IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Jul 10 2013 10:11 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

NADINE GOODWIN,

Plaintiff/Appellant,

vs.

CYNTHIA JONES and RENEE OLSON, as former and present Administrators;
STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, EMPLOYMENT SECURITY DIVISION,

Defendants/Respondents.

No. 62493

On Appeal from the Second Judicial District Court of the State of Nevada
In and for the County of Washoe

JOINT APPENDIX

Brian Morris, Esq.
Nevada Bar No. 5431
59 Damonte Ranch Parkway, B-221
Reno, Nevada 89521
775-323-2800
email: brmorris@lawforthepeople.com

Attorney for Appellant

Docket 62493 Document 2013-20117

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[1] Some page numbers are not on the bottom right due to the Record on Appeal that was filed with the District Court also having Bates numbers on the bottom right.

Certificate of Service

I certify that on the 9th day of July, 2013, I served a copy of the Joint Appendix in a PDF format via email (as agreed to between the parties) to:

Erickson, Thorpe & Swainstont
Thomas P. Becko, Esq.
P.O. Box 3559
Reno, Nevada 89505

Dated this 9th day of July, 2013

/s/

Brian Morris, Esq.
59 Damonte Ranch Parkway, B-221
Reno, Nevada 89521

F I L E D
Electronically
01-30-2012:04:50:37 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 2731004

Code: 3550
Brian R. Morris
Nevada Bar No. 5431
59 Damonte Ranch Parkway, B-221
Reno, Nevada 89521
775-323-2800
Attorney for Nadine Goodwin

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN, Petitioner/Plaintiff, vs. CYNTHIA JONES, Administrator; STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, EMPLOYMENT SECURITY DIVISION; and BRISTLECONE FAMILY RESOURCES, a Nevada Corporation, Respondents/Defendants.	Case No. Dept. No.

PETITION FOR JUDICIAL REVIEW

Comes Now, Petitioner/Plaintiff Nadine Goodwin, by and through undersigned counsel and files this Petition for Judicial review and related actions.

1. This action is brought pursuant to and is governed by Chapter 612 of the Nevada Revised Statutes, specifically N.R.S. § 612.530.
2. **There is no filing fee allowed to be charged or collected pursuant to N.R.S. § 612.705(1).**
3. A hearing is requested pursuant to N.R.S. § 612.530(5).
4. Nadine Goodwin worked for Bristlecone Family Resources in Washoe County.

5. Nadine Goodwin was separated from her employment with Bristlecone Family Resources.

6. Nadine Goodwin requested unemployment benefits from Respondents/Defendants. Bristlecone Family Resources argued against Nadine Goodwin receiving any unemployment benefits.

7. Nadine Goodwin was denied unemployment benefits by the State Of Nevada, Department Of Employment, Training And Rehabilitation, Employment Security Division. (R-11-B-02466 and R-11-A-09261).

8. Said decision to not allow Nadine Goodwin to have unemployment benefits was not supported by the law.

9. Said decision was not supported by relevant and/or substantial evidence.

10. Said decision was an abuse of discretion.

11. Said decision was arbitrary and/or capricious.

12. Said decision was erroneous and a clear error of law.

13. Said decision should be reversed and/or should be remanded back to the State Of Nevada, Department Of Employment, Training And Rehabilitation, Employment Security Division for determination of any fees and costs.

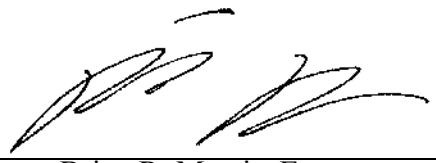
14. Nadine Goodwin has been damaged by being denied her unemployment benefits.

15. Nadine Goodwin has been required to hire an attorney to properly assert her rights to unemployment benefits and should be awarded fees and costs.

Affirmation

I certify that this filing does not contain the social security number of any person.

Dated this 30th day of January, 2012.



Brian R. Morris, Esq.
Attorney for Petitioner/Plaintiff

F I L E D
Electronically
02-14-2012:02:31:25 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 2764537

Code: 3550
Brian R. Morris
Nevada Bar No. 5431
59 Damonte Ranch Parkway, B-221
Reno, Nevada 89521
775-323-2800
Attorney for Nadine Goodwin

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN, Petitioner/Plaintiff, vs. CYNTHIA JONES and RENEE OLSON, as former and present Administrators; STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, EMPLOYMENT SECURITY DIVISION; and BRISTLECONE FAMILY RESOURCES, a Nevada Corporation, Respondents/Defendants.	Case No. CV12-00253 Dept. No. 3

PETITION FOR JUDICIAL REVIEW (amended)

Comes Now, Petitioner/Plaintiff Nadine Goodwin, by and through undersigned counsel and files this Petition for Judicial review and related actions.

1. This action is brought pursuant to and is governed by Chapter 612 of the Nevada Revised Statutes, specifically N.R.S. § 612.530.
2. **There is no filing fee allowed to be charged or collected pursuant to N.R.S. § 612.705(1).**
3. A hearing is requested pursuant to N.R.S. § 612.530(5).
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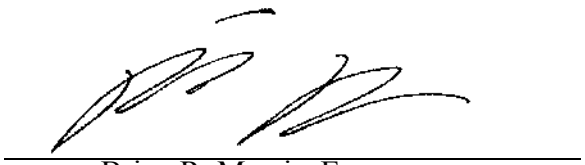
15. Nadine Goodwin has been required to hire an attorney to properly assert her rights to unemployment benefits and should be awarded fees and costs.

Affirmation

I certify that this filing does not contain the social security number of any person.

Dated this 14th day of February, 2012.



Brian R. Morris, Esq.
Attorney for Petitioner/Plaintiff

FILED
Electronically
02-16-2012:03:22:41 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 2771614

CODE 3370

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN,

Plaintiff,

vs.

CYNTHIA JONES, Administrator;
STATE OF NEVADA, et al.,

Defendants.

Case No. CV12-00256

Dept. No. 3

ORDER ACCEPTING RANDOM REASSIGNMENT

A Case Assignment Notification randomly reassigning this case to Department Three (3) was filed.

NOW, THEREFORE, IT IS HEREBY ORDERED that Department Three (3) accepts the reassignment.

Dated this 16th day of February, 2012.

JEROME POLAHA
DISTRICT JUDGE

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 16 day of February, 2012, she mailed copies of the foregoing ORDER ACCEPTING RANDOM REASSIGNMENT in Case No. CV12-00253 to the following:

Received via electronic filing:

BRIAN R. MORRIS, ESQ.

Received via USPS:

Jerrine Ulleseit
Judicial Assistant

CODE 4085

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

Nadine Goodwin,
Plaintiff(s),

vs.

Cynthia Jones, et al.,
Defendant(s).

Case No. CV12-00253

Dept. No. 3

SUMMONS

TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.

A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that document (see complaint or petition). When service is by publication, add a brief statement of the object of the action. See Nevada Rules of Civil Procedure, Rule 4(b). The object of this action is: Judicial Review re Unemployment benefits.

1. If you intend to defend this lawsuit, you must do the following within 20 days after service of this summons, exclusive of the day of service:
   a. File with the Clerk of the Court, whose address is shown below, **a formal written answer** to the complaint or petition, along with the appropriate filing fees, in accordance with the rules of the Court, and;
   b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address is shown below.

2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the complaint or petition.

Dated this _____ day of FEB 29 2012, 20____.

HOWARD W. CONYERS
CLERK OF THE COURT

By: L. Barragan
Deputy Clerk
Second Judicial District Court
75 Court Street
Reno, Nevada 89501

Issued on behalf of Plaintiff(s):

Name: Brian R. Morris
Address: 59 Damonte Ranch Parkway, B-221
Reno, Nevada 89521
Phone Number: 775-323-2800

Hand delivered

RECEIVED
MAR 13 2012 PM
EMPLOYMENT SECURITY DIV.
ADMINISTRATOR

FILED
Electronically
04-09-2012:04:24:06 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 2878295

1130
J. THOMAS SUSICH, ESQ.
Nevada State Bar No. 898
STATE OF NEVADA, Department of
Employment, Training & Rehabilitation (DETR),
Employment Security Division (ESD)
1675 East Prater Way, Suite 103
Sparks, NV 89434
Telephone No.: (775) 284-9533
Facsimile No.: (775) 284-9513
Attorney for **ESD**

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN, Petitioner, *vs.* CYNTHIA JONES and RENEE OLSON, as former and present Administrators; STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, EMPLOYMENT SECURITY DIVISION; and BRISTLECONE FAMILY RESOURCES, a Nevada Corporation, as Employer, Respondents.	CASE NO.: CV12-00253 DEPT. NO.: 3

ANSWER TO PETITION FOR JUDICIAL REVIEW

COMES NOW Respondent, Administrator, State of Nevada, Department of Employment, Training and Rehabilitation, Employment Security Division (ESD), by and through counsel, J. Thomas Susich, Esq., and hereby answers Petitioner's Petition for Judicial Review in accordance with NRS 612.530, as follows:

J. THOMAS SUSICH, ESQ.
Division Sr. Legal Counsel
STATE OF NEVADA DETR/ESD
1675 E. Prater Way, Ste. 103
Sparks, NV 89434
(775) 284-9533
(775) 284-9513 (Fax)

ESD denies the allegations of the Petition.

AFFIRMATION Pursuant to NRS 239B.030:

The undersigned does hereby affirm that the preceding document does not contain confidential information; including, but not limited to: the Social Security number or employer identification number of any person or party.

DATED this 9th day of April, 2012.

/s/ J. Thomas Susich
J. THOMAS SUSICH, ESQ.
Attorney for ESD

J. THOMAS SUSICH, ESQ.
Division Sr. Legal Counsel
STATE OF NEVADA DETR/ESD
1675 E. Prater Way, Ste. 103
Sparks, NV 89434
(775) 284-9533
(775) 284-9513 (Fax)

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the State of Nevada, over the age of 18 years; and that on the date hereinbelow set forth, I served a true and correct copy of the foregoing ANSWER TO PETITION FOR JUDICIAL REVIEW, by placing the same within an envelope upon which first class postage and all fees were fully prepaid and affixed, which was thereafter sealed and deposited for mailing with the United States Postal Service *via* mail, certified mail, return receipt requested, addressed for delivery as follows:

Brian R. Morris, Esq.
59 Damonte Ranch Pkwy., B-221
Reno, NV 89521

Bristlecone Family Resources
P.O. Box 52230
Sparks, NV 89435

DATED this 9th day of April, 2012.

/s/ Sheri C. Hornsby
SHERI C. HORNSBY

J. THOMAS SUSICH, ESQ.
Division Sr. Legal Counsel
STATE OF NEVADA DETR/ESD
1675 E. Prater Way, Ste. 103
Sparks, NV 89434
(775) 284-9533
(775) 284-9513 (Fax)

FILED
Electronically
04-09-2012:04:28:24 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 2878413

1600
J. THOMAS SUSICH, ESQ.
Nevada State Bar No. 898
STATE OF NEVADA, Department of
Employment, Training & Rehabilitation (DETR),
Employment Security Division (ESD)
1675 East Prater Way, Suite 103
Sparks, NV 89434
Telephone No.: (775) 284-9533
Facsimile No.: (775) 284-9513
Attorney for **ESD**

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN, Petitioner, *vs.* CYNTHIA JONES and RENEE OLSON, as former and present Administrators; STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, EMPLOYMENT SECURITY DIVISION; and BRISTLECONE FAMILY RESOURCES, a Nevada Corporation, as Employer, Respondents.	CASE NO.: CV12-00253 DEPT. NO.: 3

RECORD ON APPEAL

COMES NOW Respondent, Administrator, State of Nevada, Department of Employment, Training and Rehabilitation, Employment Security Division (ESD), by and through counsel, J. Thomas Susich, Esq., 1675 East Prater Way, Suite 103, Sparks, NV 89434, and hereby submits the Record On Appeal as required by NRS 612.530.

J. THOMAS SUSICH, ESQ.
Division Sr. Legal Counsel
STATE OF NEVADA DETR/ESD
1675 E. Prater Way, Ste. 103
Sparks, NV 89434
(775) 284-9533
(775) 284-9513 (Fax)

AFFIRMATION Pursuant to NRS 239B.030:

The undersigned does hereby affirm that the preceding document does not contain confidential information; including, but not limited to: the Social Security number or employer identification number of any person or party.

DATED this 9th day of April, 2012.

/s/ J. Thomas Susich
J. THOMAS SUSICH, ESQ.
Attorney for ESD

J. THOMAS SUSICH, ESQ.
Division Sr. Legal Counsel
STATE OF NEVADA DETR/ESD
1675 E. Prater Way, Ste. 103
Sparks, NV 89434
(775) 284-9533
(775) 284-9513 (Fax)

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the State of Nevada, over the age of 18 years; and that on the date hereinbelow set forth, I served a true and correct copy of the foregoing NOTICE OF SUBMISSION OF RECORD ON APPEAL, by placing the same within an envelope upon which first class postage and all fees were fully prepaid and affixed, which was thereafter sealed and deposited for mailing with the United States Postal Service *via* certified mail, return receipt requested, addressed for delivery as follows:

Brian R. Morris, Esq.
59 Damonte Ranch Pkwy., B-221
Reno, NV 89521

Bristlecone Family Resources
P.O. Box 52230
Sparks, NV 89435

DATED this 9th day of April, 2012.

/s/ Sheri C. Hornsby
SHERI C. HORNSBY

J. THOMAS SUSICH, ESQ.
Division Sr. Legal Counsel
STATE OF NEVADA DETR/ESD
1675 E. Prater Way, Ste. 103
Sparks, NV 89434
(775) 284-9533
(775) 284-9513 (Fax)

FILED
Electronically
04-09-2012:04:28:24 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 2878413

RECORD ON APPEAL

PART 1 of 2

J. THOMAS SUSICH, ESQ.
Division Sr. Legal Counsel
STATE OF NEVADA DETR/ESD
1675 E. Prater Way, Ste. 103
Sparks, NV 89434
(775) 284-9533
(775) 284-9513 (Fax)

EMPLOYMENT SECURITY DIVISION

Unemployment Insurance
Support Services

BRIAN SANDOVAL
Governor

FRANK R. WOODBECK
Director

RENEE L. OLSON
Administrator

STATE OF NEVADA)
)
CARSON CITY)

County of Carson City

The undersigned, being first duly sworn and under penalty of perjury, deposes and says:

1. I am the Senior Business Process Analyst/UISS for the Employment Security Division of the Nevada Department of Employment, Training and Rehabilitation.
2. As Senior Business Process Analyst/UISS, I am the custodian of certain records maintained by the Division.

   The attached is true and correct copy of records of the Division pertaining to the following case:

   Nadine Goodwin, SSN __

Barbara J. Taylor 3/23/12

Barbara Taylor Date
Senior Business Process Analyst
Employment Security Division

SUBSCRIBED and SWORN to
before me this 23rd day
of March, 2012.

Ian Payette
Notary Public

IAN PAYETTE
NOTARY PUBLIC
STATE OF NEVADA
No.09-10041-3 My Appt. Exp. May 13, 2013

RECEIVED

MAR 13 2012

EMPLOYMENT SECURITY DIV.
ADMINISTRATOR

FILED
Electronically
02-14-2012:02:31:25 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 2764537

Code: 3550
Brian R. Morris
Nevada Bar No. 5431
59 Damonte Ranch Parkway, B-221
Reno, Nevada 89521
775-323-2800
Attorney for Nadine Goodwin

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN, Petitioner/Plaintiff, vs. CYNTHIA JONES and RENEE OLSON, as former and present Administrators; STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, EMPLOYMENT SECURITY DIVISION; and BRISTLECONE FAMILY RESOURCES, a Nevada Corporation, Respondents/Defendants.	Case No. CV12-00253 Dept. No. 3

PETITION FOR JUDICIAL REVIEW (amended)

Comes Now, Petitioner/Plaintiff Nadine Goodwin, by and through undersigned counsel and files this Petition for Judicial review and related actions.

1. This action is brought pursuant to and is governed by Chapter 612 of the Nevada Revised Statutes, specifically N.R.S. § 612.530.
2. **There is no filing fee allowed to be charged or collected pursuant to N.R.S. § 612.705(1).**
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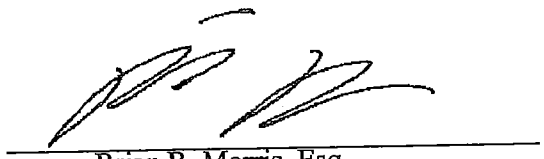
15. Nadine Goodwin has been required to hire an attorney to properly assert her rights to unemployment benefits and should be awarded fees and costs.

Affirmation

I certify that this filing does not contain the social security number of any person.

Dated this 14th day of February, 2012.



Brian R. Morris, Esq.
Attorney for Petitioner/Plaintiff

FILED
Electronically
02-10-2012:04:23:25 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 2758994

CODE 1312

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN,

Plaintiff,

vs.

Case No. CV12-00253

Dept. No. 6

CYNTHIA JONES, Administrator, STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, EMPLOYMENT SECURITY DIVISION; and BRISTLECONE FAMILY RESOURCES,

Defendant.

CASE ASSIGNMENT NOTIFICATION

I hereby certify the above-entitled matter has been randomly reassigned to Department 3, from Department 6.

Additional information:

On February 10, 2012, a Peremptory Challenge of Judge was filed.

Dated this 10th day of February, 2012.

JOEY ORDUNA HASTINGS
Clerk of the Court

By _____
Deputy Clerk

Case Initiation Maintenance (CMAINIT) (PROD)

DC	District Court	2		
DC	District Court	1	10-FEB-2012	16:12:18
RG	RANDOM ASSIGNMENT - GENERAL			

RAN12-00044 CV12-00253

Party

Party Type: JUDG Judge Security: 1

ID: D3 Person Organization

Last Name: POLAHA

First Name: JEROME Middle Name: M. Prefix: HONORABL Suffix:

Address Type: MA Mailing Confidential Address

Address: P.O. BOX 30083

City: RENO State/Prov: NV ZIP/PC: 89520-3083

County: Phone:

Email:

Party Status: Status Date: Status Time:

CERTIFICATE OF SERVICE

Case No. CV12-00253

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT; that on the 10th day of February, 2012, I electronically filed the CASE ASSIGNMENT NOTIFICATION with the clerk of the Court system which will send a notice of electronic filing to the following:

Honorable Jerome Polaha

Brian Morris, Esq for Nadine Goodwin .

Dated this 10th day of February, 2012.

Andrew Zion

CV12-00253 DC-99000032563-055
NADINE GOODWIN VS CYNTHIA J 2 Pages
District Court 02/10/2012 04 PM
Washoe County $3375
nor CMARTFW

Code: $3375
Brian R. Morris
Nevada Bar No. 5431
59 Damonte Ranch Parkway, B-221
Reno, Nevada 89521
775-323-2800
Attorney for Nadine Goodwin

FILED
2012 FEB 10 PM 4 04
JOEY HASTINGS
BY DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

ORIGINAL

*****

NADINE GOODWIN, Petitioner/Plaintiff, vs. CYNTHIA JONES, Administrator; STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, EMPLOYMENT SECURITY DIVISION; and BRISTLECONE FAMILY RESOURCES, a Nevada Corporation, Respondents/Defendants.	Case No. CV12-00253 Dept. No. 6

PEREMPTORY CHALLENGE OF JUDGE

Comes Now, Petitioner/Plaintiff Nadine Goodwin, by and through undersigned counsel and files this Peremptory Challenge of Judge pursuant to SCR 48.1.

The judge to be changed is the Honorable Brent Adams.

This Challenge is proper since no hearing of a contested matter has commenced; no ruling has been made in a contested matter; this is being filed within ten (10) days of any trial or hearing notification date and not less than three (3) days before any date set for the hearing of any contested pretrial matter.

Based on the nature of the case under Chapter 612 of the Nevada Revised Statutes, no fee is

///

required or allowed for this challenge pursuant to N.R.S. § 612.705(1).

Affirmation

I certify that this filing does not contain the social security number of any person.

Dated this 10th day of February, 2012.

Brian R. Morris, Esq.

CODE 4085

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

Nadine Goodwin,
Plaintiff(s),

vs.

Cynthia Jones, et al.,
Defendant(s).

Case No. CV12-00253

Dept. No. 3

SUMMONS

TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN 20 DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.

A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set forth in that document (see complaint or petition). When service is by publication, add a brief statement of the object of the action. See Nevada Rules of Civil Procedure, Rule 4(b). The object of this action is: Judicial Review re Unemployment benefits.

1. If you intend to defend this lawsuit, you must do the following within 20 days after service of this summons, exclusive of the day of service:
   a. File with the Clerk of the Court, whose address is shown below, **a formal written answer** to the complaint or petition, along with the appropriate filing fees, in accordance with the rules of the Court, and;
   b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and address is shown below.

2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this Court may enter a judgment against you for the relief demanded in the complaint or petition.

Dated this _____ day of FEB 29 2012, 20____.

