

**COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF ALCOHOL AND DRUG
COUNSELORS. AGENCY CASE NO. 17-12**

**KENTUCKY BOARD OF ALCOHOL
AND DRUG COUNSELORS**

COMPLAINANT

v.

BRIAN ANTHONY, CADC # 118360

RESPONDENT

AGREED ORDER

The Kentucky Board of Alcohol and Drug Counselors ("Board") and Brian Anthony ("Respondent") hereby enter into this Agreed Order to resolve the above-styled matter.

Facts

The Respondent is a Certified Alcohol and Drug Counselors, Certificate No. 118360. In January 2017, the Respondent was the owner and operator of "180 Counseling" with various locations in Bullitt, Nelson, Jefferson, and Carrollton counties, Kentucky. The Board finds that at various times and throughout the period January to about September 2017, the Respondent knowingly, willfully, and wrongfully used crack cocaine. On multiple occasions during this period the Respondent was under the influence of crack cocaine while in the practice of alcohol and drug counseling. There is sufficient evidence to find that the Respondent was impaired due to the illegal use of controlled substances, which

negatively affected his practice of alcohol or drug counseling during this period.

Respondent's conduct constitutes a violation of KRS 309.086(1)(d) and (h) and 201 KAR 35:030, Section 4(1)(b)1.

Notwithstanding the Board's findings, it is Respondent's contention that he did not use crack cocaine during this period and was not impaired due to the use of a controlled substance while in the practice of alcohol and drug counseling.

The Parties mutually desire to settle the issues in an expeditious manner, without the need for a formal hearing.

Accordingly, it is hereby stipulated and agreed between the undersigned Parties this matter shall be settled and resolved upon the following terms:

Findings

Although Respondent disagrees with some of the Board's findings as outlined above, for the purpose of this Agreed Order, the Respondent acknowledges that the Board could present sufficient evidence to substantiate the allegations contained herein, and violations of KRS 309.086(1)(d) and (h), and 201 KAR 35:030, Section 4(1)(b)1.

Voluntary Waiver of Rights

The Respondent has had the opportunity at all times to seek the advice from competent counsel of choice. No coercion has been exerted upon the Respondent, nor have any promises been made other than those reflected in

this Agreed Order. The Respondent has freely and voluntarily entered into this Agreed Order, motivated only by a desire to resolve the issues addressed herein. The Respondent has executed this Agreed Order only after a careful reading of it and a full understanding of all of its terms. The Respondent waives the right to challenge any agreed-upon term or condition of this Agreed Order notwithstanding any other statutory provision of KRS 309.080 to 309.089, or 201 KAR Chapter 35. The Respondent expressly agrees those agreed upon terms and conditions contained therein are exclusively a matter of private right.

The Respondent is fully aware of the rights to contest charges in a formal hearing. These rights include: representation by an attorney at the Respondent's own expense, the right to a public hearing on any charges contained in the Formal Complaint, the right to confront and cross-examine witnesses called to testify against the Respondent, the right to present evidence on the Respondent's behalf, the right to compulsory process to secure the attendance of such witnesses, the right to testify on the Respondent's own behalf, the right to receive written findings of fact and conclusions of law supporting the decision on the merits of the Formal Complaint, the right to obtain judicial review of the Board's decision, and the right to appeal any final order of the Board to the Circuit Court as otherwise allowed by KRS 309.086(2).

Respondent knowingly and voluntarily waives all these rights in exchange for the Board's acceptance of this Agreed Order.

Jurisdiction

The Respondent acknowledges the Board has jurisdiction over the Respondent and the conduct, which has precipitated this Agreed Order. The Respondent also acknowledges the Board has the legal power to take disciplinary action up to and including revocation of the Respondent's license to practice alcohol and drug counseling in Kentucky. The Respondent acknowledges the Board will retain jurisdiction over this matter until all terms and conditions set forth in this Agreed Order have been met to the satisfaction of the Board.

Publication of Agreed Order

The Respondent acknowledges, once adopted by the Board, this Agreed Order is considered a public document, available for inspection at any time by any member of the public under the Kentucky Open Records Act. Further, the Respondent understands the Board is free to make any use it deems appropriate of the contents of this Agreed Order, which shall include the Board's ability to share the content of this Agreed Order with any governmental or professional board or organization, publication of a summary in the Board's newsletter, reporting under federal law, and availability via the Board's web site.

