ORIGINAL

BEFORE THE BOARD OF EXAMINERS OF

RESIDENTIAL CARE FACILITY ADMINISTRATORS

STATE OF IDAHO

In the Matter of the License of:	)	
	)	Case No. RCA-2005-1
DONALD F. JOHNSON,	)	
License No. RCA-391,	)	**STIPULATION AND**
	)	**CONSENT ORDER**
Respondent.	)	
	)	

RCA\Johnson\P4337lsa

WHEREAS, information having been received by the Idaho State Board of Examiners of Residential Care Facility Administrators (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against Donald F. Johnson (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of residential care facility administrators in the State of Idaho in accordance with title 54, chapter 42, Idaho Code.

2. Respondent Donald F. Johnson is a licensee of the Idaho State Board of Examiners of Residential Care Facility Administrators and holds License No. RCA-391 to practice as a residential care facility administrator in the State of Idaho. Respondent's license expired on June 25, 2004, and Respondent's license was canceled as of June 26, 2004. Respondent has not renewed his license; however, pursuant to Idaho Code § 67-2614, Respondent retains the right to renew his license for up to five (5) years after cancellation by paying the required fees.

3. At all times relevant hereto, Respondent was the administrator of the Larkspur Lane facility in Lewiston, Idaho.

4. On or about November 14, 2003, an investigation by the Area Office on Aging, Adult Protection Services, Area II, found substantial evidence to support allegations of abuse and neglect of an elderly client at Larkspur Lane by Respondent.

5. The above-stated allegations, if proven, would constitute a violation of the laws and rules governing the practice of residential care facility administrators, specifically Idaho Code § 54-4213(1)(b), IDAPA 24.19.01.650.03, and ACHCA Codes of Ethics I, II and III. Violations of these laws, rules and Codes of Ethics would further constitute grounds for disciplinary action against Respondent's license to practice as a residential care facility administrator in the State of Idaho.

6. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against his license as set forth in Section C below.

B.

I, Donald F. Johnson, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice as a residential care facility administrator in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of residential care facility administrators in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my license without further process.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. Any and all renewal rights possessed by Respondent to License No. RCA-391 pursuant to Idaho Code § 67-2614 are hereby immediately REVOKED for a period of five (5) years from the date of cancellation of Respondent's license, and Respondent shall not re-apply for licensure during the 5-year revocation period.

2. After the 5-year revocation period, Respondent may re-apply for licensure under the following conditions:

a. Respondent shall meet all the requirements of a new applicant as set forth in the Board's laws and rules.

b. Respondent shall pay to the Board an administrative fine in the amount of One Thousand and No/100 Dollars ($1,000.00).

c. Respondent shall pay investigative costs and attorney fees in the amount of Five Hundred and No/100 Dollars ($500.00).

d. Respondent shall appear before the Board to address the November 14, 2003, investigation by the Area Office on Aging, Adult Protection Services, Area II, concerning the allegations of abuse and neglect of an elderly client at Larkspur Lane. Pursuant to Board Rule 700, the Board may also require Respondent to submit to any other review as well as require Respondent to sit for a special examination at the Board's discretion.

3. Any application for licensure at the conclusion of the 5-year revocation period must be accompanied by written proof of compliance with the terms of this Stipulation. The Board retains discretion to grant licensure and/or impose probation, or to deny licensure and impose a further period of revocation.

4. All costs associated with compliance with the terms of this stipulation are the sole responsibility of Respondent.

5. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D.

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this Stipulation, and if rejected by the Board, a formal complaint may be filed against Respondent. Respondent hereby agrees to waive any right Respondent may have to challenge the impartiality of the Board to hear the disciplinary complaint if, after review by the Board, this Stipulation is rejected.

3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Stipulation will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. The Consent 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.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-4213. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a

hearing before the Board. Within twenty-one (21) days after the notice of hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be deemed admitted.

b. At the hearing before the Board upon default, the Board and Respondent may submit affidavits made on personal knowledge and argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

7. The Board shall have the right to make full disclosure of this Stipulation and Consent Order and the underlying facts relating hereto to any state, agency or individual requesting information subject to any applicable provisions of the Idaho Public Records Act, title 9, chapter 3, Idaho Code.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

> I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject

to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 16th day of DECEMBER, 2004.

Donald F. Johnson
Respondent

I concur in this stipulation and order.

DATED this 20th day of DECEMBER, 2004.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By _____
Kenneth F. Stringfield
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-4205, the foregoing is adopted as the decision of the Board of Examiners of Residential Care Facility Administrators in this matter and shall be effective on the 10th day of March, 2005. **IT IS SO ORDERED.**

IDAHO STATE BOARD OF
EXAMINERS OF RESIDENTIAL
CARE FACILITY ADMINISTRATORS

By _____
Ione Springer, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of March, 2005, I caused to be served a true and correct copy of the foregoing by the following method to:

Donald F. Johnson 2798 Grandview Drive Clarkston, WA 99403	☒ U.S. Mail ☐ Hand Delivery ☒ Certified Mail, Return Receipt Requested ☐ Overnight Mail ☐ Facsimile: _____ ☐ Statehouse Mail
Kenneth F. Stringfield Deputy Attorney General P.O. Box 83720 Boise, ID 83720-0010	☐ U.S. Mail ☐ Hand Delivery ☐ Certified Mail, Return Receipt Requested ☐ Overnight Mail ☐ Facsimile: _____ ☒ Statehouse Mail

Rayola Jacobsen

Rayola Jacobsen, Chief
Bureau of Occupational Licenses