HOWARD W. CONYERS
CLERK OF THE COURT

Issued on behalf of Plaintiff(s):

Name: Brian R. Morris
Address: 59 Damonte Ranch Parkway,B-221
Reno, Nevada 89521
Phone Number: 775-323-2800

By: L. Barragan
Deputy Clerk
Second Judicial District Court
75 Court Street
Reno, Nevada 89501

Hand delivered

RECEIVED
MAR 13 2012 PM
EMPLOYMENT SECURITY DIV.
ADMINISTRATOR

STATE OF NEVADA
DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION
EMPLOYMENT SECURITY DIVISION
OFFICE OF APPEALS

2800 E. St. Louis Ave.
Las Vegas, Nevada 89104-4227
Voice: (702) 486-7933
Fax: (702) 486-7949

BOARD OF REVIEW

1325 Corporate Blvd., Suite C
Reno, Nevada 89502
Voice: (775) 823-6660
Fax: (775) 688-2686

DECISION OF THE BOARD OF REVIEW:

Date Decision is Mailed: 01/03/2012
Date Board's Decision is Final: 01/17/2012
Final Date for Appeal to Court: 01/30/2012

In the Matter of:

SSN:

[NADINE GOODWIN
7551 YOUNG CIR
RENO, NV 89511

Appeal Rights: An appeal to the District Court must be filed in the County in which the work was performed on or before the 'Final Date for Appeal to Court' set forth above (NRS 612.525 and 612.530).

[BRISTLECONE FAMILY RESOURCES
PO BOX 52230
SPARKS, NV 89435

Case Number: R-11-B-02466 (R-11-A-09261)

An appeal to the Board of Review from a decision of the Appeals Tribunal in the subject case has been filed. The Tribunal affirmed the determination of the Administrator. Section 612.515 of the Nevada Revised Statutes provides: "An appeal to the Board of Review by any party shall be allowed as a matter of right if the Appeal Tribunal's decision reversed or modified the executive director's determination. In all other cases, further review shall be at the discretion of the Board of Review."

DECISION: After examining the record, the Board declines further review.

This decision is unanimous.

BOARD OF REVIEW

Katie Johnson by SMB
KATIE JOHNSON, CHAIRPERSON

STATE OF NEVADA
DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION
EMPLOYMENT SECURITY DIVISION
OFFICE OF APPEALS

2800 E. St. Louis Ave.
Las Vegas, Nevada 89104-4227
Voice: (702) 486-7933
Fax: (702) 486-7949

BOARD OF REVIEW

1325 Corporate Blvd., Suite C
Reno, Nevada 89502
Voice: (775) 823-6660
Fax: (775) 688-2686

REQUEST FOR REVIEW BY EMPLOYMENT SECURITY BOARD OF REVIEW
ACKNOWLEDGEMENT OF RECEIPT OF APPEAL

NADINE GOODWIN
7551 YOUNG CIR
RENO, NV 89511

REFEREE CASE NUMBER: R-11-A-09261

BOARD OF REVIEW CASE NUMBER: R-11-B-02466

CLAIMANT'S SSN:

OUR OFFICE HAS RECEIVED THIS APPEAL, OR RESPONSE TO AN APPEAL. THIS IS YOUR COPY, FOR YOUR RECORDS.

BRISTLECONE FAMILY RESOURCES
PO BOX 52230
SPARKS, NV 89435

TO THE PARTY FILING THIS APPEAL: The Board of Review may decline to accept an appeal if the determination of the claims office was affirmed by the Referee. If the Board accepts the appeal, review will be only of the record established at the Referee level. The Board reviews evidence but does not take new evidence. If the Board is convinced that further opportunity to submit evidence should be provided, the Board will remand the case to the Referee for such a purpose. The Board may exercise its discretion to provide the parties with an opportunity to present oral argument. There will be no oral argument before the Board unless the Board orders it. Unless you are notified to the contrary, the Board's decision will be based solely upon the evidence previously provided, and any written argument submitted timely to the Board in accordance with this notice.

To explain your reasons for the appeal: (1) state why, if your appeal to the Board was not filed within the time limit set forth on the Referee's decision, there was a delay in appealing; (2) state why, if you did not appear at the Referee's hearing, you did not appear; (3) state what errors you believe the Referee made in the Findings of Fact portion of the decision; and (4) state what errors you believe the Referee made in the Reasons for Decision portion of the decision. Please use another sheet of paper.

SEE ATTACHED APPEAL

TO ANY OTHER PARTY: Please refer to the general information pertaining to reviews and to the appellant's statement attached. If you wish to submit a response to the appellant's statement, or any other statement to the Board of Review concerning why you believe the decision of the Referee is correct or incorrect, please submit the statement in writing to the Board of Review (Reno or Las Vegas) no later than 11 days from the mailing date of this form. Please use another sheet of paper.

APPEALS OFFICE USE:
Date appeal to Board was postmarked or filed in person: October 5, 2011
Received by: RL
Local office number: 117
Date Copy was mailed: DECEMBER 22, 2011

Nadine Goodwin
7551 Young Circle
Reno, NV. 89511
775-250-0458
Nadinejoyinmysoul@yahoo.com

October 5, 2011

To: Board of Review

From: Nadine Goodwin
SSN:
Case Number: R-11-A-09261 D: 10/3/11 A BP

RECEIVED
OCT 05 2011 HD RN.
EMPLOYMENT SECURITY
APPEALS REFEREE-BOARD OF REVIEW

Re: Appeal of Decision of the Referee

Dear Board of Review Panelist:

I disagree with the decision of the referee to deny unemployment benefits from Bristlecone Family Resources due to "misconduct". I read Barnum vs Williams, 84 NV 37, 326 P 2d 219 (1968) and the definition of "misconduct" does not apply to my case.

(1) It did not take me nine years to obtain an AA degree. I was working towards my BS in Criminal Justice/Substance Abuse Counseling and transferred 113 credits to Walden University in 2010 and had only 4 classes left to complete my degree.

(2) Bristlecone terminated me due to the Board of Examiner's not extending my licensure for 6 months. On 9-23-11 the Attorney General advised the Board they could use their discretion to extend my license since the **law** was made 10 years ago, they denied it and re-examining this law since it **was** made 10 years ago. Bristlecone did not have to terminate my employment but did so because they did not have any other openings, not misconduct of my job, nor "deliberate violation or disregard of reasonable standards of conduct".

I would appreciate reconsideration of the decision to deny my unemployment benefits due to "misconduct".

Respectfully Submitted,

Nadine Goodwin

Nadine Goodwin

STATE OF NEVADA
DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION
EMPLOYMENT SECURITY DIVISION
OFFICE OF APPEALS

1325 Corporate Blvd., Suite C
Reno, Nevada 89502
Voice: (775) 823-6660
Fax: (775) 688-2686

DECISION OF THE REFEREE:

Date Decision is Mailed: 10/03/2011
Date Decision is Final: 10/14/2011

In the Matter of:

SSN: _____

[NADINE GOODWIN
7551 YOUNG CIR
RENO, NV 89511

Appearances:

Claimant
Employer

[BRISTLECONE FAMILY RESOURCES
PO BOX 52230
SPARKS, NV 89435

Appeal Rights: The decision is final unless a signed appeal to the Board of Review is filed within 11 days of the decision's mailing date or unless good cause for the delay is shown. An appeal may be filed in person at the Appeals Office or by letter to the address above.
(NRS 612.510)

Case Number: R-11-A-09261

FINDINGS OF FACT: The claimant appealed from a determination denying benefits under the discharge provisions of Nevada Revised Statutes (NRS) 612.385. The determination included a ruling that the employer's experience rating record would not be charged under NRS 612.551. A hearing was held.

The claimant worked for the employer, a non-profit drug and alcohol rehabilitation center, from September 2, 2003 to July 8, 2011 as an adult and family drug court administrator. She was discharged for failure to obtain her bachelors degree.

As background, the claimant began school part-time at Truckee Meadows Community College (TMCC) in 1999. On January 20, 2001, she was approved by the Nevada State Board of Examiners to become a certified intern. The claimant was informed at that time that she was required to obtain a bachelor's degree within ten years from the date her internship application.

The claimant began working for the employer in 2003. As a condition of employment, the claimant was required to maintain an intership certification on a yearly basis from the Board of Examiners. Failure to maintain an internship certification may result in discharge. (Exhibit 7) The employer is required by law to comply with the Board of Examiners decisions.

The claimant obtained an associates degree from TMCC in 2010. The claimant then took two classes every six-weeks online with Walden University.

On May 6, 2011, the Board of Examiners send the claimant a letter requesting her school transcript to verify her completion of a bachelor's degree. She was informed if she had not obtained her degree by June 30; her internship would not be renewed. The claimant had not obtained her degree. She had five more classes to take to obtain her degree.

The claimant requested the Board of Examiners to extend her intern certification for six months to allow her time to obtain her bachelors degree. The Board of Examiners denied the claimant's request.

On July 11, the employer was notified the claimant's internship certification had not been extended. Therefore, the claimant was discharged.

REASONS FOR DECISION: NRS 612.385 provides that a person is ineligible for benefits if he has been discharged from his last or next-to-last employment for misconduct connected with the work, beginning with the week in which the claim is filed and until he earns remuneration in covered employment equal to or exceeding his weekly benefit amount in each of not more than 15 weeks thereafter according to the seriousness of the misconduct, while NRS 612.551 provides that the experience rating record of a base period employer may be relieved from charges if the claimant was discharged for misconduct.

In *Barnum vs. Williams*, 84 NV 37, 436 P 2d 219 (1968), the Nevada Supreme Court reasoned that "misconduct," within the meaning of the unemployment compensation law, means a deliberate violation or disregard of reasonable standards. Carelessness or negligence showing substantial disregard of duties is misconduct, while failure of performance because of inability, ordinary negligence in isolated instances, and good faith errors in judgment and discretion are excluded. In a later case, the Nevada Supreme Court further refined the definition by holding that misconduct required an "element of wrongfulness." *Lellis v Archie* 89 Nev. 550, at 553, 516 P.2d 469 (1973). *Garman v State, Employment Security Department*, 102 Nev. 563, at 565 729 P.2d 1335 (1986). Most recently, the Nevada State Supreme Court has held that: "Disqualifying misconduct occurs when an employee deliberately and unjustifiably violates or disregards (his) employer's reasonable policy or standard, or otherwise acts in such a careless or negligent manner as to show a substantial disregard of the employer's interests or the employee's duties and obligations to (his) employer." *Clark County School District v Bundley*, 122 Nev. 1440, 148 P. 3d 750 (2006).

When the claimant began working for the employer in 2003, she was made aware she was required to maintain an internship certification and her job was dependent on it. In this case, the claimant's internship certification was not renewed or extended by the Board of Examiners. The claimant was aware at the time she submitted her application in 2001 to become an intern she was required to obtain her bachelors degree in ten years.

The claimant testified that she thought the Board of Examiners would grant an extension because she was so close to finishing her degree. Unfortunately, they failed to do so. The claimant had ten years to obtain a four year degree. However, she used nine of those ten years to obtain her associates degree. The claimant should have been proactive is scheduling of her classes to ensure she received her bachelors before the ten year period.

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The employer has a reasonable right to expect the claimant to maintain her certification. The employer could not allow the claimant to perform her job function without the certification. Therefore, it is understandable the employer could no longer employ the claimant. This Tribunal finds the substantial evidence on record establishes that claimant's actions, failing to obtain her bachelors degree, demonstrated a deliberate violation or disregard of reasonable standards of conduct, and said conduct contained the element of wrongfulness. Disqualifying misconduct connected with the work has been established.

DECISION: The appealed determination issued under NRS 612.385 is affirmed. The claimant is ineligible for benefits from July 10, 2011 onward, until claimant works in covered employment and earns an amount equal to or greater than the weekly benefit amount in each of 10 weeks. Under NRS 612.551, the employer's account is not subject to charge.

APPEALS REFEREE

Barbara Patrouch (VB)

BARBARA PATROUCH

NEVADA BOARD OF REVIEW

DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION

EMPLOYMENT SECURITY DIVISION

TRANSCRIPTION OF TESTIMONY

Claimant's Name: Nadine Goodwin

SSN No.:

Board Appeal Number: R-11-B-02466

Date and Place of Hearing: September 13, 2011
Reno, Nevada

Hearing Officer: Barbara Patrouch

Date Transcript Completed: March 29, 2012

Appearances: Nadine Goodwin
Karen Coe

Certification

I certify that the following pages, number 1 through 43, constitute a full, true and correct transcription of the testimony in the subject case as digitally recorded.

AVTranz

Debbie Shea

Debbie E. Shea

Approved By

Appeals Referee

GOODWIN: Hello.

PATROUCH: Hello, may I please speak to Nadine Goodman (sic)?

GOODWIN: This is she.

PATROUCH: Hi, this is Barbara Patrouch of the Reno Appeals, how are you today?

GOODWIN: I'm doing good, what about you?

PATROUCH: I'm fine. Thank you. Are you ready to go forward with your unemployment hearing?

GOODWIN: I am.

PATROUCH: Okay. Please be advised I've activated the tape recorder. This tape recorder will remain running during the pre-hearing instructions, during the hearing itself, and until the hearing is concluded, and the telephone lines have been disconnected.

So at this time I'll explain the hearing procedure so that you know what to expect.

In a few minutes I'll begin the hearing officially by making some opening remarks and then I'll be entering the pre-marked documents into evidence.

You'll have a chance to ask questions about the documents, or object to their admission, and then I'll begin taking testimony.

At this time the employer has not called in or appeared for this hearing today, so I'll be taking your testimony. I'll place you under

oath and I'll ask you a few questions about why you were discharged from working at Bristlecone Family Resources.

GOODWIN: Yes, ma'am.

PATROUCH: Okay. At the conclusion of the hearing you'll be allowed to add anything that you feel may have omitted or not covered sufficiently, and then I will be taking closing statements.

A closing statement is optional. If you choose to make a closing statement, this would be a brief summary of your position on the issue rather than a repetition of any testimony that's been given.

Now, just one moment. Did the employer call? Okay.

UNID FEMALE: At 1:20.

PATROUCH: Okay. Thank you.

UNID FEMALE: You're welcome.

PATROUCH: Okay. The employer did call in, so I'm going to place you on hold for a brief moment and give her a call. Okay? One moment, please.

GOODWIN: Okay.

(Phone dialing)

CHARMAINE: Bristlecone, this is Charmaine (phonetic).

PATROUCH: Yes, extension 103, please.

CHARMAINE: Okay.

COE: Thank you for calling Bristlecone, this is Karen.

PATROUCH: Hi, Karen Coe?

COE: Yes.

PATROUCH: Hi, this is Barbara Patrouch with Reno Appeals, how are you?

COE: I'm doing fine, how are you?

PATROUCH: I'm fine, thank you. Are you ready to go forward with the unemployment hearing on Ms. Goodwin?

COE: That would be amazing, thank you.

PATROUCH: Okay. Just one moment, let me connect, I have her on the line.

COE: Thank you.

PATROUCH: Uh-huh. Okay, Ms. Goodwin, are you on the line?

GOODWIN: I am.

PATROUCH: And Ms. Coe?

COE: Yes.

PATROUCH: Okay. All right. So I'll just briefly go over this again.

COE: Okay.

PATROUCH: So I've advised -- I had advised Ms. Goodwin that I had activated the tape recorder.

COE: Okay.

PATROUCH: Okay. This tape recorder will remain running during the pre-hearing instructions, during the hearing itself, and until the hearing is concluded and the telephone lines have been disconnected.

Okay. So I'll explain the hearing

1 procedure so that you know what to expect.
2 I'll begin the hearing officially by making
3 some opening remarks --
4 COE: Okay.
5 PATROUCH: -- and then I'll be entering the pre-marked
6 documents into evidence.
7 You each will have a chance to ask
8 questions about the documents, or object to
9 their admission, and then I'll begin taking
10 testimony.
11 As this is a discharge issue, the employer
12 has the burden of proof, so I'll be taking the
13 employer's testimony first. I'll place the
14 employer under oath, ask some questions about
15 the discharge, and then the Claimant will have
16 an opportunity to ask any questions.
17 Then I'll take the Claimant's testimony,
18 I'll place the Claimant under oath, ask her some
19 questions regarding the discharge, and then the
20 employer will have an opportunity to ask any
21 questions.
22 At the conclusion of the hearing both
23 parties will asked if they have anything
24 additional that they wish to add, or that that
25 they feel may have omitted or not covered
26 sufficiently, and then I'll be taking a closing
27 statement.
28 Closing statements are optional. If you

choose to make a closing statement, this would be a brief summary of your position on the issue rather than a repetition of any testimony that's been given.

If you have any additional documents you wish to submit, please refer to them during your testimony and I'll make a ruling as to their admission.

So do you have any questions regarding these procedures, Ms. Goodwin?

GOODWIN: I don't.

PATROUCH: Okay. Ms. Coe, do you have any questions?

COE: No.

PATROUCH: Okay. Thank you. If you have a beeper or cell phone activated, I'd ask you to turn it off or to silent, or if you have any type of tape recording device activated, I'd ask you to turn it off at this time.

Okay. So we are officially on the record in Nevada Appeal Case Number R-11-A-09261. The Claimant's name is Nadine Goodwin, Social Security number _____

This hearing is taking place on Tuesday, September 13th, 2011, at approximately 1:25 p.m. Pacific Standard Time in the Office of Appeals in Reno, Nevada.

The Claimant, Nadine Goodwin, is present by telephone. The employer, Bristlecone Family

Resources is also by telephone, represented by Karen Coe.

My name is Barbara Patrouch. I am the Appeals Referee and I've been assigned by the State to hear this case.

This hearing is a result to a Claimant appeal to a division determination which denied benefits to the Claimant on the grounds that she was discharged for reasons of misconduct.

Misconduct is not defined in Nevada law, but is generally held to be the behaviors that fall short of the standards that an employer has a reasonable right to expect, and generally includes an element of wrongfulness.

Another issue to be considered today is whether the employer's account is subject to charges, pursuant to NRS 612.550. This section of the law allows for an employer who paid 75 percent or more of the Claimant's base period wages, to be relieved of charges if the Claimant was discharged for misconduct connected with work, or voluntarily quit without good cause.

This is the only evidentiary hearing required by law, which means this is your last opportunity to present new evidence. This hearing is being tape recorded and the testimony is required to be taken under oath.

Within 30 days following this hearing, I will send each party a written decision by mail. This decision will explain your further appeal rights, so I will not explain them this afternoon.

The tape recording and documentary evidence established today will comprise the entire record of the hearing and is the only record available for review should either party appeal the decision to a higher authority.

The notice of the hearing advised the parties they had a right to review the appeal file prior to the hearing. Ms. Goodwin, did you receive your documents?

GOODWIN: I did.

PATROUCH: Okay. And have you reviewed them?

GOODWIN: I have.

PATROUCH: Okay, thank you. Ms. Coe, did you receive your documents?

COE: Yes, ma'am.

PATROUCH: Okay, and have you reviewed them?

COE: I have.

PATROUCH: Okay. Thank you. This hearing is being conducted pursuant to the provisions of NRS 612.500. At this time I'm required to enter into evidence the records of the employment security division that are material to the issue, and these items will be given whatever

1 evidentiary weight is appropriate.

2 And I recommend you follow along in your

3 packets as I go through them.

4 So Exhibit No. 1 is a claims division

5 screen printout titled benefit payment summary.

6 This indicates that Ms. Goodwin had a benefit

7 year beginning on July 10th, 2011, with a weekly

8 benefit amount of $396, and a maximum benefit

9 amount of $10,296.

10 Exhibit No. 2 is another claims division

11 screen printout titled benefit employer charge.

12 This notes the Claimant and the employer, and

13 notes that the employer is 100 percent

14 responsible for the Claimant's base period

15 wages.

16 Exhibit No. 3 is a claims division

17 document. This is titled employer notice of

18 claim filed. This was sent to the employer

19 notifying them that Ms. Goodwin had filed for

20 benefits and invited a response.

21 At the time Ms. Goodwin filed for benefits

22 she indicated the reason for separation as did

23 not receive Bachelor's Degree.

24 This was returned in a timely manner by the

25 employer indicating reason for separation as a

26 discharge, stating that the employee had failed

27 to retain specific degree/licensure requirements

28 to maintain job.

1 The employee had 10 years to fulfill
2 requirements. Please see attached.
3 Ms. Coe, is that your signature on the
4 bottom of Exhibit No. 3?
5 COE: It is.
6 PATROUCH: Thank you.
7 And Exhibit No. 4 is the attachment to
8 Exhibit No. 3. This is a letter dated July
9 18th, 2011 to the claims division providing the
10 reason for separation.
11 Ms. Coe, is that your signature on Exhibit
12 4?
13 COE: It is.
14 PATROUCH: Thank you.
15 Exhibit 5 is Ms. Goodwin's discharge action
16 notice from the employer.
17 Exhibit 6-A, 6-B, 6-C, 6-D is -- appears to
18 be a job description for an adult and family
19 drug court administrator.
20 Exhibit 6-B has a circle -- No. 21 circled,
21 indicating is responsible to follow all
22 necessary protocol to secure and maintain BADA
23 intern, BADA counselor status, when
24 appropriate.
25 Ms. Goodwin? Ms. Goodwin?
26 GOODWIN: Yes, ma'am. Is your -- is that your signature
27 on Exhibit 6-C?
28 GOODWIN: Yes, it is.

1 PATROUCH: Okay. Thank you.

2 Exhibit 7 is a renewal of an intern

3 certificate. It just looks like it's a -- the

4 instruction of -- of what to do as far as

5 renewing certifications -- certifications,

6 excuse me, and implementations of the policy.

7 Exhibit 8-A and 8-B is a claims division

8 document. This is titled record of fact

9 finding, and this documents telephone

10 conversations claims division had with the

11 Claimant and message left for the employer

12 regarding the separation.

13 Exhibit 9-A and 9-B is the notice of

14 determination dated August 1, 2011, to

15 Ms. Goodwin informing her she was eligible for

16 benefits pursuant to NRS 612.380.