Terms of Agreement

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements set forth below, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereby covenant and agree as follows:

For the purpose of this Agreed Order, notwithstanding his denial of any violations, the Respondent admits that the Board could find that he engaged in conduct that violated the provisions of KRS 309.086(l)(d) and (h) and 201 KAR 35:030, Section 4(1)(b)l.

The Respondent agrees to:

1) The suspension of his CADC credential for a period of one year with the suspension period to be probated for one year from the effective date of this Agreed Order. During the period of probation, the Respondent may engage in the practice of drug and alcohol counseling;

2) During the period of probation, the Respondent shall:

a. At his own expense, be supervised during the one-year period of probation, consisting of weekly one-hour documented face-to-face supervision and comply with the remaining requirements of 201 KAR 35:070, Section 13.

b. Submit three names of proposed Board-approved supervisors with whom Respondent does not have a dual relationship within 15 days of the effective date of this Agreed Order;

b. Within 30 days of the effective date of this Agreed Order, enroll and participate in the Kentucky Professional Recovery Network ("KYPRN") for impaired practitioners. Respondent shall comply with the terms and conditions of the KYPRN and bear the expense of the program; and

c. Not violate the provisions of KRS 309.080 to 309.089 or 201 KAR Chapter 35.

The Board agrees to:

1) Impose a one-year suspension of the Respondent's CADC credential. The period of suspension shall be probated for a period of one year during which time the Respondent may engage in the practice of alcohol and drug counseling under a credential issued by the Board; and

2) Not seek any additional disciplinary action against the Respondent based on the factual allegations set forth in this Agreed Order.

* * *

The Respondent understands that this action shall constitute a reportable disciplinary action against the Respondent's credential for purposes of any professional organization, national database, or licensing board. This matter may be reportable under state or federal law.

The Parties agree to execute all documents necessary to settle this matter.

The Respondent expressly understands, once executed, failure to comply with and complete all terms of this Agreed Order shall constitute failure to comply with an Order of the Board under KRS 309.086(1)(h), and 201 KAR 35:030, Section 4(1)(b)1 for which the Board may impose additional penalties available under law after notice and opportunity to be heard.

The Parties agree to take all actions necessary that would cause the conditions and obligations under this Agreed Order to become effective upon

the date of this Agreed Order, or, in the event that additional documents may need to be executed after the date of this Agreed Order, the Parties agree to cooperate with each other and execute such additional documents to effectuate the purposes as stated herein.

Each of the Parties represents and warrants to the other that it: (a) has taken all requisite action to authorize the execution, delivery and performance of its obligations hereunder; (b) has all requisite power and authority to enter into this Agreed Order and to effectuate the purposes herein; (c) the Agreed Order will constitute the valid and legally binding obligation of each Party; and (d) the Agreed Order will be enforceable against each Party in accordance with the respective terms hereof.

This Agreed Order shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, in accordance with the laws of the Commonwealth of Kentucky without reference to its choice of law rules. Any dispute arising hereunder shall be settled by a state court of appropriate jurisdiction in Franklin County, Kentucky. The Parties irrevocably consent to the personal jurisdiction and venue of such court. The Parties agree that any such litigation shall be by bench trial only, each of the Parties irrevocably waiving its right to jury trial in any dispute arising hereunder.

This Agreed Order may not be modified except by a written agreement signed by all Parties. The Parties represent, agree, and acknowledge that they

have read this Agreed Order in its entirety and fully understand and agree to its terms.

Release of Liability

In consideration of execution of this Agreed Order, the Respondent, the Respondent's executors, administrators, successors and assigns, hereby releases and forever discharges the Commonwealth of Kentucky, the Kentucky Board of Alcohol and Drug Counselors, and the Public Protection Cabinet, and each of their members, agents, and employees in their individual and representative capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, the Respondent ever had, now has, may have or claim to have against any or all of the persons or entities named in this paragraph arising out of or by reason of this investigation, this disciplinary action, this Agreed Order, or its administration.

Acceptance by the Board

It is hereby agreed between the Parties that this Agreed Order shall be presented to the Kentucky Board of Alcohol and Drug Counselors at the next regularly scheduled meeting of the Board. The Respondent understands the Board is free to accept or reject this Agreed Order, and if rejected by the Board, a formal disciplinary hearing against the Respondent may be scheduled thereafter with the Hearing Officer and counsel. The Respondent hereby agrees to waive any right the Respondent might have to challenge the impartiality of

the Board, based solely upon the presentation of this Agreed Order, to hear the disciplinary charges if, after review by the Board, this Agreed Order is rejected.

