

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

ANDREW MAHTANI,)	
)	
Petitioner,)	
)	
v.)	Case No. 14-0864 SW
)	
STATE COMMITTEE FOR)	
SOCIAL WORKERS,)	
)	
Respondent.)	

DISMISSAL AND SETTLEMENT AGREEMENT

Petitioner, Andrew Mahtani (“Petitioner”) and Respondent, the State Committee for Social Workers (the “Committee”) hereby agree and request the Administrative Hearing Commission to dismiss this matter pursuant to the settlement agreement hereby entered. The parties enter into this agreement for the purpose of resolving the question of whether Petitioner shall be issued a license as a master social worker. Pursuant to § 536.060, RSMo 2000,¹ the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri. The parties jointly stipulate and agree that a final disposition of this matter may be effectuated as described below.

Petitioner acknowledges that he understands the various rights and privileges afforded him by law, including the right to a hearing of the charges against him; the right to appear

¹ All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted.

and be represented by legal counsel; the right to have all charges proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing against him at the hearing; the right to present evidence on his behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges against him; the right to a ruling on questions of law by the Administrative Hearing Commission; the right to a claim for attorney fees and expenses; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission.

Being aware of these rights provided to him by law, Petitioner 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 him.

Petitioner stipulates that the factual allegations contained in this Settlement Agreement are true and stipulates with the Committee that pursuant to §337.630.2 such allegations are cause for the Committee to refuse to issue licensure to Petitioner. Petitioner further stipulates that pursuant to §324.038, the Committee has authority, as an alternative to refusing to issue licensure, to issue Petitioner a license subject to probation.

I.

Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing, the Committee and Andrew Mahtani (“Petitioner”) herein jointly stipulate to the following:

1. On or about March 29, 2009, Petitioner pled guilty in Johnson County, Missouri, to two (2) counts of Possession of a Controlled Substance. Petitioner was to serve ten (10) days shock time in the county jail and be placed on probation for a period of five (5) years. Petitioner served his shock time as ordered and began his probation. Petitioner was given a suspended imposition of sentence (SIS) and placed on probation for five years which he completed on or around September 1, 2013.

2. Petitioner violated the terms of his probation when, on January 19, 2011, he tested positive for THC.

3. As a result in part of the incident, in a proceeding before the Johnson County Circuit Court, Petitioner was to complete drug education classes and provide random drug screens. Petitioner successfully completed an intensive outpatient program, the C-STAR treatment program, as a result.

4. Petitioner completed the drug courses and satisfied the requirements for probation. Petitioner completed his probation on September 1, 2013.

5. Petitioner applied for licensure as a licensed clinical social worker ("LCSW") on or about May 8, 2014, and answered yes to the following questions:

c) [h]ave you ever entered plea of guilty or nolo contendere or been convicted of a felony, misdemeanor or received a suspended imposition of sentence;

e) [a]re you now or ever have been addicted to or used in excess, any drug or chemical substance including alcohol; and

[a]re you now being treated or have you ever been treated through a drug or alcohol rehabilitation program?

6. When asked to explain his answer, Petitioner indicated that he was convicted of possession of a controlled substance, a class C felony, and that he pled guilty to the charges as discussed in Paragraphs 1 through 4.

7. The Committee declined to issue Petitioner a license on May 14, 2014.

8. On or about June 4, 2014, the Committee received notice that Petitioner had filed a complaint with the Administrative Hearing Commission regarding the denial of Petitioner's application for a license as a licensed clinical social worker ("LCSW") in the case styled as *Mahtani v. Missouri State Committee for Social Workers*, No. 14-0864 SW.

9. On June 27, 2014, the Committee filed its Answer and Affirmative Defense to Petitioner's complaint with the Administrative Hearing Commission.

10. Section 337.644, RSMo, Application, contents – reciprocity – issuance of license, when, provides, in pertinent part:

1. Each applicant for licensure as a master social worker shall furnish evidence to the committee that:

...

(3) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure. . . .