17 Exhibit 10-A and 10-B is Ms. Goodwin's

18 letter requesting an appeal. This was received

19 in a timely manner, and, Ms. Goodwin, is that

20 your signature on Exhibit 10-B?

21 GOODWIN: It is.

22 PATROUCH: Thank you.

23 Exhibit 11-A and 11-B is a letter dated

24 July 11th, 2009, to the Board of Examiners, the

25 Alcohol, Drug, and Gambling of a Board of

26 Examiners of Alcohol, Drug, and Gambling

27 counselors.

28 This is a letter sent from Ms. Goodwin to

them in July -- on July 11th, 2009, regarding her internship.

Exhibit No. 12 is a letter from the State Board of Examiners dated May 6, 2011 to Ms. Goodwin regarding her internship.

Exhibit 11 (sic) is a letter from Ms. Goodwin to a Wendy Lake (phonetic) regarding place -- request to be on a board meeting schedule.

Exhibit 14 is an agenda for a July 8, 2011 Board of Examiner Agenda Meeting for Ms. Goodwin to discuss her internship.

Exhibit 15-A and 15-B, 15-C, and 15-D appear to be minutes from a Board of Examiners meeting dated January 28th, 2011.

Exhibit 16-A and 16-B is a string of emails between a Wendy Lake and Ms. Goodwin, dated July -- it appears they began on July 8, 2011 through July 11th, 2011, regarding her internship.

And the last document appears to be missing an exhibit number, so I'm going to be giving this an exhibit number 17. And this also appears to be another email between Ms. Lay and Ms. Goodwin dated July -- starts July 15th, 2011 through July 18th, 2011. So I'm going to give that Exhibit No. 17.

And that is the extent of the documents that I have, do you have any questions regarding

any of these documents as I described them, Ms. Goodwin?

GOODWIN: No, I don't.

PATROUCH: Okay, do you have any objections to their admission into evidence so we can discuss them in the hearing?

GOODWIN: Oh, no I don't.

PATROUCH: Okay, thank you. Ms. Coe, do you have any questions regarding any of these documents?

COE: No.

PATROUCH: Okay. Do you have any objections to their admission into evidence?

COE: No. Huh-uh.

PATROUCH: Okay. Thank you. So hearing no objections, Exhibit 1 through 17 are now entered into the record as described.

(Exhibits 1 through 17 received)

PATROUCH: So I need to verify mailing addresses. Ms. Goodwin, I have your address at 7551 Young Circle, Reno, Nevada, 89511; is that a correct address?

GOODWIN: It is.

PATROUCH: Okay. And then Ms. Coe, I have Bristlecone Family Resources at P.O. Box 52230, Sparks, Nevada, 89435; is that correct?

COE: That's correct.

PATROUCH: Okay. And Ms. Goodwin, do you have any witnesses testifying today besides yourself?

1 GOODWIN: No, I don't.
2 PATROUCH: Okay. Ms. Coe, do you have any witnesses
3 testifying today besides yourself?
4 COE: Yes.
5 PATROUCH: Okay. Who -- who do you have to testify today?
6 COE: Tamara Pierce.
7 PATROUCH: And what is her position?
8 COE: She's the executive director.
9 PATROUCH: Okay. So is Ms. Pierce in the -- in the room
10 with you at this time?
11 COE: She is.
12 PATROUCH: Okay. So you need to ask Ms. Pierce to leave
13 and then when -- when -- what -- what I'll do is
14 I'll -- you're providing testimony today, is
15 that correct, Ms. Coe?
16 COE: Yes.
17 PATROUCH: Okay. So what I'll do is I'll take your
18 testimony, and then once I've taken your
19 testimony, then we'll call Ms. Pierce in and
20 then you'll have an opportunity to --
21 COE: Oh --
22 PATROUCH: -- ask questions.
23 COE: -- wonderful. Okay.
24 PATROUCH: Okay? So if you could ask her to step out of
25 the room.
26 COE: Okay, I just did.
27 PATROUCH: Okay. All right. Okay. So then, Ms. Coe, I'm
28 going to place you under oath.

1 COE: Okay.
2 PATROUCH: Okay.
3 (Karen Coe sworn)
4 PATROUCH: Can you please state your name for the record?
5 COE: Sure, it's Karen Coe.
6 PATROUCH: Okay. Thank you.
7 COE: Uh-huh.
8 PATROUCH: And, Ms. Coe, what is your position with the
9 employer?
10 COE: I'm the Human Resource Manager.
11 PATROUCH: Okay. And, how long have you held that
12 position?
13 COE: I've had that position about -- approximately
14 six months.
15 PATROUCH: Okay. And how long have you worked for the
16 employer?
17 COE: Three years.
18 PATROUCH: Okay. And for the record can you state what
19 type of business this is?
20 COE: Yes. We're a non-profit drug and alcohol
21 rehabilitation center.
22 PATROUCH: Okay. And did you work directly with
23 Ms. Goodwin?
24 COE: Yes, ma'am.
25 PATROUCH: Okay. Were you involved in her separation of
26 employment?
27 COE: Not directly. No.
28 PATROUCH: Okay. Okay. So Exhibit No. 3, you had provided

1 dates of employment for Ms. Goodwin as September
2 2nd, 2003 through July 8th, 2011. Are those
3 dates correct?
4 COE: Yes.
5 PATROUCH: Okay. And her last day worked, did she work on
6 July 8th?
7 COE: Yes. Yes, she did, to my knowledge.
8 PATROUCH: Okay. And what was her position with the
9 employer?
10 COE: She was our drug court administrator, preventive
11 (phonetic) administrator.
12 PATROUCH: Okay. So drug court administrator?
13 COE: Uh-huh. Adult and -- well, she's our adult drug
14 court administrator. Yes.
15 PATROUCH: Okay. And was that a full-time or a part-time
16 position?
17 COE: Full-time.
18 PATROUCH: Okay. Did she have a certain schedule that she
19 worked?
20 COE: Yes, she did.
21 PATROUCH: Okay. What -- what schedule did she work?
22 COE: I believe typically her schedule was four days,
23 Tuesday through Friday, 10-hour days.
24 PATROUCH: Okay. So Saturdays and Sundays she was off?
25 COE: Correct.
26 PATROUCH: Or Saturday, Sunday, Monday?
27 COE: Oh, sorry. Yes.
28 PATROUCH: Is that correct?

1 COE: Saturday, Sunday, Monday.
2 PATROUCH: Okay. And who was her direct supervisor?
3 COE: Her direct supervisor would be the Director of
4 Operations and the Clinical Director.
5 PATROUCH: Okay, and who is that?
6 COE: At the time, that would be Jessie Lott
7 (phonetic) and Mike Hall.
8 PATROUCH: Okay. And was Ms. Goodwin discharged?
9 COE: She was.
10 PATROUCH: Okay. Can you tell me what led to her
11 discharge?
12 COE: I can.
13 PATROUCH: Okay.
14 COE: It was the failule (sic) -- failure to renew her
15 license.
16 PATROUCH: Okay. So tell me what license she needed to
17 renew.
18 COE: She needed to renew -- well, she actually needed
19 a Bachelor's Degree to continue the renewal of
20 her drug and alcohol internship licensure.
21 PATROUCH: Okay. So in reading the documents --
22 COE: Uh-huh.
23 PATROUCH: -- it appears that she had 10 years to obtain
24 her Bachelor's Degree --
25 COE: Right.
26 PATROUCH: -- is that correct?
27 COE: Uh-huh.
28 PATROUCH: Okay.

1 COE: In order to fulfill the responsibilities as the
2 drug court administrator, she needed to maintain
3 her internship licensure. So her drug and
4 alcohol internship license was a part of the
5 requirement to fulfill that job.
6 PATROUCH: Alcohol -- Okay. So I want to make sure I'm
7 getting this straight.
8 COE: Okay.
9 PATROUCH: So she was required to, within 10 years --
10 COE: Uh-huh.
11 PATROUCH: -- she was required to obtain a Bachelor's
12 Degree in which would she would be able to
13 maintain a drug and alcohol license?
14 COE: Internship license.
15 PATROUCH: Internship --
16 COE: Yes.
17 PATROUCH: -- license.
18 COE: That's correct.
19 PATROUCH: Okay. So were you aware of when her ten years
20 was -- was up?
21 COE: Not specifically --
22 PATROUCH: Okay.
23 COE: -- I -- I had only known about the meeting with
24 the Board of Examiners, where they were going to
25 discuss extending her licensure application.
26 PATROUCH: Okay.
27 COE: That's something they have to -- an internship
28 application you have to keep valid, and you have

1 to get it every year.
2 PATROUCH: Okay. So these insure (sic) internship -- it's
3 a license?
4 COE: It's a -- an internship certification.
5 PATROUCH: Certification.
6 COE: Yes.
7 PATROUCH: Okay.
8 COE: You have to be licensed in order to practice.
9 PATROUCH: And she was trying to obtain the license through
10 this --
11 COE: Through (simultaneous conversation) --
12 PATROUCH: -- internship?
13 COE: Yes. And the Board of Examiners gives you ten
14 years to complete that, your Bachelor's Degree,
15 in order to complete your license, your
16 internship.
17 PATROUCH: Okay. So within this ten years of work, this
18 Board of Examiners --
19 COE: Uh-huh.
20 PATROUCH: -- gives -- gave Ms. Goodwin ten years to obtain
21 this license through getting her Bachelor's
22 Degree, and she's allowed to work through a
23 yearly internship renewal process?
24 COE: Corr --
25 PATROUCH: Is that -- is that correct understanding?
26 COE: Absolutely correct. Yes.
27 PATROUCH: Okay.
28 COE: Yeah.

1 PATROUCH: All right. So my understanding is Ms. Goodwin
2 did not have her Bachelor's in the -- in the ten
3 year allotted time; is that correct?
4 COE: Correct.
5 PATROUCH: Okay. So you indicated that there was some type
6 of -- a Board meeting with the Board to --
7 COE: Uh-huh.
8 PATROUCH: -- discuss extending this --
9 COE: Right.
10 PATROUCH: -- ten year process?
11 COE: Uh-huh.
12 PATROUCH: When did that meeting take place with the Board?
13 COE: That meeting was held on July 8th at 9:30 in the
14 morning.
15 PATROUCH: Okay.
16 COE: And they were meeting -- it's No. 6 on the
17 agenda, Exhibit 14.
18 PATROUCH: Okay.
19 COE: To discuss considering her internship --
20 extending her internship past the ten year
21 limit.
22 PATROUCH: Okay.
23 COE: And then the continuation of the internship,
24 therefore, obviously, affects the job
25 requirements.
26 PATROUCH: Okay. So in this ten-year period of time --
27 COE: Uh-huh.
28 PATROUCH: -- that Ms. Goodwin was given to obtain the

1 degree.
2 COE: Uh-huh.
3 PATROUCH: It -- she is -- it's -- is it her responsibility
4 just to make sure that it's taken care of -- in
5 that period of time, or is there any monitoring
6 from the Board of Examiners as far as how far
7 she's getting along in the process?
8 COE: That part I'm not sure about.
9 PATROUCH: Okay. Okay.
10 COE: She does have a supervisor that she has to meet
11 with and -- and report to, so the supervisor
12 would have to have also been monitoring her
13 progress.
14 PATROUCH: Okay.
15 COE: So her supervisor was aware of how far along she
16 was in the program, so her supervisor knew that
17 she would have to ask for an extension.
18 PATROUCH: Okay.
19 COE: Yeah. That came about -- I think it's Exhibit
20 5, where it shows the corrective action notice.
21 PATROUCH: Okay.
22 COE: That her supervisor wrote that saying that she
23 would need to be discharged, you know, if the
24 Board of Examiners didn't -- did not extend her
25 license. So I -- I believe her direct
26 supervisor knew that was going to happen.
27 PATROUCH: Okay. So do you know when her intern
28 certification expired?

1 COE: I believe July 31st, but I don't know that for a
2 fact.
3 PATROUCH: Okay. And that's renewed on a yearly basis --
4 COE: Correct.
5 PATROUCH: -- correct? Okay. So the beginning of July,
6 it's like, you need to get your -- if your
7 license doesn't get ex- -- extended --
8 COE: Correct.
9 PATROUCH: -- or your certification doesn't ex- -- get
10 extended --
11 COE: Uh-huh.
12 PATROUCH: -- then you're going to be discharged?
13 COE: Correct.
14 PATROUCH: Okay. So were you present in this meeting with
15 the Board of Examiners on -- on the 8th?
16 COE: No, ma'am.
17 PATROUCH: Okay. So do you know why the Board of Examiners
18 decided not to extend her?
19 COE: I do not.
20 PATROUCH: Okay. And are you governed to -- by their
21 decisions?
22 COE: We are.
23 PATROUCH: So this Board of Examiners, their -- are they
24 the -- like the authority figure that --
25 COE: They are, so --
26 PATROUCH: -- might -- Okay.
27 COE: -- they determine --
28 PATROUCH: So they're a separate entity from yourself,

1 correct?
2 COE: Correct, but they're -- they're the ones that
3 determine whether you can hold an internship
4 licensure or not.
5 PATROUCH: Okay.
6 COE: But yes, we are governed by them.
7 PATROUCH: All right. And then when you found out that
8 Ms. Goodwin's internship license, or this
9 timeframe, wasn't going to be extended, that's
10 what led to her separation?
11 COE: Correct.
12 PATROUCH: Okay. Okay. Just one moment.
13 COE: Thanks.
14 PATROUCH: Okay. So -- so, Ms. Coe, as far as -- is --
15 could Ms. Goodwin have worked in -- in any other
16 type of capacity at work there while she
17 finished her classes? It ap- -- it appears that
18 -- she indicates that she was, you know, maybe
19 five classes shy of obtaining her -- could the
20 employer have put her in some other type of
21 capacity until she --
22 COE: She could have worked in an administrative role,
23 if we would had a position open at the time.
24 PATROUCH: Okay. So there were no openings at that time?
25 COE: Right.
26 PATROUCH: Could she have been placed on some type of leave
27 of absence during this period of time?
28 COE: It's not normal practice for us to do that.

1 PATROUCH: Okay. I'm just seeing if there was any other
2 options --
3 COE: Sure.
4 PATROUCH: -- where she could have remained employed
5 without --
6 COE: Uh-huh.
7 PATROUCH: -- you know, during this -- this period of time.
8 COE: Sure.
9 PATROUCH: Okay. Okay. I don't have any more questions
10 for you, Ms. Coe.
11 COE: Okay.
12 PATROUCH: Ms. Goodwin, do you have any questions for
13 Ms. Coe?
14 GOODWIN: Not at all.
15 PATROUCH: Okay. So, Ms. Coe, does -- would Ms. Pierce be
16 testifying to anything -- or does she have any
17 more direct knowledge about anything --
18 COE: She has a little more extensive knowledge on the
19 certification/licensure requirements than I do.
20 I'm kind of new at that part.
21 PATROUCH: Okay. Okay. And I think --
22 COE: I was just going to ask her for clarification
23 on that, unless you don't feel that it's
24 necessary.
25 PATROUCH: Well, if -- if you believe that -- what -- how I
26 was explaining it appeared to be appropriate,
27 then I don't think I'm going to need any more
28 further clarification.

1 COE: Okay.
2 PATROUCH: Okay.
3 COE: That's fine.
4 PATROUCH: All right. Okay. Well, then I don't believe
5 we'll need her testimony today.
6 COE: Okay.
7 PATROUCH: Okay. So then, Ms. Goodwin?
8 GOODWIN: Yes, ma'am.
9 PATROUCH: Okay. I'm going to place you under oath.
10 (Nadine Goodwin sworn)
11 PATROUCH: Can you please state your name for the record?
12 GOODWIN: Yes. Nadine Goodwin.
13 PATROUCH: Okay. So, Ms. Goodwin, your dates of
14 employment, the employer had indicated as
15 September 2nd, 2003 to July 8th, 2011. Are
16 those dates correct?
17 GOODWIN: Yes, ma'am.
18 PATROUCH: Okay. And your last day worked as July 8th?
19 GOODWIN: No, ma'am. It was July 7th.
20 PATROUCH: July 7th. Okay. And your position, were you an
21 Adult Drug Court Administrator?
22 GOODWIN: Yes, ma'am.
23 PATROUCH: Okay. And that was a full-time position?
24 GOODWIN: Yes.
25 PATROUCH: Okay. And did you work Tuesdays through
26 Fridays?
27 GOODWIN: I did.
28 PATROUCH: And what were your hours of work?

1 GOODWIN: Usually like 8:00, oh I would say 9:00 in the
2 morning till 7:00 or 8:00 in the evening.
3 PATROUCH: Okay. And your direct supervisor, Jessie Lott
4 and Mike Hall; is that correct?
5 GOODWIN: No, I would say my direct supervisor was Jessie
6 Lott, I did talk to him periodically, but it was
7 usually Suzanne Thompson.
8 PATROUCH: Okay. So, Ms. Goodwin, when you -- when you
9 becam- (sic) -- became employed in 2003 with
10 Bristlecone Family Resources, were you aware
11 that you needed, you had a timeframe in which to
12 obtain your Bachelor's?
13 GOODWIN: Yes, ma'am. What the Board of -- what the Board
14 of Examiners with -- when I applied for the
15 application, the Board had just -- the Board had
16 just established itself in 2000. And so they
17 did have a ten-year limit that you could get
18 your Bachelor's Degree within that ten years.
19 That was the timeframe.
20 PATROUCH: Okay. So had you -- when you obtained this job
21 in 2003, where you already going to school?
22 GOODWIN: Yes, ma'am. Uh-huh.
23 PATROUCH: Okay.
24 GOODWIN: I've always went to school, the whole time. I
25 just didn't go full-time.
26 PATROUCH: Okay.
27 GOODWIN: Uh-huh.
28 PATROUCH: Okay. So were you aware -- I mean, were you

1 monitoring how many more classes you needed to
2 have to be able to get your Bachelor's?
3 GOODWIN: Yes, and I -- and I would like to say -- yes, I
4 have been, and I was -- I'm going to have my
5 Bachelor's Degree January 15th, and so I had
6 stayed on top of that.
7 I knew it was -- I didn't know specifically
8 that they were going to, you know, do it at the
9 end, in July of 2011. I figured the whole, you
10 know, I had the whole year.
11 But I had been talking with Wendy Lake
12 about this, so -- and I just want to tell you
13 that they're revisiting -- revisiting my
14 situation next week because with Exhibit No. --
15 their Board minutes. Let me see.
16 PATROUCH: The Board minutes from January?
17 GOODWIN: Yes, ma'am. Those are their Board minutes and
18 they knew that they were coming up on the ten
19 years. This is their ten years when they
20 established it, and they knew that there were
21 going to be interns getting close, or, you know,
22 to completing their degree.
23 And they had made these rules, but did not
24 consider -- they didn't take any considerations
25 on how close it was, or, you know, anything like
26 that. So they're reconsidering my case next
27 week, but I just -- they -- I -- I attached
28 their Board minutes because back in January they

1 realized that they were coming up on this.
2 But, you know, I believe that there was
3 some other circumstances involved in their
4 decision, when they just said, you know, they
5 weren't going to extend my license in July.
6 PATROUCH: Okay. So -- so you were aware that you -- you
7 would not be -- have -- you would not have your
8 Bachelor's by this July date, correct?
9 GOODWIN: Yes. Yes, ma'am. And when I got the letter
10 from Wendy informing that, you know, I was
11 coming up on my ten years, and that I could go
12 before the Board. Her and I, when we discussed
13 this, you know, she was the one who said,
14 Nadine, bring in your -- send in your
15 transcripts because -- send in your transcripts
16 and, you know, and go before the Board because
17 you're so close.
18 See, at that time, you know, and -- and I'm
19 not saying that I assumed, it -- it's not like I
20 assumed, but because I was so close, it was like
21 it was -- like they -- they would extend it the
22 six months. I didn't have the opportunity to
23 have my judges write letters or anything because
24 it would just -- it was just because I was so
25 close, and I -- and I've gotten over 21,000
26 hours of intern.
27 I -- everything has been fulfilled on my
28 intern license except my Bachelor's Degree.

1 PATROUCH: Okay.

2 GOODWIN: And so -- and so we, you know, when we went
3 before the Board, you know, it was, you know,
4 they just -- they had said no without taking any
5 consideration of what they said, or my judges,
6 or anything.
7 So, you know, it was just like -- I was
8 under the impression that they were going to
9 extend it, and so was Wendy Lake, and she's the
10 Board of Exector (sic) she's the Executive
11 Director of the Board of Examiners.

12 PATROUCH: Okay. Okay. So I guess my question is, I -- I
13 understand that you had thought, or assumed that
14 they would extend it because you were so close.
15 But if you knew that there was a ten -- ten-year
16 requirement, and you -- you indicated you
17 weren't going full-time, correct?

18 GOODWIN: Right. And -- and -- you know, each year --
19 each year I had to go do my certification, and,
20 you know, and -- and do so many CEUs and follow
21 through with, you know, all the requirements to
22 keep my intern license.
23 They kept up with my classes, and -- and I
24 had to -- to send them in my grades and which
25 classes I was taking. So I had did that, I
26 followed everything, I was just five classes
27 short.