If this Agreed Order is not accepted by the Board, it shall be regarded as null and void. Admissions by the Respondent in the Agreed Order will not be regarded as evidence against the Respondent at the subsequent disciplinary hearing. The Respondent will be free to defend herself and no inferences against the Respondent will be made from the Respondent's willingness to have entered into this Agreed Order.

The Agreed Order will not be submitted for Board consideration until after it has been agreed to and executed by the Respondent. The Agreed Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

Effective Date

The effective date of this Agreed Order shall be the date it is accepted by the Board and signed by the Chairperson of the Board.

Complete Agreed Order

This Agreed Order embodies the entire agreement between the Board and the Respondent. This Agreed Order shall constitute a binding contract between the Respondent and the Board, subject only to approval by the Board as set forth above. The Respondent shall not rescind, revoke, withdraw, or seek to modify this Agreed Order prior to or during its presentation to the Board at a

regularly scheduled meeting of the Board. It may not be altered, amended or modified without the express written consent of both parties.

Cooperation with the Board

The Respondent agrees to permit and cooperate with the Board, its members, agents, and employees to monitor the Respondent's compliance with the terms and conditions of this Agreed Order. The Respondent shall sign and file any appropriate authorizations or releases, or both for information that may be requested by the Board or its representative member.

Costs

The parties shall bear their respective costs.

Order

Upon consideration of this Agreed Order,


IT IS HEREBY ORDERED THAT the terms of this Agreed Order are approved and adopted.

IT IS FURTHER HEREBY ORDERED THAT the Respondent's CADC credential #118360 be **SUSPENDED** for a period of one year. The suspension shall be probated for a period of one year from the effective date of this Agreed Order and on the condition that the Respondent shall satisfactorily complete the terms of probation.

IT IS FURTHER HEREBY ORDERED THAT the Respondent's terms of probation are that the Respondent shall:

- 1) At his own expense, be supervised during the one-year period of probation, consisting of weekly one-hour documented face-to-face supervision and comply with the remaining requirements of 201 KAR 35:070, Section 13.
- 2) Submit three names of proposed Board-approved supervisors with whom Respondent does not have a dual relationship within 15 days of the effective date of this Agreed Order;
- 3) Within 30 days of the effective date of this Agreed Order, enroll and participate in the Kentucky Professional Recovery Network ("KYPRN") for impaired practitioners. Respondent shall comply with the terms and conditions of the KYPRN and bear the expense of the program; and
- 4) Not violate the provisions of KRS 309.080 to 309.089 or 201 KAR Chapter 35.

SO ORDERED on this 5th day of October, 2018.



GEOFFREY WILSON, CHAIR
KENTUCKY BOARD OF ALCOHOL
AND DRUG COUNSELORS

Have Seen, Understood, and Agreed:

Rebecca Brown

Hon. Rebecca Brown
Bailes, Craig & Yon, PLLC
401 10th Street, Suite 500
Huntington, WV 25720-1926

Counsel for Respondent Brian Anthony,
CADC # 118360

Date 10/2/18

Mr. Brian E. Anthony, CADC

Mr. Brian E. Anthony, CADC #118360

Respondent

Date 10/1/18

Bryan D. Morrow

Hon. Bryan D. Morrow
Office of Legal Services
Public Protection Cabinet
656 Chamberlain Ave., Suite B
Frankfort, KY 40601

Counsel for the Board

Date 10/2/2018

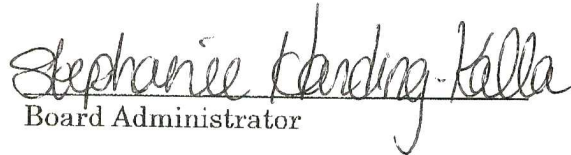
CERTIFICATE OF SERVICE

I hereby certify that a copy of the Agreed Order was mailed by regular first class mail on this 8 day of October, 2018, to:

Hon. Rebecca Brown
Bailes, Craig & Yon, PLLC
401 10th Street, Suite 500
Huntington, WV 25720-1926
Counsel for Respondent Brian Anthony, CADC # 118360

And via messenger mail to:

Bryan D. Morrow,
Public Protection Cabinet, Office of Legal Services
656 Chamberlin Avenue, Suite B
Frankfort, Kentucky 40601
Board Counsel


Board Administrator