2. Any applicant who answers in the affirmative to any question on the application that relates to possible grounds for denial of licensure under section 337.630 shall submit a sworn affidavit setting forth in detail the facts which explain such answer and copies of appropriate documents related to such answer.

11. Further, §§ 337.630, RSMo, sets forth the grounds upon which the Committee may refuse to issue a license, and provides in pertinent part:

1. The committee may refuse to issue or renew any license required by the provisions of sections 337.600 to 337.689 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 the applicant's 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 337.600 to 337.689 or any person who has failed to renew or has surrendered the person's 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 pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a social worker licensed under this chapter; 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. . . .

12. Cause exists to deny Petitioner's licensure pursuant to §324.523.1(2)

which states:

1. The division may refuse to issue or 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 under sections 324.520 to 324.526, or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit, or license for any one or any combination of the following causes:

(2) Final adjudication and finding of guilt, or the entrance of 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 any profession that is licensed or regulated under sections 324.520 to 324.526, and the regulations promulgated thereunder, 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;

13. Based upon the statements submitted in support of Petitioner's application for licensure as a Missouri licensed master social worker, Petitioner entered a guilty plea in the cases cited herein for Possession of a Controlled Substance on March 29, 2009 for offenses involving moral turpitude, even though he received suspended impositions of the sentences both times.

14. Accordingly, the Committee properly exercised its discretion and did not err in denying Petitioner's application for licensure as a Missouri licensed master social worker based upon § 337.630.1 and .2(2), RSMo.

II.

Issuance of Probated License

1. Based on the foregoing, the parties mutually agree and stipulate that as an alternative to refusing to issue Petitioner Andrew Mahtani (“Petitioner”) a license as a master social worker, the Committee hereby issues Petitioner a master social worker license subject to two years’ probation (“the disciplinary period”), subject to the terms listed below. During the disciplinary period, Petitioner shall be entitled to practice as a licensed master social worker under §§ 337.600-337.689, RSMo, as amended, provided Petitioner adheres to all the terms of this agreement:

I. SPECIFIC REQUIREMENTS

A. During the disciplinary period, Petitioner shall offer and provide services only under supervision by a supervisor pre-approved by the Committee. The name, license number, and contact information of such supervisor shall be supplied to the Committee at least twenty (20) days prior to Petitioner performing any work under their supervision (pending approval by the Committee).

B. During the disciplinary period, Petitioner shall facilitate the submission of quarterly reports from Petitioner’s supervisor directly to the Committee (the “quarterly reports”). Such reports shall be submitted by the supervisor to the State Committee for Social Workers, P.O. Box 1335, Jefferson City, Missouri 65102, stating truthfully whether Petitioner has complied with all the terms and conditions of this Settlement

Agreement by no later than January 1, April 1, July 1 and October 1 during each year of the disciplinary period.

C. Petitioner must have periodic screens of Petitioner's blood or urine quarterly during each year of the disciplinary period, at Petitioner's expense, under the pendency of this Settlement Agreement. The results of such screenings are to be submitted by the supervisor to the Committee by no later than January 1, April 1, July 1 and October 1 along with the submission of the quarterly reports. Further, Petitioner must comply with any unannounced periodic screens of Petitioner's blood or urine, at Petitioner's expense, during the pendency of this Settlement Agreement.

D. Petitioner must abstain from the use of controlled substances not pursuant to a valid prescription during the pendency of his probation under the terms of this Settlement Agreement. Petitioner must also abstain from any misuse of alcohol during the pendency of his probation under the terms of this Settlement Agreement.

II. GENERAL REQUIREMENTS

A. Petitioner shall comply with all conditions of post-release probation imposed related to his conviction, incarceration, and probation for Possession of a Controlled Substance.

B. Petitioner shall comply with all relevant provisions of §§ 337.600-337.689, RSMo, all applicable regulations promulgated thereunder, and all federal and state

criminal laws. "State" includes the state of Missouri, all other states and territories of the United States, and the ordinances of their political subdivisions.