28 PATROUCH: Okay.

1 GOODWIN: And I was working full-time, single mother until
2 2008, to the end of 2008. So I fulfilled my
3 obligations, but I was five classes short.
4 PATROUCH: Okay. So --
5 GOODWIN: And, you know what, they may even extend my
6 license next week.
7 PATROUCH: Okay.
8 GOODWIN: Because -- go ahead --
9 PATROUCH: Okay. But I can't really discuss that --
10 GOODWIN: I understand.
11 PATROUCH: Okay. So I -- I guess my question is, you know,
12 many people work full-time, and even go to
13 school full-time. So if you've been monitoring,
14 and you knew you -- this ten-year time period
15 was up, and you were only going part-time.
16 Did you think to -- hey I'm going to be
17 close, they may not renew it, I need to get
18 these classes, and take more classes, you know,
19 take three or four classes a semester, so that
20 you actually had your Bachelor's before this
21 expired?
22 GOODWIN: Right. Well, and -- and you're right about
23 that. I could have done that, but like I said,
24 I have been talking with Wendy the whole time.
25 And -- and because --
26 PATROUCH: Well --
27 GOODWIN: -- this was new to the Board, that's, you know,
28 there was -- it wasn't an option for me to -- to

1 stop working, or to go full-time in my classes.
2 Because, like I said, I was a single mother, and
3 I have three children that I was taking care of
4 as well.
5 So that wasn't the case with me, and
6 because the Board had made these rules when --
7 when they established in 2000, Wendy Lake and I
8 discussed this. And so that's why I was -- I
9 was going to appeal and -- my case to the Board,
10 for the six months.
11 Because they weren't going to renew -- they
12 weren't going to renew my internship, they were
13 just going to extend it. And that's what we
14 were going for, just for a six-month extension
15 because, even now, with me completing January
16 15th, she's letting me apply for -- to take the
17 test in March to become certified.
18 So -- so the six months, it was just the
19 extension of six months. They're not looking at
20 renewing my internship --
21 PATROUCH: Okay.
22 GOODWIN: -- and me starting all over again because that's
23 -- that wasn't what was in question.
24 PATROUCH: Okay. But my question is, if you had ten years
25 to complete, and you knew you needed a
26 Bachelor's in -- within that ten years.
27 GOODWIN: And I followed -- and I -- and I did everything
28 that I could possibly do to obtain my

1 Bachelor's, and I was on track, but five classes
2 short. And I --
3 PATROUCH: Okay.
4 GOODWIN: -- I was on track the whole time.
5 PATROUCH: Okay, Ms. Goodwin. Ms. Goodwin.
6 GOODWIN: So I understand what you're saying --
7 PATROUCH: My question is, did you ever -- did you ever
8 become a full-time student to try to catch --
9 GOODWIN: No.
10 PATROUCH: -- yourself up? Why not?
11 GOODWIN: Because I couldn't. I couldn't. I was working
12 full-time, and I have three children at home.
13 And I could not just quit and go full-time.
14 PATROUCH: Well --
15 GOODWIN: And like I said, I was -- I was always in
16 contact with the Executive Director of the Board
17 of Examiners. I was on schedule, I was doing
18 the classes, and -- and even they said that they
19 did not give a timeframe.
20 Yes, there's definitely some people that
21 can complete their Bachelor's in ten years, that
22 can do it, that they -- they can work -- go
23 full-time and go to school. If their
24 circumstances call for that, then you know what,
25 I'm glad. And they -- I'm glad that they did
26 it, but not everybody is able to do that, and I
27 wasn't able to do that.
28 But I definitely stayed on top of what I

1 needed to do, and I was only five classes short,
2 and that's why I went to the Board to appeal,
3 and to see if they would extend for six -- for
4 six months.
5 PATROUCH: Okay. And they denied that extension; is that
6 correct?
7 GOODWIN: Yeah, they denied it at that time.
8 PATROUCH: Okay.
9 GOODWIN: But like I said, they're rehearing it, I go back
10 before them next Friday, and they're -- they're
11 allowing me to -- I mean, we -- we've done a lot
12 of -- of -- of -- of research in the past -- in
13 the past two months.
14 So my judges are writing letters and
15 they're -- they're looking at the official
16 transcripts. They're also taking in
17 consideration their own notes, they said back in
18 January of this year, before it even got to
19 this.
20 PATROUCH: Okay.
21 GOODWIN: And al -- but -- but there's a lot of other
22 details that have gone on, that they have --
23 they're going to reconsider, and the Governor's
24 Office is -- is -- is one that told them to
25 reconsider my case as well.
26 PATROUCH: Okay. So --
27 GOODWIN: So I -- so if I can just add that I wasn't -- it
28 wasn't -- I -- everything that I did, I did

1 everything humanly possible, in my situation, to
2 get my Bachelor's Degree, and I'm still doing
3 that. And --
4 PATROUCH: So -- so -- Ms. -- Ms. Goodwin.
5 GOODWIN: Go ahead.
6 PATROUCH: Ms. Goodwin, are you going to class this
7 semester, are you taking classes this semester?
8 GOODWIN: Yes, ma'am. I have -- I'm taking two classes
9 this semester, and I will be finished with my
10 Bachelor's Degree on January 15th. And the
11 school, they -- they sent Wendy this
12 information. Like I said, she -- I'm -- I'm
13 also in the process of applying for application
14 to take my test in March.
15 I have to have my Bachelor's by January and
16 because I'm -- I'll be two weeks short, it's
17 January 1st, but Wendy is going to allow me to
18 pay for the test and everything, so that I can
19 take the test in March.
20 PATROUCH: Okay.
21 GOODWIN: Because I'll have my Bachelor's January 15th.
22 PATROUCH: Okay. So, Ms. Goodwin, if you're taking two
23 classes now, and you're shy five classes, where
24 did the other three classes go?
25 GOODWIN: Ma'am, I've already taken. I worked -- I was
26 fired at that time, and I was still enrolled in
27 class. And my school is quarterly. You can
28 only take two classes every -- every three --

1 it's quarterly, every six weeks.
2 And I've always took the maximum classes
3 that I could, and so I'm taking two now, and
4 they're six-week classes, and I think it's
5 November 27th, and then my last class date.
6 Well, I'll be finished January 15th.
7 PATROUCH: Okay. And where do you go to school?
8 GOODWIN: At Walden University.
9 PATROUCH: Is that an on-line school?
10 GOODWIN: Yes, ma'am. But I didn't always go to Walden
11 until I finished my core courses, I was at TMCC,
12 and then all -- then I transferred 113 units to
13 Walden, and that just -- that just put my date
14 at January 15th.
15 PATROUCH: Okay. And when did you begin going to Walden
16 University?
17 GOODWIN: That was in March of -- I started in March 2010.
18 PATROUCH: Okay. And do you recall when you began working
19 -- going to TMCC?
20 GOODWIN: I did -- I started in -- of -- let me see, I
21 think it was -- I got in license in 2000, and I
22 had started school in 1999.
23 PATROUCH: Okay.
24 GOODWIN: And they -- they're taking into consideration,
25 you know, I had to take math two times. So, you
26 know, math wasn't one of my -- my good subjects,
27 so they're also -- they took into consideration
28 that -- how many times I've taken a certain

1 class. But that was the only one.
2 PATROUCH: Okay. Okay. Okay, so Ms. Goodwin, when you --
3 tell me about when you met with the -- the Board
4 on July 8th. Did --
5 GOODWIN: Yes, ma'am.
6 PATROUCH: Okay. So tell me what took place in that
7 meeting?
8 GOODWIN: What happened was, first of all, one of the
9 Board members, one of their Board members is --
10 is also an employee of Bristlecone. And she
11 should have recused herself from that meeting
12 for one.
13 And I just want you to know also that I
14 have evidence that before -- at 8:30 in the
15 morning, the person that took my position was
16 over at Bristlecone before they even made a
17 decision.
18 PATROUCH: Okay.
19 GOODWIN: Well, I'm just -- I'm just trying to give you a
20 little background why they're reviewing it. So
21 I went in to this Board Meeting and they had
22 already had their minds made up that they
23 weren't going to extend it.
24 PATROUCH: How do -- how do you know the Board of Examiners
25 had made up their mind already?
26 GOODWIN: Well, no; not the Board of Ex- -- well -- well
27 -- well, when I got into the meeting, because
28 see there were -- there were -- there were two

1 other people there trying to get their extension
2 too. One had already had an extension, but they
3 did not -- they, you know, I presented -- I came
4 up before them, and they just said no.
5 They didn't -- they didn't consider
6 anything. They just said no, we're not going to
7 extend your license, because if we extend it for
8 you, we'll have to extend it for everybody. But
9 that wasn't -- it was -- it's so much more to
10 it, ma'am.
11 And that's why they're reconsidering it,
12 and also I didn't ask for my license to be
13 renewed, I just need an extension because I've
14 gotten 21,000 hours of internship already. So
15 see, they didn't consider anything.
16 PATROUCH: Okay.
17 GOODWIN: Uh-huh.
18 PATROUCH: All right. So then after this Board met and
19 they told you no, what happened then?
20 GOODWIN: Then I -- I contacted Wendy, and she told me
21 what I could do. She said, Nadine, your license
22 doesn't expire till July 15th, but what I want
23 you to do is put it on inactive status, so that
24 you don't lose your intern hours, and that you
25 finish taking your classes and -- and so you
26 can apply for your -- your certification in
27 March.
28 At that time, Wendy asked -- I let her know

1 that Bristlecone terminated me right away, and
2 so she said -- she asked me -- there was no
3 other position or anything that they could have
4 done. And I said no, they -- they terminated me
5 right away once the Board made the decision.
6 And so I went back into the Board's
7 minutes, and I found where they had -- that --
8 where they said that they would consider the
9 interns coming up. Because when they made this
10 rule, it was back in 2000, when the Board was
11 established.
12 And so they knew they were coming up on
13 this, but -- and they said that they take each
14 case, case-by-case, but they didn't hear any of
15 my evidence. And so what I did was I wrote
16 Steve Guyerson, (phonetic) and I also talked to
17 the Governor's Office because they are in charge
18 -- the Governor's Office is in charge of the
19 Board of Examiners.
20 And so I explained my situation to them,
21 and so the Governor's Office recommended that
22 they rehear my -- rehear my case, and so through
23 my letters and everything, next week, July 23rd,
24 I will be able to present my case again, and my
25 judges are going to have their letters.
26 Wendy has --
27 PATROUCH: Okay, Ms. Goodwin --
28 GOODWIN: -- some questions that I give her -- my official

1 transcripts --
2 PATROUCH: Ms. Goodwin. Ms. Goodwin, I -- I can only make
3 a decision based on what took place up until the
4 discharge.
5 GOODWIN: Okay.
6 PATROUCH: Anything that's trans- -- been transpired, you
7 know, I'm -- I'm glad this, you know, you're
8 getting afforded the opportunity for them to
9 look at this for you again, but that --
10 GOODWIN: Okay.
11 PATROUCH: -- that will have no --
12 GOODWIN: Well, it's all a part of it. I mean, I think it
13 should be -- because I worked --
14 PATROUCH: Well, but --
15 GOODWIN: -- you know, I understand and I'm --
16 PATROUCH: Ms. Goodwin --
17 GOODWIN: But go ahead.
18 PATROUCH: Ms. Goodwin, by law I cannot take into --
19 GOODWIN: I understand.
20 PATROUCH: -- account anything past the discharge.
21 GOODWIN: Okay. Understood.
22 PATROUCH: Okay. So how many -- when you were taking
23 classes at TMCC, how many classes were you
24 taking a semester?
25 GOODWIN: I was taking three.
26 PATROUCH: Okay. And then you said, did you end up getting
27 an Associate's from TMCC?
28 GOODWIN: Yes. Yes. Uh-huh.

1 PATROUCH: And then what type of Associate's Degree did you
2 get?
3 GOODWIN: It was in substance abuse counseling.
4 PATROUCH: So TMCC has an -- an Associate's Degree specific
5 in substance abuse?
6 GOODWIN: Yes, ma'am.
7 PATROUCH: Okay. And then -- and then you transferred to
8 your on-line college, this Walden University --
9 GOODWIN: Yes.
10 PATROUCH: -- in 2010?
11 GOODWIN: Uh-huh.
12 PATROUCH: And you take two classes?
13 GOODWIN: Yes, two classes every six weeks. All their
14 undergraduates are on a quarter system.
15 PATROUCH: Okay. All right. Okay.
16 I don't have any more questions for you,
17 Ms. Goodwin.
18 Ms. Coe, do you have any questions for
19 Ms. Goodwin?
20 COE: Yeah. I just wanted to ask her what -- what is
21 the date that you're meeting with the Board of
22 Examiners?
23 GOODWIN: Which time?
24 COE: That -- that's coming up. You said you were
25 meeting with them to discuss your --
26 GOODWIN: They said it wasn't -- it's not even relevant
27 for this situation --
28 COE: Oh, okay.

1 GOODWIN: -- so it doesn't matter.
2 COE: Right. Okay.
3 PATROUCH: Okay. Ms. Coe.
4 COE: Uh-huh.
5 PATROUCH: She did answer that question. So let me look
6 here in --
7 COE: Okay.
8 PATROUCH: -- my notes. I believe she said it was the
9 23rd.
10 COE: Okay.
11 PATROUCH: Do you have any other questions, Ms. Coe, for
12 Ms. Goodwin?
13 COE: I don't.
14 PATROUCH: Okay. All right. Then in closing of this
15 hearing, is there anything else, Ms. Goodwin,
16 that you feel that I need to know about the
17 situation that we haven't discussed?
18 GOODWIN: No.
19 PATROUCH: Okay. Do you feel everything's been covered
20 sufficiently?
21 GOODWIN: Yes.
22 PATROUCH: Okay. Thank you. Ms. Coe, is there anything
23 additional that you'd like to add?
24 COE: I do want to add the fact that, when you go
25 before the Board of Examiners, that -- that's up
26 to them to make that decision, and I believe
27 when Ms. --
28 GOODWIN: Oh, I'm not looking to get my job back.

1 PATROUCH: Well, Ms. Goodwin, this isn't a time for you to
2 talk.
3 GOODWIN: Okay.
4 PATROUCH: Okay. This is a time that Ms. Coe has an
5 opportunity to add anything.
6 GOODWIN: Okay.
7 PATROUCH: Okay. Go ahead, Ms. Coe.
8 COE: I just wanted to state that at that point in
9 time, the Attorney General said that there was
10 no reason to vote on extending the licensures;
11 that's why the decision was made so quickly.
12 PATROUCH: It was due to an attor- -- the Attorney
13 General?
14 COE: Correct.
15 PATROUCH: Okay. All right. Anything else, Ms. Coe?
16 COE: Nope, that's it.
17 PATROUCH: Okay. Do you feel everything's been covered
18 sufficiently?
19 COE: I do.
20 PATROUCH: Okay. Ms. Goodwin, would you like to make a
21 closing statement?
22 GOODWIN: No, thank you.
23 PATROUCH: Okay. Ms. Coe, would you like to make a closing
24 statement?
25 COE: No thanks.
26 PATROUCH: Okay. All right, well then I want to thank you
27 both for your participation in this hearing.
28 This hearing is now closed so I will be

disconnecting the phone lines and I wish you both a good day.

COE: Thank you.

PATROUCH: Uh-huh. Thank you.

COE: Bye.

PATROUCH: The phone lines are disconnected and we're off the record.

END OF HEARING

FILED
Electronically
04-09-2012:04:28:24 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 2878413

RECORD ON APPEAL

PART 2 of 2

J. THOMAS SUSICH, ESQ.
Division Sr. Legal Counsel
STATE OF NEVADA DETR/ESD
1675 E. Prater Way, Ste. 103
Sparks, NV 89434
(775) 284-9533
(775) 284-9513 (Fax)

HEARING SLIP

CASE NO.: _____ TIME: _____

REFEREE: _____ DATE: _____

CLAIMANT: Nadine Goodwin

PHONE: 775-250 0458

ATTY/REP: _____

WITNESS: _____

WITNESS: _____

INTERPRETER: _____

EMPLOYER: _____

PHONE: 775-954-1400 x 103

AGENT: _____

ATTY/REP: Karen Coe, HR Mng-

WITNESS: _____

WITNESS: ~~Tamara Pierce Exec Dir~~ →

WITNESS: _____

WITNESS: _____

NOTES: _____

BY: _____

STATE OF NEVADA
DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION
EMPLOYMENT SECURITY DIVISION
OFFICE OF APPEALS

1325 Corporate Blvd., Suite C
Reno, Nevada 89502
Voice: (775) 823-6660
Fax: (775) 688-2686

NOTICE OF TELEPHONE HEARING

NADINE GOODWIN ✓
7551 YOUNG CIR
RENO, NV 89511

BRISTLECONE FAMILY RESOURCES ✓
PO BOX 52230
SPARKS, NV 89435

CASE NUMBER: R-11-A-09261

DATE MAILED: AUGUST 18, 2011

CLAIMANT'S SSN:

REFEREE: PATROUCH / RA

Claimant Appeal

ALL PARTIES - THIS IS A TELEPHONE HEARING!

YOU MUST CALL the Reno Appeals Office at (775) 823-6660 or toll-free at 1-866-626-0610, IMMEDIATELY if you require an interpreter at the hearing. DO NOT BRING YOUR OWN INTERPRETER.

Aviso: Esta notificación contiene información importante respecto a una audiencia de apelación sobre seguro de desempleo. Si tiene problemas para leer o comprender inglés puede contactar a un representante de la División de Seguridad de Empleo para asistencia con la traducción. Los números de teléfono son:

Norte de Nevada.....687-8148
Sur de Nevada.....486-2957
Línea Gratuita.....1-888-687-8147

ADVISEMENT TO ALL PARTIES: In order to efficiently and effectively handle your appeal, this hearing will be held by telephone. As a courtesy to all parties, if you prefer to appear in person, please contact the Appeals Office at the number above, prior to the hearing date, so arrangements can be made for you to do so.

PURSUANT TO NRS 612.500,
A HEARING WILL BE HELD ON:

DATE: TUESDAY SEPTEMBER 13, 2011

TIME: 01:15 PM PDT You must call the Reno Appeals Office at 775-823-6660, or 866-626-0610, 15 minutes prior to the hearing to provide the number where you can be reached. Failure to do so may result in the appeal being dismissed.

THE FOLLOWING ISSUES WILL BE CONSIDERED:

NRS 612.385: Whether the claimant's discharge was for reasons of misconduct.

NRS 612.551: Whether the employer's account is subject to charges.

AT LEAST 48 HOURS PRIOR TO THE HEARING, provide your own copies of documents you intend to submit as evidence. This hearing is your only opportunity to present testimony, witnesses and documentation. Each party is entitled to be represented by an attorney, at their own expense and entitled to request that subpoenas be issued to compel witnesses to attend. The Referee will only issue subpoenas upon the showing of necessity. For more information, consult the enclosed pamphlet and review the file prior to the hearing. Minor children are not permitted in the hearing. If you are scheduled for a telephone hearing but prefer to appear in person, please contact this office.

EU-PS BENEFIT PAYMENT SUMMARY INQ DATE: 08/08/11

SSN: ▪ I: (775)250-0458 LO: 0164 BYB: 07/10/11 BYE: 07/07/12
NAME : NADINE GOODWIN
AKA : N VISER RS DATE :
ADDRESS : 7551 YOUNG CIR WORK SRCH : S
: RTW :
: RENO NV 89511 ERP INTRVL: 00

LIAB ST : NV FIL METH: T OPEN ISS : 000 WBA: 396 AMT PAID: 0.00
CLM STAT: ACTIVE PROG CD : U1 ACTV DENL: 001 MBA: 10296 BALANCE : 10296.00

BWE	PAYMENT DATE	PAY/DQ	TOTAL AMT	ORIGNL EARN	FINAL EARN	OFFSET AMT	OVER PMNT	SCC	CLAIM ADJUST
08/06/11		OW	0.00	0.00	0.00	0.00	0.00		
07/30/11		DQ DC	0.00	0.00	0.00	0.00	0.00		
07/23/11		DQ DC	0.00	0.00	0.00	0.00	0.00		
07/16/11		DQ DC	0.00	0.00	0.00	0.00	0.00		

F1=Help F2=Menu F3=Exit F4=Nav-next F8=SCROLL-WEEKS NEXT TRANS:

4-© 1 Sess-1 10.131.152.5 TP01E8BC 3/7

RESTRICTED:
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EXHIBIT I
CASE NO. R-11-A-09261

```
EU-EC                        BENEFIT EMPLOYER CHARGE          INQ DATE: 08/08/11

SSN: [redacted]          NAME: NADINE GOODWIN                          BYE: 07/07/12

ACCOUNT NAME: BRISTLECONE FAMILY RESOURCES    75%  PERCENT   START     END
MON  CODE: 01 BASE - ACCT: 006274600     TYPE: 01  1.00000
PROG CODE: U1 CHARGE-ACCT: 006274600     TYPE: 01  1.00000  07/16/11 07/07/12
.......................................................................

ACCOUNT NAME:                                      PERCENT   START     END
MON  CODE:    BASE - ACCT:               TYPE:
PROG CODE:    CHARGE-ACCT:               TYPE:
.......................................................................

ACCOUNT NAME:                                      PERCENT   START     END
MON  CODE:    BASE - ACCT:               TYPE:
PROG CODE:    CHARGE-ACCT:               TYPE:
.......................................................................

ACCOUNT NAME:                                      PERCENT   START     END
MON  CODE:    BASE - ACCT:               TYPE:
PROG CODE:    CHARGE-ACCT:               TYPE:

F1=Help F2=Menu F3=Exit F4=Nav-next F8=SCROLL-EMPLOYERS       NEXT TRANS
4-©            1    Sess-1    10.131.152.5            TP01E8BC          3/7
```

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EXHIBIT 2

CASE NO. R-11-A-09261

DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION
EMPLOYMENT SECURITY DIVISION
EMPLOYER NOTICE OF CLAIM FILED

CLAIMANT: NADINE VISER

SOC. SEC. #: [redacted] DATE 07/12/11
SEP. DATE: 07/07/11
EMPLOYER ACCT. #: 0062746.00

BASE PERIOD: 04/01/10 TO 03/31/11

RETURN TO STATE OF NEVADA
*EMPLOYMENT SECURITY DIVISION
*NORTHERN NEVADA ADJUDICATION CENTER
*500 E THIRD STREET
*CARSON CITY, NEVADA 89713-0035

BENEFITS FOR WHICH CLAIMANT IS ELIGIBLE:
WEEKLY AMOUNT:$396 MAXIMUM AMT: $10,296

BRISTLECONE FAMILY RESOURCES
PO BOX 52230
SPARKS NV 89435

POTENTIAL BENEFIT COST: $10,296.00
OR 100.000% OF ALL BENEFITS PAID
FOR THE YEAR 07/10/11 TO 07/07/12.

