Thomas W. Scott is an individual who has registered his address with the Committee as 8425 Roe, Prairie Village, Kansas 66207.

7. Scott submitted his "Application for License" to the Committee that he signed before a notary public on April 23, 2014 (the "Application").

8. Scott has met the statutory requirements for licensure.

Basis for Probation

9. As part of his Application, Scott disclosed to the Committee his prior criminal conduct.

10. By "2010 Kansas Sentencing Guidelines Journal Entry of Judgment" entered on March 24, 2011 in *State of Kansas v. Thomas Whiteford Scott*, Case number 10CR3077 in the District Court of Johnson County, Kansas, the Court adjudged Scott guilty and imposed sentence, as follows:

a. Count I - Possession of marijuana with intent to sell in violation of K.S.A. 21-36a05 and 65-4105(d)(16) with a sentence of 32 months prison and 24 months post release supervision and $1700 restitution;

b. Count II- Possession with intent to sell marijuana in violation of K.S.A. 21-36a05 and 65-4105(d)(16) with a sentence of 16 months prison and 24 months post release supervision;

c. Count III- Possession of marijuana with intent to sell in violation of K.S.A. 21-36a05 and 65-4105(d)(16) with a sentence of 16 months and 24 months post release supervision;

d. Count IV- Use of Communication Facility in violation of K.S.A. 21-36a07 with a sentence of 9 months prison and 12 months post release supervision;

e. Count V – Use of a Communication Facility in violation of K.S.A. 21-36a07 with a sentence of 9 months prison and 12 months post release supervision;

f. Count VI – No Drug Tax Stamp in violation of K.S.A 79-5205 with a sentence of 7 months prison and 12 months post release supervision;

g. Count VII – No Drug Tax Stamp in violation of K.S.A. 79-5208 with a sentence of 7 months prison and 12 months post release supervision;

h. Count VIII – No Drug Tax Stamp in violation of K.S.A. 79-5208 with a sentence of 7 months prison and 12 months post release supervision; and

i. Count IX – Possession of Drug Paraphernalia in violation of K.S.A. 21-36a09 with a sentence of 12 months prison and 12 months post release supervision.

11. From May 18, 1998 until the license was surrendered on May 26, 2011, Scott held professional counselor license number 002356 issued by the Committee.

12. During the time Scott was previously licensed, no discipline was imposed on that license.

13. Scott reports his "clean and sober" date to be December 15, 2010.

14. Scott participates in a 12 step recovery program.

15. Scott has completed his sentences ordered by the court in his criminal case.

16. Scott submitted information to the Committee related to his criminal conduct and also submitted information as evidence of rehabilitation.

17. Scott appeared before the Committee on October 24, 2014 to discuss his application for licensure.

18. Scott has shown evidence of rehabilitation.

19. The Committee has cause to deny Scott's application for a professional counselor's license pursuant to Section 337.525.2 (2), RSMo.

20. The Committee finds that issuance of a probated professional counselor's license, subject to certain terms and conditions, in lieu of denial, will ensure protection of the public.

Issuance of Probated License Subject to Terms and Conditions

The Committee, in lieu of denial, hereby issues professional counselor license number 2015001141 to Thomas W. Scott, on **PROBATION** for a period of **TWO (2) YEARS** (the "Disciplinary Period") subject to the terms and conditions contained in this Order and set forth below.

Terms and Conditions of the Disciplinary Period

21. Licensee shall comply with the following terms and conditions of probation during the Disciplinary Period:

a. Licensee shall keep the Committee informed of Licensee's current work and home telephone numbers and addresses. Licensee shall notify the Committee in writing within ten (10) business days of any change in this information. If Licensee utilizes e-mail, Licensee shall provide the Committee with his current and active e-mail address;

b. Licensee shall comply with all applicable provisions of Chapter 337, RSMo, all Committee regulations and all federal, state and local laws and regulations related to the practice of professional counseling;

c. Licensee shall engage in no conduct that would give the Committee cause to seek authority to discipline from the Administrative Hearing Commission;

d. Licensee shall meet in person with the Committee or any Committee representative at any such time and place as required by the Committee or its representative upon reasonable notice. Any such meetings shall be at the Committee's discretion;

e. Upon the request by the Committee or its representative, Licensee shall immediately submit any and all records requested to show compliance with these terms and conditions;

f. Licensee shall renew timely all licenses and/or registrations, shall pay timely all fees required for licensure/registration and shall meet all other requirements necessary to maintain all licenses and registrations issued by the Committee current and active including completion of all required continuing education hours and not allowing any license to be suspended for failure to comply with any revenue law of the state per Section 324.010, RSMo;

g. Licensee shall accept and cooperate with unannounced visits from the Committee, or its representatives, to monitor compliance with the terms and conditions of the Disciplinary Period;

h. Licensee shall provide any professional counselor employer with a copy of this Order within five (5) working days from the date of receipt of this Order and within five (5) working days from the date of any new employment;

i. Licensee shall not serve as the supervisor of any professional counselor;

j. If Licensee is required to submit to any drug and alcohol screenings by any entity, Licensee shall provide the Committee with a copy of any screening within ten (10) days of receiving the results of said screening;

k. Licensee shall execute any all releases required for the Committee to obtain a copy of all drug and alcohol screenings; and