C. Petitioner shall meet with the State Committee for Social Workers or its representative at any such time and place as required by the State Committee for Social Workers or its designee upon notification from the State Committee for Social Workers or its designee. Said meetings will be at the State Committee for Social Workers' discretion and may occur periodically during the disciplinary period.

D. During the disciplinary period, Petitioner shall accept and comply with unannounced visits from the Committee's representatives to monitor Petitioner's compliance with the terms and conditions of this Settlement Agreement.

E. Petitioner shall keep the State Committee for Social Workers apprised of his current home or work addresses and telephone numbers. Petitioner shall inform the State Committee for Social Workers within ten (10) days of any change of home or work addresses or telephone numbers.

F. During the disciplinary period, Petitioner shall timely renew his license, timely pay all fees required for licensure and comply with all other requirements necessary to maintain his license current and active.

G. If, at any time during the disciplinary period, Petitioner changes his residence from the state of Missouri, or fails to keep the State Committee for Social Workers advised of all current places of residence and business, the time of absence or

unknown whereabouts shall toll the disciplinary period and shall not be deemed or taken as a part of the disciplinary period.

H. If, at any time during the disciplinary period, Petitioner ceases to maintain his Missouri license as a master social worker as current, the time of unlicensed status shall toll the disciplinary period and shall not be deemed or taken as any part of the disciplinary period.

I. Unless otherwise specified by the State Committee for Social Workers all reports, documentation, evaluations, notices, or other materials required to be submitted shall be forwarded to: Missouri Division of Professional Registration, State Committee for Social Workers, P.O. Box 1335, Jefferson City, Missouri 65102.

J. Within twenty (20) days of the execution of this Dismissal and Settlement Agreement by the parties, Petitioner shall voluntarily dismiss his cause of action at the Administrative Hearing Commission styled as *Mahtani v. Missouri State Committee for Social Workers*, No. 14-0864 SW.

2. Upon the expiration of the disciplinary period, the license of Petitioner shall be fully restored if all requirements of law have been satisfied; provided, however, that in the event the Committee determines that Petitioner has violated any term or condition of this Settlement Agreement, 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 Petitioner's license.

3. No additional discipline shall be imposed by the Committee pursuant to the preceding paragraph of this Settlement Agreement without notice and opportunity for hearing before the Committee as a contested case in accordance with the provisions of Chapter 536, RSMo.

4. This Settlement Agreement does not bind the Committee or restrict the remedies available to it concerning facts or conduct not specifically mentioned in this Settlement Agreement that are either now known to the Committee or may be discovered.

5. If any alleged violation of this Settlement Agreement occurred during the disciplinary period, the parties agree that the Committee may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, may impose further disciplinary action. Petitioner agrees and stipulates that the Committee has continuing jurisdiction to hold a hearing to determine if a violation of this Settlement Agreement has occurred.

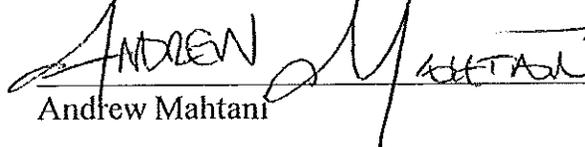
6. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

7. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained 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.

8. The parties to this Settlement Agreement understand that the Committee will maintain this Settlement Agreement as an open record of the Committee as required by Chapters 337, 610, and 324, RSMo, as amended.

9. Petitioner together with his partners, heirs, assigns, agents, employees, representatives and attorneys, does hereby waive, release, acquit and forever discharge the Committee its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo (as amended), or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

PETITIONER


Andrew Mahtani

Date: 4-9-15

STATE COMMITTEE FOR SOCIAL WORKERS


Tom Reichard, Executive Director

Date: 4-16-15
CHRIS KOSTER

Attorney General



Mary A. Long
Assistant Attorney General
Missouri Bar No. 61493

Old Post Office Building
815 Olive Street
P.O. Box 861
St. Louis, MO 63188
Telephone: 314-340-7544
Telefax: 314-340-7891

*Attorneys for the State Committee for
Social Workers*