YOUR	QTR 2/10	12,936.00
REPORTED	QTR 3/10	11,088.00
WAGES ARE:	QTR 4/10	12,866.70
	QTR 1/11	11,145.75
	TOTAL	$48,036.45

You are a LAST OR NEXT TO LAST EMPLOYER. This person has filed for unemployment benefits and reported the reason for separation as being fired. DID NOT RECEIVE BACHELORS DEGREE . To determine the claimant's eligibility, a statement is needed from you concerning the reason for separation. Please include any retirement, severance, wages in lieu of notice, or vacation payments, which were paid or are due to the claimant. Refer to the back of this form for an explanation of your rights and responsibilities.

1. Indicate separation reason: ☐ Quit ☒ Discharge ☐ Lack of work ☐ Leave of Absence

Dates Worked: 09/02/03 to 07/08/11

~~(a)(For Quit)~~ Explain reasons: Employee failed to retain specific degree/licensure requirements to maintain job. Employee had ten years to fullfill requirements. Please see attached

(b)(For Discharge) Explain final incident causing discharge

2. Will this person receive: Accrued Vacation Pay ☒ No ☐ Yes $ Date Paid

Severance Pay ☒ No ☐ Yes $ Date Paid

Wages in Lieu of Notice ☒ No ☐ Yes $ Date Paid

Gross Weekly Wages $ 920 60% wk Number of hours worked each week? 40

Additional comments: Please see attached

This completed form must be signed and returned to the above address by our close of business (5:00 p.m. PST) on the 11th calendar day from the date of mailing, to protect your rights in this eligibility decision.

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Karen Coe	Karen Coe	HR Manager	775 954 1406 x 103	7/18/11
Contact Person	Company Official Signature	Title	Telephone	Date

FOR FURTHER INFORMATION CALL (775)684-0302, OR FAX (775)684-0338

(OVER)

EXHIBIT

CASE NO.

EN608 Rev. 6/07

Where change happens, one life at a time.

Bristlecone Treatment Center
1725 S. McCarran
Reno, Nevada 89502
PO Box 52230
Sparks, Nevada 89435
Phone (775)954-1400
Fax (775)954-1406

Bristlecone Adult Drug Court
1155 West 4th Street, #104
Reno, Nevada 89509
PO Box 52230
Sparks, Nevada 89509
Phone (775)333-7877
Fax (775)333-7874

Mission:
Our mission is to help people reclaim their lives by providing customized addiction and mental wellness treatment services.

We do this by taking a holistic approach to the unique needs of each individual.

We are committed to keeping our programs accessible and affordable to meet the needs of our community.

Vision:
Our vision is to strengthen our community by improving quality of life, one individual at a time.

Board of Directors

Chair, Rick Abend, Mutual of Omaha Bank

Vice Chair, Kevin Stroupe, Clark & Sullivan Constructors

Secretary, Derek Vogel, Vogel Designs

Treasurer, Kimberly Drake CPA, NV Energy

Chad Connolly, Connolly Properties

Melissa Davies, Clark and Associates

Vice Chair, Laura Makita McDonald, e-Quantum Software, Inc.

Barbie Marcoe, Chase International Real Estate

Bridget Robb Peck, Washoe County District Court Judge

Tammra Pearce, Executive Director

Date: July 18, 2011

Department of Employment, Training, & Rehabilitation
RE: Nadine Viser
SSN

Nadine Viser-Goodwin was terminated from Bristlecone Family Resources on July 8th, 2011 for violation of Bristlecone Policy # 02-023a, Renewal of Internship Certification. Ms. Viser-Goodwin was expected to maintain an internship certification in order to fulfill her responsibilities as Drug Court Administrator. (Please see attached job description signed by Ms. Viser-Goodwin). It is the responsibility of all employees of Bristlecone to maintain and proper licensure in order to remain employed with the agency. Please see attached copy of policy. Ms. Viser-Goodwin had 10 years to fulfill this requirement.

The State Board of Examiners requires all interns to hold current certification in order to continue working with clients. Ms. Viser-Goodwin met with the Board of Examiners on July 8th, 2011 seeking an extension of her Bachelors degree which is required to maintain licensure. Please see attached copy of itinerary. The Board did not grant Ms. Viser-Goodwin an extension, leaving the agency no other choice but to terminate her employment.

Ms. Viser-Goodwin was aware of the licensure requirements that are required of her job duties as well as the policy regarding current maintenance of certifications. Please feel free to contact me if you require any further documentation. I am attaching the Job Description, State Board of Examiners Agenda dated July 8th, 2011, and a copy of Bristlecone Policy # 02-023a.

Thank you,

Karen Coe
Human Resources Manager
Bristlecone Family Resources
775-954-1400 x 103

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EXHIBIT 4
CASE NO. R-11-A-09261

Policy No.02-019

Policy No. _____

Attachment 1

Bristlecone Family Resources

Corrective Action Notice

Employee Name: Nadine Goodwin **Date:** 7/11/11

Type of Warning: ☐ Oral Discussion ☐ Letter of Concern
☐ Suspension without Pay
☑ Discharge

Specific Incident Reported: Board of Ex did not extend licence to practice.

Date(s) of Violation 7/8/11

Policy(s), Procedure(s), and/or Regulation(s) violated: 02.023a Counselor intern 02.014 PTO

Action Needed for Improvement: N/A

To be Completed: N/A

Additional Requirements Necessary: turn in keys and name badge

Action that will be taken if Problem persists: N/A

Employee Response (optional)

Georgia Thompson 7/11/11

Employee Signature Date **Supervisor Signature Date**

Julie Klees

Witness Signature Date

RESTRICTED: The reason for the decision to terminate is said because of the incident above. To deny PTO is incorrect and I do not agree. Nadine Goodwin

NRS 612.265 limits the use of this material to unemployment compensation litigation except for specified exceptions.

Unacceptable Job Performance EXHIBIT 5 Page 1 of 1

Position Title: Adult & Family Drug Court Administrator
Reports to: **Dir. of Operations (primary)**
Clinical Director (secondary)

Status: Exempt
Revised: **June 2006**

Approved: _____

Primary Responsibilities:

Plans and coordinates the day-to-day administrative and operational activities of the Family Drug Court program.

Essential Functions:

- Participates in the negotiation of the Drug Court contract.
- Exhibit thorough understanding of the drug court contract.
- Provides administrative support in developing, implementing, and marketing.
- Serves as a principal liaison between clients, administration, staff, judicial representatives, and/or external constituencies on day-to-day programmatic, operational, and administrative issues; facilitates meetings, special projects, and problem resolution.
- Coordinates activities of support staff, counselors, and judicial representatives engaged in implementation and administration of program objectives.
- Collects and analyzes data; prepares scheduled and special reports; maintains program records.
- Performs specialized activities of a programmatic nature in direct support of the accomplishment of program objectives and protocol.

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EXHIBIT 6a
CASE NO. R-11-A-09261

3. Coordinates activities of support staff, counselors, and judicial representatives engaged in implementation and administration of program objectives.

4. Monitors program revenues and expenses for cost effectiveness of program.

5. Writes, edits, and coordinates development of psychoeducational materials, educational materials, and training manuals, as appropriate to the program.

6. Collects and analyzes data; prepares scheduled and special reports; maintains program records and statistical information.

7. Performs or delegates clerical and administrative support tasks, including creation, typing, and editing of program correspondence, reports, and program handbooks.

8. May perform specialized activities of a programmatic nature in direct support of the accomplishment of program objectives and protocol.

9. Performs miscellaneous job-related duties as assigned and those according to the needs of the agency.

10. Provide direct client services, which can include individual counseling, group counseling, assessments, intake, direct supervision psycho-educational groups and family services as appropriate
11. Maintain an approved schedule / arrive to appointments/meeting/etc. in a timely manner
12. Interact in a positive professional manner with all persons/agencies involved with program clients
13. Maintain required documentation necessary for case management as determined by program protocol
14. Provide monthly/quarterly reports by due date
15. Provide insurance provider with pertinent client information to ensure continuation of care
16. Assist in component / program development as directed by the department director and assistant director
17. Participate in required staff meetings, consultation, clinical supervision, in-service training (s), and other assigned workshops/trainings
18. Provide crisis intervention as necessary
19. Refer clients to appropriate community based services
20. Perform urine analysis testing on clients
21. Responsible to follow all necessary protocol to secure and maintain BADA Intern / BADA Counselor status when appropriate
22. Will serve as a liaison between Bristlecone and community based organizations as directed by the department director or assistant director
23. Perform other duties as directed by the department director or assistant director

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EXHIBIT 66

CASE NO. [illegible]

Physical Requirements:
Percentage of time, or weight in pounds, required to perform job duties:

Sitting:	50%	Pulling:	05%	Speaking:	75%
Standing:	25%	Pushing:	05%	Writing:	40%
Walking:	25%	Lifting:	20lbs	Dialing:	20%
Climbing:	5%	Driving:	05%		
Filing:	10%	Using Keyboard:	35%		

I have read and understand all aspects of this job description. By signing this description I am acknowledging my job duties and responsibilities.

Employee Signature _____ Date 8-4-06

KNOWLEDGE, SKILLS, AND ABILITIES REQUIRED:

- Adequate skill in the use of personal computers and related software applications.
- Ability to coordinate and organize meetings and/or special events.
- Ability to interact with clients, counselor and staff in a team environment.
- Adequate clerical, word processing, and/or office skills.
- Ability to lead and train staff and/or clients.
- Strong interpersonal and communication skills and the ability to work effectively with a wide range of constituencies in a diverse community.
- Skill in organizing resources and establishing priorities.
- Ability to make administrative/procedural decisions and judgments.

DISTINGUISHING CHARACTERISTICS:

Position requires: a) independent coordination of all day-to-day aspects of a specified program activity; b) program planning, implementation, and monitoring; c) implementation of effective operational/administrative policies and procedures specific to

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EXHIBIT 6C
CASE NO. R-11-A-09261

- Ability to coordinate and organize meetings and/or special events.
- Ability to interact with clients, counselor and staff in a team environment.
- Clerical, word processing, and/or office skills.
- Ability to lead and train staff and/or clients.
- Strong interpersonal and communication skills and the ability to work effectively with a wide range of constituencies in a diverse community.
- Ability to gather and analyze statistical data and generate reports.
- Skill in organizing resources and establishing priorities.
- Ability to make administrative/procedural decisions and judgments.

DISTINGUISHING CHARACTERISTICS:

Position requires: a) independent coordination of all day-to-day aspects of a specified program activity; b) program planning, implementation, and monitoring; c) implementation of effective operational/administrative policies and procedures specific to the achievement of the objectives of the program; d) writing, editing, and publication of marketing, promotional, and/or educational materials and integrated reports specific to the program; e) planning, preparation, and management of program budgets and expenditures.

WORKING CONDITIONS AND PHYSICAL EFFORT:

- Work is normally performed in a typical interior/office work environment.
- No or very limited physical effort required.
- No or very limited exposure to physical risk

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EXHIBIT 6d

CASE NO. IA-84

Policy No 02-023a

Bristlecone Family Resources

Renewal of Internship Certification

Officer approval: Tammra Pearce, Executive Director

Scope:	All Staff	**Board approval date:**	February, 2007
Responsibility for compliance:	Clinical Director, Clinical Supervisors, Human Resources	**Effective date:**	March 1, 2008
		Revision Date	

Introduction The Counselor Intern is responsible for maintaining proper licensure.

Implementing the Policy	Reporting	The Board of Examiners requires you to send in reporting on your continued education and supervision every six months. (See Human Resources for details.) You are responsible for working with your clinical supervisor to ensure timely completion of the reporting. Human Resources will ensure that a Notary Public is available at a specified time to notarize your reporting form. You are responsible for arranging your schedule to meet with the Notary Public provided by Bristlecone.
	Reporting Submittal	Human Resources will send reporting for all Counselor Interns not less than four days prior to the reporting due date. If your reporting is not ready at the time Bristlecone sends the reporting package, you will be required to send your reporting at your own expense. You are responsible for any penalties levied as a result of failure to submit your reporting in a timely manner.
	Failure to maintain Internship	If you fail to maintain your internship, you will be removed from your duties. Failure to maintain internship will result in one of the following actions based on the recommendations of your Clinical Supervisor and the Clinical Director: • You may be temporarily reassigned until your internship is reactivated. • You may be suspended without pay until your internship is reactivated. • You may be terminated.

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EXHIBIT 7

CASE NO. R-11-A-092

Claimant Name: NADINE GOODWIN
Social Security Number:
Adj: 7524

RECORD OF FACT FINDING
DISCHARGE

Claimant **NADINE GOODWIN** SSN [redacted] Adj **7524** Last/NTL ER **LAST**

Employer **BRISTLECONE FAMILY RESOURCES [NOT 75%]** Length employed with last employer **~ 9 YRS**

Misc Info: ☐ IC ☐ AC ☐ RC ☐ 75% Employer Employer Acct # **0062746 00**

EMPLOYER:

Phone # **[775] 954-1400** Ext Date/Time called **July 22, 2011; 08:34**
Left message with **VOICE MAIL: KAREN COE - (HR REP)**
☒ 48 Hour Script and consequences given Optional Date Given
Info Requested **DATES OF EMPLOYMENT? POSITION? DAYS OFF/SHIFT WKD, RATE OF PAY, LDW? WHO DISCHARGED CLMT - DATE/TIME? REASON FOR DC? FINAL INCIDENT - DATE/TIME/DETAILS?, DOCUMENTED PRIOR INCIDENTS/WARNINGS? WHO GAVE WARNINGS? SPECIFIC POLICY/RULE VIOLATED? HOW WAS CLMT MADE AWARE OF POLICY/RULE? SEP PAY -- TYPE, GROSS AMOUNT, DATE PAID, HRS COMP'D FOR, NEXT 2 REG PAY DAY DATES? 48-HR SCRIPT GIVEN**

EMPLOYER PROVIDED INFORMATION:

Date/Time Interviewed (If different) **606 on File? Yes ☒ No ☐**
Person spoke to (position/title)
Dates of employment to Position
Days off Shift worked Rate of Pay LDW
Number of hrs. wrkd p/week? Add Info **EMPLOYER FAXED 606: DISCHARGED -- FAILURE TO MAINTAIN LICENSE**

Discharged by whom/date/time

1. Primary reason for discharge? (What reason was the claimant given for the discharge?)
2. What was the final incident and when did it happen? (What was the "final straw" that led to the discharge?)
3. What policy or rule was violated? Was claimant aware of policy?
4. Prior incidents and/or warnings? If yes, dates, times and circumstances?
5. Describe any efforts the claimant made to resolve the problem.
6. What was adverse effect on employer? (How did claimant's actions adversely affect your business? I.e. others had to work the shift, store was not opened as scheduled)
7. Was claimant told he/she could be discharged if the behavior continued? (If Yes, explain)

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Separation Pay: Yes ☐ No ☐ Next Regular Paydays and
☐ Vacation - Gross Amt $ Date Paid No. of Hours Paid

EXHIBIT 80
CASE NO.

Claimant Name: NADINE GOODWIN
Social Security Number:
Adj: 7524

☐ Severance– Gross Amt $ Date Paid No. of Hours Paid
☐ WIL- Gross Amt $ Date Paid No. of Hours Paid

CLAIMANT:

Phone # **[775] 250-0450** Ext Date/Time Called **July 22, 2011; 08:36**
Left message with
☐ 48 Hour Script and consequences given Optional Date Given
Info Requested

CLAIMANT PROVIDED INFORMATION:

Date/Time Interviewed (If different) Claimant ID verified? Yes ☒ No ☐
Dates of employment **09/03/03** to **07/07/11** Position **ADM/COUNSELOR**
Days off **M/S/S** Shift worked **9AM-8PM** Rate of Pay **$18.86/HR** LDW **07/07/11**
Number of hrs. wrkd p/week? 40 Add Info
Discharged by whom/date/time SUZANNE THOMPSON - SUPERVISOR; BONNIE PHILLIPS - FINANCE; 7/8/11 1130AM

1. Reason given for discharge? (What were you told by your employer as the reason for the discharge?) **"THE BOARD DENIED EXTENDING MY LICENSE FOR 6 MONTHS. THEY TOLD ME THAT THEY WERE NOT EXTENDING MY LICENSE BECAUSE I DIDN'T HAVE MY B.A."**

2. Final incident (and date of incident)? (What happened to cause discharge (final straw)? When did it happen?) **"THEY DIDN'T TELL ME WHY. AND I AM APPEALING THE CASE TO THE GOVERNOR SINCE HE OVERSEES THE BOARD." CLMT STATED THAT HER LICENSE WAS A 10-YR LICENSE AND SHE KNEW SHE HAD TO GET A B.A. BEFORE THE 10-YRS WAS UP. "I WENT TO SCHOOL THE WHOLE TIME BUT I'M A SINGLE MOTHER PUTTING MY CHILDREN (26, 24, 19) THROUGH SCHOOL/COLLEGE AND GOING TO SCHOOL MYSELF. AND I WOUND UP 6 MONTHS SHORT. AND MY LICENSE WAS GOOD UNTIL 7/15/11 BUT THEY TERMINATED ME ON 7/8/11."**

3. Witnesses? (Get names and positions) **NA**

4. Prior incidents and/or warnings? If yes, date, times and circumstances **"NOPE."**

5. Name of person who gave warnings? **NA**

6. Was a rule or policy violated? (Explain the policy, how it was violated and was the claimant aware of the policy.) **"NOPE. I WAS UNDER THE IMPRESSION THAT THEY WOULD EXTEND MY LICENSE BECAUSE MY CONVERSATION WITH ONE OF THE BOARD MEMBERS. SHE SAID THAT THEY TAKE EACH CASE UNDER CONSIDERATION AND I FELT I HAD A GOOD CASE."**

7. Describe any efforts the claimant made to resolve problem and prevent discharge? **"THERE WAS NOTHING I COULD DO."**

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Separation Pay: Yes ☐ No ☒ Next two regular paydays?
☐ Vacation - Gross Amt $ Date Paid No. of Hours Paid

EXHIBIT 86

State of Nevada

Department of Employment, Training and Rehabilitation
Employment Security Division – NNAC
500 E. Third Street, Carson City, NV 89713
PHONE (775) 684-0302 FAX (775) 684-0338

NOTICE OF DETERMINATION

Date Mailed: August 1, 2011
Last Date to Appeal: August 12, 2011

Detect Date 07/11/11
Type of Determination
Original

Wk Date 07/16/11
Dept Rep: 7524

SSN

TO:

NADINE GOODWIN
7551 YOUNG CIRCLE
RENO NEVADA 89511

DECISION

☒ You are **not** entitled to benefits effective 07/10/11 until you return to work in covered employment and earn at least $ 396.00 in **each** of 10 weeks. (Proof of earnings must be furnished to end this disqualification period.)

☐ Because you are not entitled to benefits paid for the period specified above, you have been overpaid. If you wish to file an appeal to the overpayment, you must file by the appeal date shown above. You will receive a separate notice, which cannot be appealed, showing the amount of the overpayment.

☐ You have been overpaid Federal Additional Compensation (FAC).

SUMMARY OF FACTS

- You stated you were discharged for failing to comply with the requirements of the employment.
- You were provided ten years to earn a bachelor's degree which was required for your employment.
- You reported that you were aware the training was a requirement of the job at the time of hire, however failed to complete the program due to personal reasons.

Failure to meet the requirements of the employment established for your specific position is considered misconduct, benefits are not allowed.

LAW

NRS 612.385: A person is ineligible for benefits if he was discharged from his last or next-to-last employment for misconduct connected with the work, and remains ineligible until he works in covered employment and earns his weekly benefit amount in each week up to 16 weeks.
NRS 612.365: Any person who is overpaid any amount as benefits is liable for the amount overpaid unless: 1) The overpayment was not due to fraud, misrepresentation or willful nondisclosure on the part of the claimant AND the overpayment was received without fault of the claimant and its recovery would be against equity and good conscience, as determined by the administrator.

INTERESTED EMPLOYER:

BRISTLECONE FAMILY RESOURCES
P.O. BOX 52230
SPARKS NEVADA 89435

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EXHIBIT 9a

CASE NO.

APPEAL RIGHTS

NOTICE: If you receive more than one decision, read each one carefully to protect your appeal rights. ANY ineligible decision will stop payment of this claim. Please read the following information carefully.