Supervision Requirements

l. During the Disciplinary Period, Licensee shall obtain an approved supervisor as set forth below:

   i. Within thirty (30) days of the effective date of this Order, Licensee shall submit a panel of three (3) proposed supervisors to the Committee for approval. Each proposed supervisor shall meet the following criteria:

      1. Has a current and active Missouri license as a professional counselor, psychologist or psychiatrist for at least two (2) years;

      2. Has not been and is not currently under discipline imposed by any licensing entity;

3. Is not related to Licensee including a spouse, parent, child, sibling, grandparent, aunt, uncle, or cousin, by blood, marriage or adoption;
4. Possess at least two (2) years experience in counseling and in supervisory activities involving counseling. Licensee shall submit proposed supervisor's resume or vitae detailing course work, workshops, supervision training, and experience as a supervisor of professional counselors;
5. Has consented to enter into a supervision agreement with Licensee in compliance with the terms of this Order. and
6. Has acknowledged in writing that Licensee has provided the supervisor with a copy of this Order.

ii. The Committee shall review Licensee's proposed supervisors and may approve a supervisor or the Committee may request Licensee to submit additional names of proposed supervisors.

iii. The Committee will provide written notice as to its approval of supervision to both the Licensee and the supervisor.

iv. Supervision shall be effective the date the Committee provides written notice to Licensee that the supervisor is approved and Licensee shall, within seven (7) days of the effective date of

supervision, provide the Committee with a copy of the fully signed supervision agreement between Licensee and supervisor.

v. **Licensee shall not engage in the practice of professional counseling until both Licensee and his supervisor have received written notice of approval of supervision from the Committee and Licensee and the supervisor have a both signed a supervision agreement.**

vi. Licensee shall be responsible for any payment associated with the supervision.

vii. Licensee shall provide a copy of this Order to the supervisor prior to beginning supervision.

viii. Licensee's supervisor shall submit written reports to the Committee due by January 1 and July 1 of each year of the Disciplinary Period, but not more than 14 days prior to each report's due date. In these reports, the supervisor shall report honestly and truthfully to the Committee whether Licensee is in compliance with the terms of this Order, to the best knowledge of the supervisor and Licensee's understanding and adherence to approved standards of professional and ethical conduct, areas of continued growth and development and accountability and also provide evidence of meetings with

Licensee. The supervisor shall submit a final written report to the Committee at least ninety (90) days, but not more than 100 days, prior to the end of the Disciplinary Period.

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

x. The supervisor shall meet with Licensee for at least one hour, face to face, in person per week.

xi. The supervision shall include, but not be limited to:

1. Review of the nature of Licensee's practice including scope of practice and treatment related to the issues presented by clients to Licensee;
2. Recommendations Licensee makes to clients;
3. Referrals by Licensee to other professionals;
4. Ethical issues related to Licensee's practice and Licensee's conformance to the ethical standards required of professional counselors; and
5. Review of Licensee's billing records and other documents, as 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.

xii. In the event an approved supervisor becomes unable to continue to serve as Licensee's supervisor, Licensee shall:

1. Within 3 business days of being notified of the supervisor's inability to continue as Licensee's supervisor, Licensee shall notify the Committee, in writing, that his current supervisor will be ceasing supervision of Licensee; and
2. Licensee shall follow the procedure set forth above in obtaining a new supervisor.

xiii. Licensee shall not practice without a supervisor.

xix. Licensee shall follow all directives of the supervisor related to the practice of professional counseling.

22. Upon the expiration of the Disciplinary Period and successful completion of the probation, Licensee's license shall be fully restored if all other requirements of the law have been satisfied; provided however, that in the event the Committee determines that Licensee has violated any term or condition of this Order, the Committee may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Licensee's license.

23. The Committee shall enter no order imposing further discipline on Licensee's license without notice and an opportunity for hearing before the Committee in accordance with the provisions of Chapter 536, RSMo.

24. If the Committee determines that Licensee has violated a term or condition of this Order, and that violation would also be actionable in a proceeding before the Administrative Hearing Commission or in a circuit court, the Committee may elect to pursue any lawful remedies or procedures afforded to it and is not bound by this Order in its determination of appropriate legal actions concerning such violation(s).

25. If any alleged violation of this Order occurs during the Disciplinary Period, the Committee may choose to conduct a hearing on the alleged violation either during the Disciplinary Period, or as soon thereafter as a hearing can be held, to determine whether a violation of the terms and conditions of the Disciplinary Period occurred and, if so, may impose further discipline on Licensee's license. The Committee has continuing jurisdiction to hold a hearing determine if a violation of the terms and conditions of the Disciplinary Period occurred.

26. This Order of the Committee shall be maintained as an open and public record of the Committee as provided in Chapters 337, 610 and 324, RSMo.

IT IS SO ORDERED.

Dated: January 14, 2015

Loree Kessler
Executive Director
Missouri Committee for Professional Counselors