If the box below is checked for either the claimant and/or the employer, either party has the right to file an appeal if they believe this determination is incorrect. The appeal must be filed or postmarked by the appeal date shown on the previous page. The appeal date may be extended if you can show good cause for the delay in filing. Either party may appeal by writing a letter to the address shown at the top of the previous page. This appeal must include the reason for appealing, the social security number and the appellant's signature. If an interpreter is needed, please include this request in the appeal letter. During the appeal process, the claimant must continue to file claims for any week he/she is unemployed to preserve any benefit rights that may be established as a result of the appeal. If an appeal is filed by either party, all parties should participate in the hearing to protect your rights. If you need additional information, please contact the telephone claims office.

NOTICE TO CLAIMANT

☒ If you disagree with this decision, you may file an appeal by the appeal date shown on the previous page.

NOTICE TO EMPLOYER

☒ If you disagree with this decision, you may file an appeal by the appeal date shown on the previous page.

☐ You paid 75% or more of the base period earnings. Your experience rating record ☐ will be charged; ☐ will not be charged. Employer Account Number:

NRS 612.551: Any employer who has paid 75 percent or more of a claimant's base period wages has the right to protest charging of benefits paid to his account. The protest must be made within 10 business days of the notice of determination identifying the employer as having contributed 75 percent of the base period wages. Benefits paid as a result of an alternative base period as provided under NRS 612.344, or paid to individuals who leave to take other employment may not be charged to the former employer.

☐ This claimant has had two separate periods of employment with you. For this period of employment, you were not the 75% employer. A ruling for the prior period of employment will be issued by the Rulings Unit.

☐ As a direct reimbursement employer, you will be assessed your share of benefits paid.

☒ You did not pay 75% or more of the base period earnings and no ruling applies. Your account may be charged its proportionate share.

☐ Additional claim on existing benefit year, no ruling applies.

☐ This is a federal extension claim and your account will not be charged for benefits paid on this claim.

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EXHIBIT 9b

CASE NO. JA 89

RECEIVED
AUG 05 2011
NNAC 117 CARSON CITY, NV
UI OPERATIONS

Nadine Goodwin
7551 Young Circle
Reno, NV. 89511
775-250-0458
Nadinejoyinmysoul@yahoo.com

RECEIVED
AUG
NNAC 117 CARSON CITY, NV
UI OPERATIONS

August 3, 2011

To: State of NV – Department of Employment, Training and Rehabilitation

From: Nadine Goodwin

APPEAL
Postmark - Appeal Date 080411
Fax - Appeal Received Date 080511
Processed - Creation Date 080811
NNAC 117 Carson City, NV
UI OPERATIONS

Re: Notice of Determination dated 8-1-11

Dear Sirs:

I am seeking to appeal the decision stating I am not entitled to benefits. The Summary of Facts doesn't report my statements in the phone interview regarding the reason for discharge and that I was "aware the training was a requirement of the job at the time of hire, however failed to complete the program due to personal reasons".

I received a letter from the Board of Examiners on May 6, 2011, stating that I have been an intern since January 2011 and that I must complete my degree within 10 years from my date of internship application (letter attached). At the bottom of the letter it states if I wanted to appear before the board to explain my situation, send a letter requesting placement on the board for a July 8th meeting. I did so on May 9th (letter attached). Around the end of June 2011, I received an agenda stating I could appear before the board (letter attached). I contacted Wendy Lay to discuss appearing before the board and the documents I would be providing, she informed me to fax over my transcripts showing only 5 classes left before completing my BS in Criminal Justice so the board members could have them in their agendas. I would be completing my BS in January 2012 and could apply for application to test for becoming a Certified Drug/Alcohol Counselor. In the minutes of the board dated January 28, 2011 (attached), the board members agreed "if someone meets the 10 year limit without a degree that the board would consider a new application on a case by case basis". I have been working as the Adult Drug Court Coordinator for Washoe County for the past 10 years, never had a write up against my internship, six months from completing my degree without any breaks from school and in compliance with my current internship license. I did not believe there would be any

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reason not to extend my internship for six months based on their board minutes and no indication from Ms. Lay that I would need anything more to present to the board.

On July 8th, the board denied my request to extend my internship due to not having my BS. I was terminated on the spot, in speaking with Susanne Thompson. My license was good until July 15th (email attached from Wendy Lay). I spoke with my judges and they were shocked at this decision. I wrote to the board president requesting an appeal, to this date I have not heard back from them (letter attached). I spoke with Governor Sandoval's office, Anna Carrillo on Monday, August 1st and she informed me to send an email to the Governor and request an appeal of this decision to not extend my license for six months and to report that Diane Springborn, a board member and employee of Bristlecone Family Resources was apart of this decision that was handed down and did not excuse herself from this hearing.

There was no reason for me not to believe my license would be extended for six months, I have been in school the whole time, I reported to the phone interviewer, I was a single mother of three, worked full time and went to school for the past 10 years. I put all three of my children in college and went to school myself, I am six months away from obtaining my BS in Criminal Justice and can take the test in March 2012 for my Certification (see attached letter from Wendy Lay).

I would appreciate reconsideration of my unemployment benefits due to the information I have presented to your agency. I can not apply for any counseling positions at this time, but I am willing to do any type of work until I am reinstated with my license. Until I secure employment the unemployment benefits would help my current situation, as I am currently seeking to have an appeal hearing of the board's decision and looking for gainful employment.

Respectfully Submitted,

Nadine Goodwin

Nadine Goodwin

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EXHIBIT 10b

CASE NO. [illegible]

July 11, 2009

Steve Grierson, President
Board of Examiners for Alcohol, Drug and Gambling Counselors
870 Chaste Ct.
Henderson, NV 89015

Dear Mr. Grierson:

I appeared before the Board on Friday, July 8, 2011. I came before the Board requesting consideration of an extension of my internship past the ten year limit. As you know, my request was denied.

As you will recall, I presented my school transcripts showing that I have been continuously enrolled in course work toward my Bachelor's Degree since 2001. I also demonstrated that I am on track to complete my degree by February 2012, seven months from now). I had planned to take my certification exam the following month.

I have been working in my internship as a drug and alcohol counselor since 2001. At no time have I received a complaint against my internship. I have fulfilled all the requirements to date and maintained the required CEUs each year. I have received consistent positive reviews from my internship supervisor.

I researched the minutes of previous meetings of your Board and found that on January 28, 2011 you held a meeting that in part contained a discussion and decision on the 10-year internship limit. According to the minutes, Darlene Dufault "*commented that as she understands the limit, if someone meets the 10 year limit without a degree that the board would consider a new application on a case by case basis. The board agreed.*" (I have attached a copy of these minutes for your review.)

I am writing to ask you specifically why an exception could not be made in my case? Further, I would like to know what, if any, recourse I have regarding the Board decision. Is there a formal appeal process that I may present? Can you tell me if I will lose my accumulated hours toward my internship. Lastly, I would like to know what decision the Board reached on the same request for consideration presented by Jeff Schulz and James Perlongo that same day.

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EXHIBIT 11a JA 92

CASE NO.

As a result of the Board decision, I was terminated by my place of employment after almost eight years of employment which included a promotion from counselor to administrator in 2003. The reason given for my termination was the Board's decision not to extend my license to practice.

I remain committed to my work with individuals who are struggling with drug and alcohol addiction. I have accumulated 21,120 supervised internship hours toward my certification. I am five credits short of my Bachelor's degree which I am on track to complete within the next 6 months. I enjoy an outstanding reputation as an effective counselor and administrator of the Washoe County Drug Court. I refuse to believe that it has all been for nothing. Please advise what is my best avenue of recourse.

If I can answer any questions for you or provide you with any additional information, please don't hesitate to ask. I look forward to hearing from you at your earliest opportunity.

Respectfully,

Nadine Goodwin

Nadine Goodwin

cc: Judge Peter I. Breen,
presiding senior judge over Washoe County Drug Court

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EXHIBIT 11b

CASE NO. R-11-A-09261

Steven Grierson , President
Kevin Quint, Vice President
Dianne Springborn, Secretary/Treasurer
Steven Burt, Member
Darlene Dufault, Member
Larry Ashley, Member
Jacquelyn Wotherspoon, Member

STATE OF NEVADA
BOARD OF EXAMINERS
FOR
ALCOHOL, DRUG AND GAMBLING COUNSELORS
625 FAIRVIEW DRIVE, STE. 124
CARSON CITY, NV 89701
775-884-8922
Fax-775-884-8920
Website: www.alcohol.state.nv.us
E-mail:wlay@adgc.nv.gov

May 6, 2011

Ms. Nadine Goodwin (Viser)
7551 Young Circle
Reno, NV 89511

Dear Ms. Goodwin,

It has come to the attention of the board that you have been a certified intern since January 20, 2001 and there are no official transcripts in your internship file documenting the obtainment of a college degree. A certified alcohol and drug abuse counselor intern must complete their degree within 10 years from the date of their internship application.

NAC 641C.290 Education and training of certified intern; change of supervisor. (NRS 641C.200)

5. A certified intern must complete the education and training necessary to become a licensed or certified counselor not later than 10 years after the date on which he initially applies to become a certified intern.

(Added to NAC by Bd. of Exam'rs for Alcohol & Drug Abuse Counselors by R097-00, eff. 8-9-2000; A by R126-01, 1-28-2002; A by Bd. of Exam'rs for Alcohol, Drug & Gambling Counselors by R157-03, 12-16-2003)

If you have completed a college degree, please provide the board with official transcripts showing the awarding of the degree. If no official transcripts are received prior to June 30, 2011, it will be assumed that you have not completed a degree from an accredited university and your internship will expire on that date and cannot be renewed. If you wish to appear before the board to explain your situation, please send a letter requesting placement on the July 8, 2011 board meeting agenda to this office by June 24, 2011.

Sincerely,

Wendy Lay
Executive Director

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EXHIBIT 12 JA 94

CASE NO. A-23-A-09261

Nadine Goodwin
7551 Young Circle
Reno, NV. 89511
775-250-0458
nadinejoyinmysoul@yahoo.com

May 9, 2010

Dear Wendy Lay,

I am requesting placement on the July 8, 2011 board meeting to explain my situation about my education status and for my internship to be renewed. Thank you in advance for the opportunity to speak before the board.

Respectfully Submitted,

Nadine Goodwin

Nadine Goodwin

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EXHIBIT 13

CASE NO.

STATE OF NEVADA
BOARD OF EXAMINERS
FOR
ALCOHOL, DRUG AND GAMBLING COUNSELORS
VIA
VIDEO CONFERENCE

AGENDA

DATE: Friday, July 8, 2011

TIME: 9:30 AM

LOCATIONS: Attorney General's Bldg.
100 No. Carson Street,
Mock Court Room
Carson City, NV 89710

Grant Sawyer Bldg.
Attorney Gen. Conf. **Room #4500**
Las Vegas, NV

* DENOTES ITEMS THAT ACTION MAY BE TAKEN ON; THE BOARD MAY GO INTO CLOSED SESSION TO CONSIDER CHARACTER, COMPETENCE, MENTAL OR PHYSICAL HEALTH OF THE PERSON INVOLVED (NRS 241.030)

1 * Welcome, Call to Order and Approve Minutes for April 8, 2011 meeting.
2.* Financial Report
3.* State Fiscal Year 2012 Budget
5.* Quarterly Reports – Colin Hodgen & Adriane Chism
6.* Request of ~~Nadine Goodwin~~ for consideration of internship past ten year limit
7.* Request of Jeff Schulz for consideration of internship past ten year limit
8.* Request of James Perlongo for inactive status extension past ten year limit
9.* Request of Tonia Marcune to supervise more than five interns
10 * Request of Lynda Harper to supervise more than five interns
10.* Discussion and Decision – Legislative Regulation rewrite of NAC 641C – Kevin Quint
11.* Interviews and Decision on Candidates for Executive Director Position: Betsy Fedor and Barbara Robinson-Ramirez
12. Executive Director's Report (statistics & automation)
13.* Public Comments
14.* Discussion and Decision on Date of Next Meeting
15.* Adjournment

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EXHIBIT 14

CASE NO. R-11-A-09261

Note: No vote may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. (NRS241.020)

Please note: The Board of Examiners for Alcohol, Drug and Gambling Counselors may address agenda items out of sequence to accommodate persons appearing before the Board or to aid the efficiency or effectiveness of the meeting. Interested persons may present oral and/or written comments at the time and place of the meeting, or written comments may be sent no later than July 5, 2011. **Board of Examiners for Alcohol, Drug and Gambling Counselors, 625 Fairview, Suite 124, Carson City, NV 89701**

This notice has been posted in accordance with NRS Chapter 241 in the following locations:
Attorney General's Office 100 N. Carson St, Carson City, NV 89701
Nevada State Library and Archives - 100 N. Stewart St., Carson City, NV 89701
Capitol Police - Grant Sawyer Building - 555 E. Washington Blvd., Las Vegas, NV 89101
Legislative Counsel Bureau – 401 S. Carson St., Carson City, NV 89701
Board of Examiners for Alcohol, Drug and Gambling Counselors – 625 Fairview, Suite 124, Carson City, Nevada
Board of Examiners for Alcohol, Drug and Gambling Counselors Website

Certification on file in the office of the Board of Examiners for Alcohol, Drug and Gambling Counselors in Carson City, NV. In compliance with the Americans with Disabilities Act (ADA) please contact the Board of Examiners for Alcohol and Drug Counselors, (775) 884-8922, if you are disabled or require special services to attend this meeting.

MINUTES FOR THE BOARD OF EXAMINERS FOR ALCOHOL, DRUG AND GAMBLING COUNSELORS

MEETING DATE: JANUARY 28, 2011 – Via teleconference
MEETING TIME: 9:00 AM
MEETING LOCATION: Western Nevada Community College
2201 W. College Parkway,
CED Room 307
Carson City, Nevada

College of So. Nevada
Cheyenne Campus, Main Bldg. #2647B
3200 East Cheyenne Ave.

Members Present: Steven Grierson, Kevin Quint, Larry Ashley, Dianne Springborn, Steven Burt, Darlene Dufault, and Jacquelyn Wotherspoon.
Staff Present: Wendy Lay, Executive Director, Connie Corley, Executive Assistant, Saul Singer, Investigator and Dep. Attorney Generals Sarah Bradley and Colleen Hemingway.
Members of the public present: See sign-in sheets

Item 1: Welcome, Call to Order, Approval of the Minutes
Steven Grierson called the meeting to order at 9:17 AM. Wendy Lay informed the board that there are no minutes for the December 3, 2010 meeting because she has not yet received the dvd recording of the meeting from the college.

Item 2: Financial Report
Wendy Lay presented the financial report. She stated that she met with the accountant and had the $8879.79 posted as a credit as requested by the board at the last meeting. She added that there will have to be a revised budget as there are some items that need to be adjusted but as of right now we are about $1,000 in the black. Larry Ashley made the motion to accept the financial report. Dianne Springborn seconded the motion. The motion carried.

Item 4: Settlement Agreements for Adriane Chism and Lurline Wells
Wendy Lay reported that she sent notices to Adriane Chism and Lurline Wells that they could attend the meeting but it was not required that they attend. Neither were in attendance. Wendy Lay presented the settlement agreement for Adriane Chism. Sarah Bradley, Dep. A.G. stated that she has the signed agreement. Steve Grierson asked if this agreement is similar to other agreements that the board has approved in the past. Wendy Lay reported that this agreement does not have an administrative fee as others in the past have and it is probably less severe since Adriane self-reported. Steve Grierson stated that he's not sure if there is enough information about the situation and the status of the individual in this agreement for the board to feel comfortable making a decision on this agreement. Steve Grierson requested that there be more information presented to the board that would clarify the severity of the individual's problem and current status. Kevin Quint said if there was an evaluation done he would like to see that [illegible]

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EXHIBIT 15097 82
CASE NO. 11-A-09261

will his license remain active until another disciplinary hearing can be scheduled? Deputy A.G. Colleen Hemingway replied "Yes'. Kevin Quint made the motion that the board accept the surrender agreement from Bobby Owens. Larry Ashley seconded the motion. The motion carried.

Disciplinary Hearing for Randy Tiner: Steve Grierson informed that board that Mr. Tiner was present in Las Vegas. Deputy A.G. Sarah Bradley stated that she had a phone conversation with Mr. Tiner and that he agreed in that conversation to the introduction of the three exhibits that have been presented to the board in this case: the Complaint and Notice of Hearing, the Agreement for Reprimand/Fine, and the letter sent to him from Deputy A. G. Keith Marcher. She requested that Mr. Tiner confirm their conversation and his agreement that what she has presented to the board is true and correct. Mr. Tiner identified himself and confirmed that he spoke with Sarah Bradley yesterday and confirmed that what she presented to the board was true and correct. Deputy A.G. Sarah Bradley informed the board would be doing today is a Stipulation of Facts and Liability since both parties agree that the facts are true and the violation has occurred and after that is approved the board and Mr. Tiner can discuss the penalty phase. Larry Ashley made the motion to accept the Stipulation of Facts. Dianne Springborn seconded the motion. The motion carried. Deputy A.G. Sarah Bradley instructed the board that there should now be a discussion of penalty and that Mr. Tiner should present his case first. Deputy A.G. Sarah Bradley requested that Mr. Tiner be sworn in. She swore in Mr. Tiner and asked Mr. Tiner to present his side of the case. Mr. Tiner stated that he thought the penalty phase was already decided in the original agreement and that he has not been able to afford to pay the fees due to the economic situation in Southern Nevada. He requested "...the board allow me to pay $50 per month and some months I will pay more". Steve Grierson asked if anyone has a problem with allowing Mr. Tiner an extension. Wendy Lay reported to the board that Mr. Tiner has been noticed three times, the most recent being Mr. Marcher's letter dated October 20, 2010 and he has only responded in the last month. Steven Burt expressed his concern that since Mr. Tiner has not yet paid anything that maybe the terms of the payment agreement should be spelled out. There was discussion as to the length of time necessary for Mr. Tiner to pay the fees. Larry Ashley made the motion "Mr. Tiner will pay the whole $500 by December 31, 2011 and will make $50 per month minimum payments". Steve Burt seconded the motion. The motion carried. Deputy A.G. Sarah Bradley requested that the board and Mr. Tiner define when the first payment is due. Mr. Tiner stated ' I will make the first payment by February 15th and monthly thereafter".

Item 5: Discussion and Decision on 10-year internship limit. (item taken out of order)

Darlene Dufault asked the board if an intern does not meet the education requirement in their 10 year limit can they apply for a new internship? Steve Grierson stated that the 10 year limit was discussed at length and it was decided that 10 years was an appropriate period of time for someone to obtain a degree. Dianne Springborn stated that the 10 year limit was adequate that she herself through much sacrifice had to go back to school to obtain her degree. Darlene Dufault commented that as she understands the limit, if someone meets the 10 year limit without a degree that the board would consider a new

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application on a case by case basis. The board agreed. Kevin Quint stated that the board needs to consider the fact that if they can't reapply we could lose a large number of interns in the future.

Item 6: Discussion and Decision on Legislative Committee Report
Kevin Quint summarized the discussions of the legislative committee. He stated that the committee decided that if boards are to be consolidated that this board should only support consolidation with other behavioral health licensing boards. Kevin Quint reported that the committee looked at issues as to whether they were NRS or NAC or policy issues. He reported that the issue of problem gambling counselors being qualified to rule out manic episodes is really a DSM issue and not a NRS or NAC issue. Steve Grierson expressed a concern that if a problem gambling counselor was sued and was asked what allows them the authority to rule out a manic episode they would have to be able to respond to that question. The committee discussed the need for the board to rewrite the regulations in the coming year. The question came up as to whether the board needs to hire a lobbyist. Steve Grierson stated that he believes that the board needs to hire a lobbyist and the benefit of hiring a lobbyist is that they are out there every day in case an issue like the subsuming of this board comes up in the legislature and I would support contracting with Jeanette Belz for the session. Dianne Springborn asked if we can afford to hire a lobbyist? Wendy Lay reported that last session we contracted with Jeannette Beltz for $7,000. Deputy A. G. Sarah Bradley reminded the board that this item needs to be on the agenda for any action to be taken. Kevin Quint stated that the legislative committee will evaluate what needs to be done and come back to the board with an action item.

Item 7: Discussion and Decision on the peer counseling committee report.
Kevin Quint reported that Brad Greenstein attended the committee meeting and identified the fact that in Nevada there are already people in recovery working as peer support workers under a different name such as advocates or house managers, etc. but nothing is formalized. The committee discussed some of the issues and decided that the committee would like to see an environmental scan and check with NAADAC to see if they have anything on this. The committee discussed whether this is a board issue or a SAPTA issue and should SAPTA or CASAT be involved in these discussions. Larry Ashley stated that UNLV is already committed to work with the Foundation for Recovery to develop a model. Steve Grierson stated that this is a gray area when it comes to scope of practice but if the federal government is going to fund it, somehow this will happen. Darlene Dufault stated that she is having a hard time differentiating how this level would be different from interns since internship is easy to obtain. Kevin reported that the committee will be meeting again to continue the conversation on this issue. Wendy Lay reported that she was able to secure the same facilities for Feb. 28th for the next committee meetings.

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EXHIBIT 15C
CASE NO. [illegible] JA 99

Item 8: Discussion and Decision on the Memo of Understanding with the Office of the Attorney General's Office.
Wendy Lay reported that the current budget for legal expenses is $5,000 and she would recommend $6,000 - $7,000. Larry Ashley made the motion to approve the MOU with the Attorney General's office for 4 hours a month for a total of 48 hours.

Item 10: Executive Director's Report (item taken out of order)
Wendy Lay reported that Dianne Springborn visited the office and reviewed all the fiscal procedures and how the board's fiscal system works. She reported that the final imaging system is undergoing its final testing this week. The programming to tie the imaging system to the licensing system has to be completed but that the system should be up within the next few weeks. Wendy Lay alerted the board that if the legislature passes any new legislation that would negatively impact her retirement benefits take would effect on July 1, 2011 she would have to resign and retire prior to June 30, 2011in order to maintain her benefits. She also stated that she does not think that this will happen but felt the need to alert the board.

Item 11: Public Comments
There were no public comments.

Item 12: Discussion and Decision on date of Next meeting.
The board decided to leave it up to the Executive Director.

Item 13: Adjournment
Larry Ashley made the motion to adjourn the meeting. Darlene Dufault seconded the motion. The motion carried. The meeting adjourned at 11:26am.

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EXHIBIT 15d
CASE NO. R-11-A-09261 JA100

Print - Close Window

Subject:RE: Internship
From: Wendy Lay (wlay@adgc.nv.gov)
To: nadinejoyinmysoul@yahoo.com;
Date: Mon, 11 Jul 2011 14:26:08

Yes

Wendy Lay
Executive Director
Nevada Board of Examiners for Alcohol, Drug & Gambling Counselors
625 Fairview Drive, Ste. 124
Carson City, NV 89701

From: Nadine Viser [nadinejoyinmysoul@yahoo.com]
Sent: Monday, July 11, 2011 2:16 PM
To: Wendy Lay
Subject: Re: Internship

Wendy, do I send my forms into the Board of Examiners Office I have for you? I will send those papers in tomorrow. Thank you...

Nadine Goodwin

God is good and worthy of all Praises.

From: Wendy Lay <wlay@adgc.nv.gov>
To: Nadine Viser <nadinejoyinmysoul@yahoo.com>
Sent: Monday, July 11, 2011 8:46 AM
Subject: RE: Internship

Your internship expires on July 15th - you're good until then. Prior to that you should place your internship on inactive status (Simply send in a letter requesting inactive status and $25) so that we keep your file. Once you obtain your bachelor's degree - you'll need to request an application for certification to take the exam.

Wendy Lay
Executive Director
Nevada Board of Examiners for Alcohol, Drug & Gambling Counselors
625 Fairview Drive, Ste. 124
Carson City, NV 89701

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EXHIBIT 16a

CASE NO. [illegible]

From: Nadine Viser [nadinejoyinmysoul@yahoo.com]
Sent: Friday, July 08, 2011 1:41 PM
To: Wendy Lay
Subject: Internship

Good afternnon Wendy,

Would you let me know how I go about saving my intern hours so when I complete my BS I can apply to take the test for my LADC? Can I work under the current internship until the 15th or does it end right

now? Thank you for your response to my questions.

Nadine Goodwin
God is good and worthy of all Praises.

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EXHIBIT 166

CASE NO.

Print - Close Window

Subject:RE: Inactive Internship
From: Wendy Lay (wlay@adgc.nv.gov)
To: nadinejoyinmysoul@yahoo.com;
Date: Mon, 18 Jul 2011 08:36:43

You do not need a supervision agreement while inactive. Once you obtain your BA, apply for certification. The written tests are given 4 times a year - March, June, Sept. & Dec. - your application will need to be submitted in the first week of Jan. for the March test and by the first week of March for the June test.

Wendy Lay
Executive Director
Nevada Board of Examiners for Alcohol, Drug & Gambling Counselors
625 Fairview Drive, Ste. 124
Carson City, NV 89701

From: Nadine Viser [nadinejoyinmysoul@yahoo.com]
Sent: Friday, July 15, 2011 4:49 PM
To: Wendy Lay
Subject: Inactive Internship

Good afternoon Wendy,

I received your letter regarding my inactive status. When I get my BS in January and file an application to take the test for CADC, will I still need to submit a supervisor agreement form by July 13, 2012? Also, can I attend classes to stay on top of getting CEU's? I understand I cannot do any substance abuse counseling and I won't. Thank you for your response and have a good weekend.

Nadine Goodwin

God is good and worthy of all Praises.

RESTRICTED:
NRS 612.265 limits the use of this material to unemployment compensation litigation except for specified exceptions.

EXHIBIT 17

CASE NO.

DC-9900035048-082
CV12-00253 NADINE GOODWIN VS. CYNTHIA 11 Pages
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JOEY ORME HASTINGS
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DEPUTY

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN, Petitioner/Plaintiff, vs. CYNTHIA JONES and RENEE OLSON, as former and present Administrators; STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, EMPLOYMENT SECURITY DIVISION; and BRISTLECONE FAMILY RESOURCES, a Nevada Corporation, Respondents/Defendants.	Case No. CV12-00253 Dept. No. 3

PETITIONER'S OPENING BRIEF

Comes Now, Petitioner/Plaintiff Nadine Goodwin, by and through undersigned counsel and files her Opening Brief in this matter.

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Jurisdictional Statement

This is a petition for judicial review. This District Court's jurisdiction is based on N.R.S. §§ 612.525 and 233B.130 which governs judicial reviews.

The date the underlying decision was made final was January 17, 2012. This Petition was timely filed on Monday January 30, 2012 - which is within the 11 day time limit of N.R.S. § 612.525(1).

This Petition is from a final decision of the Nevada Department of Employment, Training and Rehabilitation ("DETR").

Statement of Issues Presented for Review

1. Did the DETR err by finding that Ms. Goodwin was disqualified from unemployment benefits based on committing an act of misconduct in connection with her work?
2. Is not graduating from college with a Bachelor's degree within a specified time limit an intentional act with an element of wrongfulness?
3. Is not taking enough college classes within a specified time limit (established by a third party) an act connected with work?

Statement of the Case

Ms. Goodwin ("Goodwin") worked for Bristlecone Family Resources ("Bristlecone"). Ms. Goodwin did not finish her college degree and was terminated for this. She was then denied unemployment benefits on the grounds of misconduct.

Statement of Facts

1. Ms. Goodwin worked for Bristlecone as the Adult and Family Drug Court Administrator. (ROA 66).

2. While not a job function, Bristlecone listed that Goodwin was to "secure and maintain BADA Intern/BADA Counselor status when appropriate" under Essential Functions. (emphasis added) (ROA 6, ¶ 21)
3. Goodwin was a single mother in addition to working full time for Bristlecone and was constantly in school working on her Bachelors of Arts (B.A.) degree. (ROA 31, 41, 45:1-3, 72).
4. Goodwin was under the impression that her Internship would be extended based on conversations she had with the Board of Examiners for Alcohol, Drug and Gambling Counselors ("Board"). (ROA 72).
5. Goodwin was scheduled to complete her B.A. in January of 2012. (ROA 42, 49, 75).
6. Goodwin was terminated on July 8, 2011. (ROA 31, 63).
7. Goodwin was discharged for losing her license. (ROA 32, 71).
8. Goodwin's internship was still valid when she was terminated and did not expire until July 15, 2011. (ROA 86).
9. When Goodwin finished her BA degree, she was qualified to apply for a full license. (ROA 88).
10. Bristlecone's policy allowed for a reassignment if one loses their intern status. (ROA 70).
11. Bristlecone would have put her in an administrative role if they had one open. (ROA 38:22-23).
12. The Board's position was that if one may reapply for an internship if they did not finish their college degree within ten years and the Board would consider such an application, otherwise the Board "could lose a large number of interns in the future." (ROA 83 – 84).
13. Goodwin was always in contact with the Executive Director of the Board and was always taking college classes, doing her required hours, and taking her required CUE's. (ROA 45:23-24, 47:1-2, 15-18).

14. Goodwin was under the belief the Board was going to extend her license for another six months as well as the Executive Director of the Board. (ROA 44:7-11; 76).
15. Goodwin was not able to go to school full time as well as work and take care of her children. (ROA 47:25-27).
16. Goodwin has always taken the maximum classes possible and two classes are offered every 6 weeks. (ROA 49 – 50).
17. Goodwin was not given any warnings prior to her termination. (ROA 72).
18. Goodwin's internship would have expired on July 15, 2011 even if she had obtained her BA. (ROA 86).
19. Goodwin obtained her Associate's Degree. (ROA 54 – 55).

Summary of Argument

To be denied unemployment benefits, an employee must have engaged in misconduct – which is defined as conduct while on the job. Goodwin did not engage in any conduct in connection with work and cannot meet the legal definition of misconduct. Additionally, the employer did not meet its evidentiary burden and show any willful violation of an employment related policy.

Argument

Introduction

There has been no dispute as to the reason Ms. Goodwin was denied her unemployment benefits – which is because she did not finish her Bachelor's degree within a specified time frame. The DETR labeled this as an act of misconduct in connection with her employment.

1. The employer never showed any misconduct of Goodwin.

While Nevada is a right to work state and may be fired at any time with or without cause, a termination does not equate to an employee not being entitled to

unemployment benefits. In fact, unemployment benefits are one of the few rights an employee has in this state. The purpose of Nevada's unemployment system is to provide temporary benefits to those that involuntarily lost their employment. *Clark County Sch. Dist. v. Bundley*, 148 P.3d 750, 754, 122 Nev. 1440 (Nev. 2006).

To be denied unemployment benefits, an employee must either leave their employment without good cause (N.R.S. § 612.380(1)), or be fired for misconduct (N.R.S. § 612.385). "[T]he unemployment compensation law, NRS Chapter 612, presumes that an employee is covered by the system." *Clark County Sch. Dist. v. Bundley*, 148 P.3d at 754 (employer did not meet its burden showing excessive absences constituted willful misconduct). Only proof of willful misconduct can overcome this presumption. However, it is the burden of the employer to show misconduct in fact occurred by a preponderance of the evidence. Id. at 756. Misconduct must also involve an "element of wrongfulness." Id. at 756 (citation omitted). Misconduct warranting termination and misconduct warranting a denial of unemployment benefits are two separate issues. Id. (footnote 13)(citation omitted). Disqualifying misconduct requires an employee to "deliberately and unjustifiably violate(s)" a policy. Id. at 754. Only after "the employer makes an initial showing of willful misconduct" does the burden shift to the employee. (emphasis added). Id. at 756. When the record is absent of showing that an employee acted intentionally, misconduct is not shown. *Kolnik v. Nevada Employment Sec. Dept.*, 908 P.2d 726, 729, 112 Nev. 11 (Nev. 1996).

In this matter, employer never even argued that Goodwin's inability to complete her college degree or that she temporarily lost her license had any element of wrongfulness, was done deliberately to harm the employer or that it was even misconduct. In fact, her employer presented the opposite and stated they would have retained her if they would have had another opening within the company. (ROA 38:22-23). The only testimony regarding intent was Goodwin's uncontroverted testimony that she stayed in touch with the Board regarding her circumstances and

believed her license would be extended. Additionally, at the time of the unemployment hearing, the outcome of whether Goodwin's license would be extended still not been decided. (ROA 53:22-25). In short, there was no showing or even an allegation of misconduct as shown by her employer's desire to retain her. Without proof or even an allegation of an intentional or deliberate wrongdoing (as compared to life circumstances) by Goodwin, the legal definition of misconduct is simply not met. Simply being no longer qualified to perform a job does not create a misconduct situation.

2. Goodwin did not perform any wrongful act while at work.

In addition to Bristlecone not alleging or showing any deliberate wrongdoing by Goodwin, the legal definition of misconduct cannot be met for another reason. Misconduct is defined as follows.

> NRS 612.385 Discharge for misconduct. A person is ineligible for benefits for the week in which the person has filed a claim for benefits, if he or she was discharged from his or her last or next to last employment for <u>misconduct connected with the person's work</u>, ... (emphasis added)

An employee may not be fired for off duty conduct even if the employer disapproves of off duty conduct. The misconduct must be specifically connected with the person's work. In this matter, Goodwin did not perform some wrongful act. All that occurred was that she was unable to take enough classes to finish her Bachelor's degree even though she was taking the maximum classes she could. (ROA 49 – 50). The taking of classes of course was not misconduct and in fact was desired, not by her employer, but by the Board so she could finish her internship. The not taking of a college class is simply not an act of misconduct, especially an act that is connected with her work – unlike an employee that steals from a cash register while working which is clearly misconduct connected with work. Because there was also no

showing that Goodwin did some intentional wrong act that was actually connected with her employment, there was simply no misconduct.

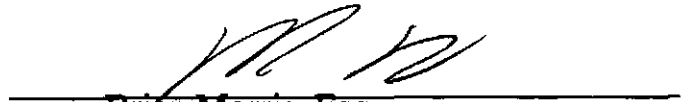
Conclusion

Based on Ms. Goodwin not having done any intentional wrongdoing and that no such allegation or proof was presented, the decision to deny her unemployment benefits must be reversed. Additionally since the taking of college classes is not an act connected with her employment, the legal definition of misconduct could not be met – which also requires that Ms. Goodwin be granted her unemployment benefits.

Affirmation

I certify that this filing does not contain the social security number of any person.

Dated this 9th day of May, 2012.



Brian Morris, Esq.

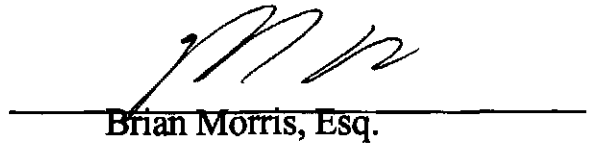
CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using a Times New Romans font with a font size of 14.

I further certify that this brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it does not exceed 6 pages.

Finally, I hereby certify that I have read this brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated this 9th day of May, 2012.



Brian Morris, Esq.

CERTIFICATE OF SERVICE

I certify that on the 9th day of May, 2012, I filed the foregoing with the Clerk of the Court, which sent notification of such filing using the eflex filing/notification system to:

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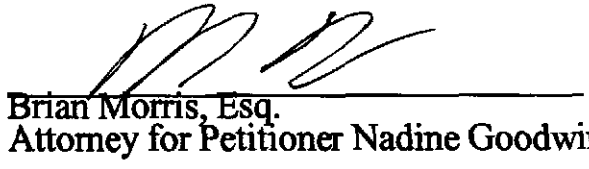

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SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN, Petitioner, vs. CYNTHIA JONES and RENEE OLSON, as former and present Administrators; STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, EMPLOYMENT SECURITY DIVISION; and BRISTLECONE FAMILY RESOURCES, a Nevada Corporation, as Employer, Respondents.	CASE NO.: CV12-00253 DEPT. NO.: 3

ESD'S ANSWERING BRIEF

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COMES NOW, Respondent, Administrator, State of Nevada, Department of Employment, Training and Rehabilitation, Employment Security Division (ESD), by and through counsel, J. Thomas Susich, Esq., and hereby submits ESD's Answering Brief, as follows:

STATEMENT OF THE CASE

Nadine Goodwin (claimant) was employed as an adult and family drug court administrator from September 2, 2003, to July 8, 2011, by Bristlecone Family Resources (employer). (Record, 13) Claimant was terminated by the employer for misconduct. (R, 13)

Claimant filed a claim for unemployment insurance benefits. The claim was assigned to an ESD adjudicator for investigation. The adjudicator issued a determination on August 1, 2011, finding that the claimant was not entitled to receive unemployment insurance benefits because the claimant was guilty of industrial misconduct under NRS 612.385. (R, 73) Claimant appealed and an evidentiary hearing was held before the Administrative Tribunal (referee) on September 13, 2011. (R, 16-58) The referee issued a decision on October 3, 2011, affirming the determination denying benefits under NRS 612.385. (R, 13-15)

Claimant then filed an appeal to the Board of Review. The Board issued an order on January 3, 2012, declining further review under NRS 612.515; thereby adopting the findings of fact and conclusions of law of the referee and

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affirming the decision denying benefits. (R, 10) In its order, the Board notified the claimant that any appeal to the District Court had to be filed by January 30, 2012. (R, 13)

Claimant filed the Petition for Judicial Review with the District Court on January 30, 2012, and then filed an Amended Petition on February 14, 2012. (R, 2)

STATEMENT OF THE FACTS

The Board of Review is the final fact-finder under NRS 612.530. The Board adopted the factual findings of the referee. The referee and Board found as follows:

1. The claimant worked for the employer, a non-profit drug and alcohol rehabilitation center, from September 2, 2003, to July 8, 2011.

2. Claimant was approved by the Nevada State Board of Examiners on January 20, 2001, to become a certified intern and work as an adult and family court administrator. One of the conditions of her employment was that she was required to obtain a bachelors degree within ten (10) years from the date of her internship application. (R, 13)

3. Claimant began work in 2003. Claimant was also required as a condition of her employment to maintain an internship certification on a yearly basis from the Board of Examiners. Failure to maintain the internship certification could result in termination. (R, 13)

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4. The employer is required by law to comply with the Board of Examiners' decisions. (R, 13)

5. The claimant obtained an associates degree from TMCC in 2010. The claimant then took two classes every six weeks online with Walden University. (R, 13)

6. On May 6, 2011, the Board of Examiners sent the claimant a letter requesting her school transcript to verify her completion of a bachelor's degree. Claimant was informed if she had not obtained her degree by June 30, 2011, her internship license would not be renewed. (R, 14)

7. The claimant had not obtained her degree. She had five more classes to take to obtain her degree. (R, 14)

8. The claimant requested that the Board of Examiners extend her intern certification for six months to allow her time to obtain her bachelors degree. The Board of Examiners denied the claimant's request. (R, 14)

9. On July 11, 2011, the employer was notified that the claimant's internship certification had not been renewed. Claimant could not perform her job without the certificate; and therefore, she was terminated from her position. (R, 14)

10. The claimant was aware when she submitted her application to become an intern in 2001 that in order to maintain her intern certification she would have to obtain her bachelors degree within ten years. (R, 14)

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11. Claimant knew when she commenced working for the employer in 2003 that she had to obtain her bachelors degree by 2011 in order to retain her certification and that she could not continue to work without having the degree. (R, 14)

12. Despite having ten years to obtain a four-year degree, the claimant did not do so. She gambled that the Board of Examiners would extend the time for her to obtain her degree. The Board did not extend the time as she had hoped. (R, 14)

13. The claimant did not act in a proactive manner in scheduling her classes to ensure that she met the requirements to keep her job. (R, 14)

14. The employer had a reasonable expectation that the claimant would comply with the requirements of the Board of Examiners and obtain the necessary degree to maintain her employment. (R, 15)

15. Claimant's failure to obtain her degree demonstrates a deliberate disregard of her employer's reasonable requirements. Claimant's conduct also shows such a degree of negligence as to show a disregard for the employer's interests and her duties as an employee. (R, 15)

16. Claimant's conduct was wrongful. NRS 612.385 misconduct has been established. (R, 17)

17. The decision of the Administrator is affirmed. (R, 17)

///

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STANDARD OF REVIEW

If supported by evidence and in the absence of fraud, the decision of the Board is conclusive. NRS 612.530(4); *State Employment Sec. Dept. v. Weber,* 100 Nev. 121, 676 P.2d 1318 (1984). In reviewing the Board's decision, this Court is limited to determining whether the Board acted arbitrarily or capriciously. *State Emp. Sec. Dept. v. Taylor,* 100 Nev. 318, 683 P.2d 1 (1984); *McCracken v. Fancy,* 98 Nev. 30, 31, 639 P.2d 552 (1982); *Bryant v. Private Investigator's Lic. Bd.,* 92 Nev. 278, 549 P.2d 327 (1976); *Lellis v. Archie,* 89 Nev. 550, 516 P.2d 469 (1973).

In performing its review function, this Court may not substitute its judgment for that of the Board of Review, *State Employment Sec. Dept. v. Weber,* 100 Nev. 121, 676 P.2d 1318 (1984); *McCracken, supra,* nor may this Court pass upon the credibility of witnesses or weigh the evidence, but must limit review to a determination that the Board's decision is based upon substantial evidence. NRS 233B.135(3).

Substantial evidence has been defined as that which "a reasonable mind might accept as adequate to support a conclusion." *Richardson v. Perales,* 402 U.S. 389 (1971). Stated another way, it has been held that "substantial evidence" means only competent evidence which, if believed, would have a probative force on the issues. *State ex rel. Util. Consumers Council v. P.S.C.,* 562 S.W.2d 688 (Mo. App. 1978). Evidence sufficient to support an administrative decision is not equated with a preponderance of the evidence, as there may be

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cases wherein two conflicting views may each be supported by substantial evidence. *Robinson Transp. Co. v. P.S.C.,* 159 N.W.2d 636 (Wis. 1968).

The burden to be met by Respondent is to show that the Board's decision is one which could have been reached under the facts of this case. This Court is confined to a review of the record presented below, *Lellis v. Archie,* 89 Nev. 550, 516 P.2d 469 (1973), at 553-554, and the Board's action is not an abuse of discretion if it is supported by substantial evidence in the record. *State, Dept. of Commerce v. Soeller,* 98 Nev. 579 at 586, 656 P.2d 224 (1982); *Lellis, supra; North Las Vegas v. Pub. Serv. Comm'n,* 83 Nev. 278, 426 P.2d 66 (1967); *Randono v. Nev. Real Estate Comm'n,* 79 Nev. 132, 379 P.2d 537 (1963).

In the case of *Clark County School District v. Bundley,* 122 Nev. 1440, 148 P.3d 750 (2006), our Nevada Supreme Court stated as follows:

> When reviewing an administrative unemployment compensation decision, this court, like the district court, examines the evidence in the administrative record to ascertain whether the Board acted arbitrarily or capriciously, thereby abusing its discretion. With regard to the Board's factual determinations, we note that the Board conducts de novo review of appeals referee decisions. Therefore, when considering the administrative record, the Board acts as 'an independent trier of fact,' and the Board's factual findings, when supported by substantial evidence, are conclusive.
>
> Accordingly, we generally review the Board's decision to determine whether it is supported by substantial evidence, which is evidence that a reasonable mind could find adequately upholds a conclusion. In no case may we substitute our judgment for that of the Board as to the

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> weight of the evidence. Thus, even though we review de novo any questions purely of law, the Board's fact-based legal conclusions with regard to whether a person is entitled to unemployment compensation are entitled to deference.

Therefore, while a party who is appealing an adverse determination may have the burden of producing sufficient evidence to convince the administrative tribunal that his case has been proved by a preponderance of the evidence, the reviewing court may only determine whether there was substantial evidence in the record from which a reasonable fact-finder could have concluded whether the case was proved by a preponderance of the evidence. In other words, the burden to be met by Respondent, at this level, is to show that the Board's decision is one which could have been reached under the evidence in the record; not that it is the "only" decision or even the "best" decision which may be suggested by the evidence contained within the record.

ARGUMENT

The facts of this case indicate that the claimant lost her certification OR "licensure" and thus was unable to continue working in her position with the employer. (R, 32) The claimant was notified in 2001, ten years before she lost her job, that in order to be employed in the position she held she had to obtain a bachelors degree by 2011. (R, 32-34) Claimant testified that she was fully aware of the requirement that she maintain her licensure in 2003, when she accepted the job from her employer. In fact, she was informed by the Board of Examiners in

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2001 of the requirement. (R, 41) Despite knowing of the requirement, the claimant did not complete the condition in order to continue her employment. (R, 35)

Claimant argues that she was "involuntarily" rendered unemployed through no fault of her own. (Opening Brief, 7) The facts show, and the referee and Board found, that claimant was not "involuntarily" rendered unemployed. Instead, she negligently failed to complete the requirement necessary to keep her license or certification and it was her fault and nobody else's that she lost her job. (R, 14-15) Indeed, claimant testified that she knew the deadline was coming up and that she could have taken more classes. However, claimant just figured that she would get an extension and decided not to take the extra classes. (R, 45)

Claimant argues that she cannot be denied benefits because her conduct was not "wrongful" and therefore while she was properly discharged from her job, she is still entitled to unemployment insurance benefits. Claimant primarily bases her contention upon the argument that she did not deliberately violate any policy of her employer. (OB, 7)

The definition of misconduct was clearly established by the Nevada Supreme Court many years ago:

> The term misconduct is used in an industrial sense, not a criminal sense. Nevada's highest administrative appeal body, the Board of Review, has defined misconduct as a deliberate violation or disregard on the part of the employee of standards of behavior which his employer

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> has the right to expect. Carelessness or negligence on the part of the employee of such a degree as to show a substantial disregard of the employer's interests or the employee's duties and obligations to his employer are also considered misconduct connected with the work. Mere inefficiency or failure of performance because of inability or incapacity, ordinary negligence in isolated instances, or good faith errors in judgment or discretion are excluded in the definition of misconduct. *Barnum v. Williams,* 84 Nev. 37, at 41; 436 P.2d 219 (1968).

Claimant maintains that she did not obtain her degree within the time allowed because she believed that the Board of Examiners would extend the time. In other words, ten years was not long enough to obtain a four-year degree. Claimant testified that she started attending TMCC in 1999. (R, 50) She apparently got her associates degree in 2010. She did not even commence taking her final two years of education toward her bachelor's degree with an online university named Walden University until 2010. (R, 55) Claimant did this knowing that the Board of Examiners had established July of 2011 as the date by which she had to have earned her bachelors degree.

There is no question that the claimant knew, ten years before she was terminated, that she had to obtain her bachelors degree in order to keep her job. Claimant did not meet the requirement for maintaining her certification to perform her job. Obtaining a degree was directly connected to the claimant's employment. Claimant's argument to the contrary is simply not consistent with the facts.

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The Nevada Supreme Court has held that off-duty conduct which has a direct nexus to an employee's job is connected with her work under NRS 612.385. *Clevenger vs. Employment Security Department,* 105 Nev. 145, 770 P.2d 866 (1989); *Nevada Employment Security Department vs. Holmes,* 112 Nev. 275, 914 P.2d 611 (1996). Expecting an employee to maintain a license or certification which will allow the employee to continue to work is intimately connected with work. Doctors must maintain medical licenses, attorneys must maintain licenses to practice law, teachers must maintain their teaching certification, *etc.* There is no question that claimant's requirement to obtain a bachelors degree was connected to her work. In fact, the claimant knew in 2003 when she started working for the employer that she had to have her bachelor's degree by 2011 or she would lose her certification and, consequently, lose her job. The referee found and the Board affirmed that the employer had the reasonable right to expect the claimant to maintain her certification. The employer could not allow the claimant to perform her job function without certification. (R, 15)

The fact is that the claimant did not diligently take reasonable steps to insure her continued ability to be employed. This Court is not permitted by law to substitute its opinion or judgment regarding the facts of the case for that of the Board of Review. Nor is the Court allowed to modify the decision of the Board regarding eligibility for benefits unless the Court determines that the Board violated the law in reaching its decision.

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In *Kraft v. Nev. Emp. Sec. Dept,* 102 Nev. 191, 717 P.2d 583 (1986), the Nevada Supreme Court, quoting *Leeson v. Basic Refractories,* 101 Nev. 384, 705 P.2d 137 (1985), stated:

> Pursuant to NRS 612.515(3), the Board of Review is authorized to affirm, modify or reverse a decision of the appeals referee. The Board may act solely on the basis of evidence previously submitted, or upon the basis of such additional evidence as it may direct to be taken.
>
> The district court's power to review a decision of the Board, however, is more limited. Where review is sought the factual findings of the Board, if supported by evidence ... shall be conclusive, and the jurisdiction of the court shall be confined to questions of law. NRS 612.530(4). Our decisional law is to the same effect. ... In short, while the Board of Review is empowered to conduct a de novo review of the decisions of the appeals referee, the district court has no similar authority with respect to the decisions of the Board. (Emphasis Supplied)

The referee and the Board both concluded that the claimant was guilty of misconduct because she did not act prudently in scheduling and taking her classes in order to insure that she met the conditions of her employment of which she was informed years in advance. The definition of misconduct not only includes a deliberate violation of an employer's policy; it also includes: "Carelessness or negligence on the part of the employee of such a degree as to show a substantial disregard of the employer's interests or the employee's duties and obligations to her employer..." *Barnum, supra.* Claimant carelessly allowed the time to slip by and waited until the very eve of her termination with the hope

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she would get an extension from the Board of Examiners. She then failed to obtain an extension and placed her employer in a situation where it had no choice but to terminate her. (R, 37) The employer had no ability to control the requirements of the Board of Examiners. (R, 38)

The employer had the right to expect the claimant to take reasonable and prudent action to maintain her certification in order to keep her job. Claimant's lack of concern can only be considered indifference to the reasonable expectations of her employer and her duties to maintain her employment. "... [T]here must be a point when inaction can only be viewed as the product of indifference. Implicit in the board's decision is a finding that the appellant failed to act reasonably and in good faith under the circumstances." *Kraft, supra,* 102 Nev. at 194. The *Kraft* decision, while factually different than the case at bar, is legally on-point. The Nevada Supreme Court has held that an employee must take reasonably prudent steps to comply with the reasonable expectation of her employer. In this case, claimant negligently failed to take reasonable steps to insure that she obtained her required degree within the time allowed under the terms of her "intern certification."

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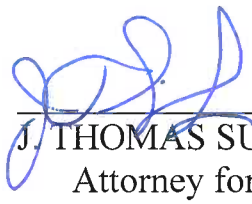
CONCLUSION

The Board of Review's decision is supported by evidence in the Record, is consistent with Nevada law and must therefore be affirmed.

AFFIRMATION Pursuant to NRS 239B.030:

The undersigned does hereby affirm that the preceding document does not contain confidential information; including, but not limited to: the Social Security number or employer identification number of any person or party.

DATED this 31st day of May, 2012.



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ATTORNEY'S CERTIFICATE OF COMPLIANCE

1. I hereby certify that this Answering Brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this Answering Brief has been prepared in a proportionally spaced typeface using Microsoft Word 2003 in 14 point Times New Roman.

2. I further certify that this Answering Brief complies with the page- or type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the Answering Brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points and contains 2,991 words.

3. Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this Answering Brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found.

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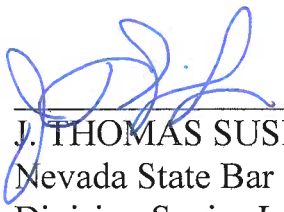
I understand that I may be subject to sanctions in the event that the accompanying Answering Brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 31st day of May, 2012.



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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the State of Nevada, over the age of 18 years; and that on the date hereinbelow set forth, I served a true and correct copy of the foregoing ESD'S ANSWERING BRIEF, by placing the same within an envelope upon which first class postage was fully prepaid and affixed, which was thereafter sealed and deposited for mailing with the United States Postal Service, addressed for delivery as follows:

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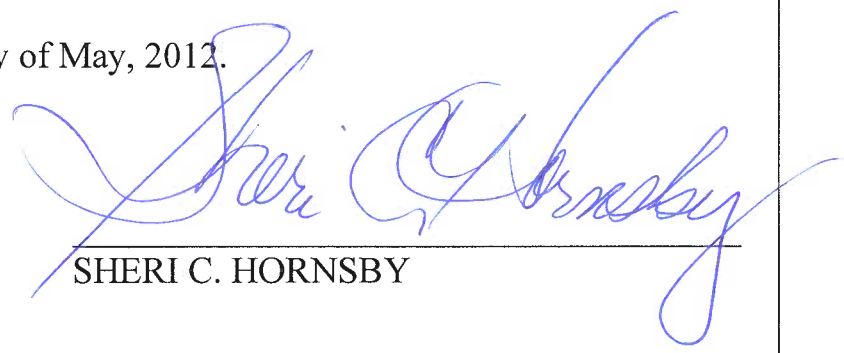
DATED this 31st day of May, 2012.



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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN, Petitioner/Plaintiff, vs. CYNTHIA JONES and RENEE OLSON, as former and present Administrators; STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, EMPLOYMENT SECURITY DIVISION; and BRISTLECONE FAMILY RESOURCES, a Nevada Corporation, Respondents/Defendants.	Case No. CV12-00253 Dept. No. 3

PETITIONER'S REPLY BRIEF

Comes Now, Petitioner/Plaintiff Nadine Goodwin, by and through undersigned counsel and files her Reply Brief in this matter.

CERTIFICATE OF SERVICE

I certify that on the 31st day of July, 2012, I filed the foregoing with the Clerk of the Court, which sent notification of such filing using the eFlex filing/notification system to:

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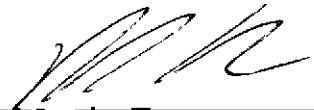

Brian Morris, Esq.
Attorney for Petitioner Nadine Goodwin

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Introduction

Respondent's statement of facts were obtained from the decision of the unemployment referee and not from testimony or exhibits. As such, some "facts" are incorrect and other purported facts are actually arguments or conclusions and not facts. One such statement is where Ms. Goodwin was supposedly told she was aware in 2001 of the time limit, however that statement never appears in the transcript.

1. The employer failed to show Goodwin was aware of any time limits.

Respondent's theme is that Goodwin knew she was aware from the beginning that she had a time limit. While this is not relevant (as will be shown below), there was simply no testimony or other evidence establishing this.

Respondent argues that Goodwin did not finish a 4 year degree in 10 years. While this sounds nice for those privileged enough to not have to work and have school paid for by family, it takes this Court off the topic of misconduct and wrongfulness. There is simply no evidence that Goodwin knew she needed to complete a Bachelor's degree when she started her internship. The burden to establish such a fact was on the employer as it must establish misconduct for unemployment benefits to be denied. See *Kolnik v. Nevada Employment Sec. Dept.*, 908 P.2d 726, 729, 112 Nev. 11 (Nev. 1996) (when the record is absent of showing that an employee acted intentionally, misconduct is not shown). Absent a showing that Goodwin knew from the beginning that she had a time deadline to obtain her degree, then her not obtaining it within that time limit cannot be considered misconduct. But more importantly, Ms. Goodwn's off-duty class schedule and her working towards a degree cannot be considered in a misconduct analysis.

2. Off-duty activity is not misconduct attributable to work activity.

It is undisputed that Goodwin did not resign and instead was "fired" or involuntarily terminated. In this scenario, unemployment benefits may only be denied if misconduct is shown in connection with employment. N.R.S. § 612.385.

As presented in her Opening Brief, the basis for denying unemployment benefits is limited and to be denied benefits on the grounds of misconduct, the misconduct must be connected with work. Off-duty conduct or events are not grounds for denying unemployment benefits. This is amplified in *Evans*, where an employee was terminated for not being at work after she was arrested. *State, Employment Sec. Dept. v. Evans*, 901 P.2d 156, 111 Nev. 1118 (Nev. 1995) (none of the statutory grounds for denying unemployment were present). The same is true in this matter. None of the limited reasons for denying unemployment benefits are present.

Goodwin was terminated for not successfully completing her college bachelor's degree. There was no allegation of any misconduct at work and as previously presented, her employer would have retained her had they had another position available. So the issue becomes whether Goodwin's off-duty activities can be used as a basis to deny her unemployment benefits on the grounds of misconduct. For any off-duty conduct to be considered misconduct, the conduct must violate an employer's rule, the rule it must have a rationale relationship to the employee's work to be performed, and there must have been an intentional violation of the rule. *Clevenger v. Nevada Employment Sec. Dept.*, 770 P.2d 866, 868, 105 Nev. 145, 150 (Nev. 1989). Any violation must also have an element of wrongfulness.

> Nevada decisions have stated that the employee's conduct which prompted the termination must have an element of wrongfulness in order to constitute misconduct so as to prevent the terminated employee from receiving unemployment benefits.
> *Kolnik v. Nevada Employment Sec. Dept.*, 112 Nev. 11, 15-16 (1996) (quoting *Garman v. State, Employment Security Dep't*, 102 Nev. 563, 565 (1986)).

None of the necessary requirements are present in this matter. First respondent cannot show where Goodwin actually violated any of her employer's rules. Instead, the issue is Goodwin's inability to finish her bachelor's degree within the time frame specified by someone other than her employer. Next, the misconduct (the actual taking of general college courses) does not have any sort of relationship to the work Goodwin actually performs.[1] Lastly, there was no showing of her willfully not completing her college degree in the timeframe given. In fact, the evidence and testimony is the opposite. Ms. Goodwin had always taken classes and gone to school. (ROA 41:24-25). She had also been talking to the Board of examiners. (ROA 42:11-15).

The ten year rule was implemented for the very first time ten years prior and the Board for the first time was having to evaluate it and its effects. (ROA 42:17-22); see also NRS 641C.290 (first became effective 8-9-2000). The ten year rule is not a law, but is instead an internal regulation the Board put into place pursuant to powers granted to them by N.R.S. § 641C.200.

> 641C.290 NAC Education and training of certified intern; change of supervisor. (NRS 641C.200)
>
> . . .
>
> 5. A certified intern must complete the education and training necessary to become a licensed or certified counselor not later than 10 years after the date on which he or she initially applies to become a certified intern.
>
> (Added to NAC by Bd. of Exam'rs for Alcohol & Drug Abuse Counselors by R097-00, eff. 8-9-2000; A by R126-01, 1-28-2002; A by Bd. of Exam'rs for Alcohol, Drug & Gambling Counselors by R157-03, 12-16-2003; R185-07, 12-17-2008)

Additionally, the rule does not state that an intern loses their ability to work as an intern. The Board themselves were still discussing this particular issue and agreed

---

[1] Using illegal drugs off-duty was found to be misconduct with it having a relationship to the work performed because it affects actual work performance and safety. *Clevenger,* 105 Nev. at 150.

that new applications for internships could be reviewed, and that if reapplications could not be done then they could lose a large number of interns. (ROA 83-84, Item 5). Goodwin as well as the Board's Director was under the impression she was going to be allowed to continue working as an intern. (ROA 44:7-11; 46:7-13).

Ms. Goodwin was a single mother with three children working full time, who was unable to go to school full time and who also had to keep up with her certifications and CEU's and was only 5 classes short of getting her degree. (ROA 44:19-21; 45:1-3; 46:1-4). Goodwin testified that she did everything she could possibly do to obtain her degree and that she stayed in touch with Board's Director. (ROA 46:27-28; 47:1-2; 47:15-17). Goodwin's school was quarterly and it only offered two classes every six weeks. (ROA 49:27-28; 50:1-2). Goodwin took the maximum number of classes she could. (ROA 50:2-3).

3. Goodwin was hired as an intern.

The above shows that misconduct did not and could not occur. But out of cautiousness, Respondent's analogy to an attorney or doctor will be addressed.

The difference is an attorney and a doctor have already passed all tests and licensing requirements. All these individuals have to do is to take continuing education credits (which are never graded) and pay their annual dues. In the case at bar, Goodwin was hired knowing she was an intern and that she was not yet licensed. The employer could have hired a fully licensed individual, but chose not to perhaps to not have to pay the greater salary such a licensed person would require. Hiring an intern always contains a business risk that one may never get their license. What if an intern gets seriously injured in an automobile accident and become unable to complete a semester? If this would have occurred during the last semester and prevented the final classes from being taken, such an accident cannot be considered misconduct. Another possibility is that one simply does not pass one or more classes. Clearly failing a class due to not understanding the material cannot be

material cannot be considered misconduct even though it prevents one from getting a degree and thus their license. The next step down the slippery slope would be designating how many hours a day one must study (personal activity not connected with work) to avoid misconduct allegations.

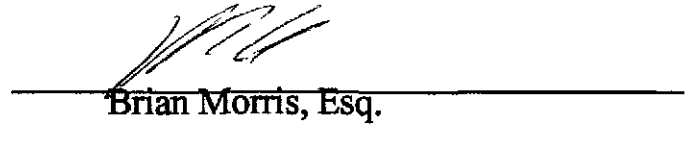
Conclusion

This is a case where an individual was no longer eligible for a position. Had another position been open, she would have been placed in that position. This is not the type of case the legislature had in mind when it defined wrongful misconduct in connection with one's work. It simply does not meet the elements needed. Even though Goodwin did not finish her Bachelor's degree prior to being terminated, she remained proactive in trying to keep her license and getting her internship extended as she did not want to lose her job. This simply lacks the elements of any intentional wrongdoing that was envisioned in defining misconduct. For all of the above reasons, Ms. Goodwin's unemployment benefits should be granted.

Affirmation

I certify that this filing does not contain the social security number of any person.

Dated this 31st day of July, 2012.



Brian Morris, Esq.

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN,

Petitioner,

vs.

CYNTHIA JONES, et al.,

Respondents.

Case No. CV12-00253
Dept. No. 3

ORDER

The claimant was employed as an adult and family drug court administrator from September 2, 2003 to July 7, 2011, by Bristlecone Family Resources. She was terminated by the employer for misconduct. She applied for unemployment compensation and was denied, she filed an appeal and the referee affirmed the denial. She then filed an appeal with the Board of Review but it declined further review under its order of January 3, 2012. Then she timely filed this petition for judicial review. Both the initial adjudicator and the referee found that she was not entitled to receive unemployment insurance benefits because she was guilty of industrial misconduct under NRS 612. 385.

The standard of review this Court must adhere to is - if supported by evidence in the absence of fraud, the decision of the Board is conclusive. NRS 612. 530 (4); *State*

Employment Security Department v. Weber, 100 Nev. 121, 676 P.2d 1318(1984). In reviewing the Board's decision, the court is limited to determining whether the Board acted arbitrarily or capriciously. In performing its review function, this court may not substitute its judgment for that of the Board of Review. *See Weber, supra*. Nor may the court pass upon the credibility of witnesses or weigh the evidence but must limit review to a determination that the Board's decision is based upon substantial evidence. NRS 233.135(3). Substantial evidence has been defined as that which a reasonable mind might accept as adequate to support a conclusion. *Richardson v. Perales*, 402 U.S. 389 (1971). The court is confined to a review of the record presented below, the Board's action is not an abuse of discretion if it is supported by substantial evidence in the record. *State Department of Commerce v. Soeller,* 98 Nev. 579 at 586, 656 P.2d 224 (1982).

Here claimant admitted at the initial hearing that she had been informed of the requirement of obtaining her Bachelor's degree within a ten-year period and that fulfilling her educational requirements for licensure was a condition of her employment. The findings below concluded that petitioner was rightfully denied benefits on the grounds that she was discharged for reasons of misconduct. Misconduct is behavior that falls short of the standards that an employer has a reasonable right to expect and generally includes an element of wrongfulness. *Barnum v. Williams*, 84 Nev. 37, 436 P.2d 219 (1968). *Clark County School District v. Bundley,* 122 Nev. 1441, 48 P.3d 750 (2006).

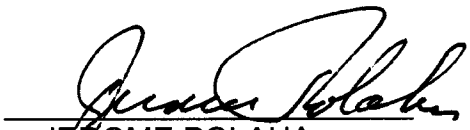
This court finds that there is sufficient evidence to support the Board of Examiners findings. Claimant was aware she had 10 years to obtain the Bachelor's degree. She was advised partway through her tenure of that requirement, specifically, in February, 2007 and unfortunately, she failed to meet that requirement. Misconduct does not denote only

wrongful action in this case. It includes negligence and she was negligent in not maintaining her qualifications for the job.

The court finds the employer was within its rights to require such of their employees and notwithstanding Claimant's efforts throughout the 10 year period, her employer was within its rights to terminate her for failing the requirement.

Therefore the petition for judicial review is denied

Dated this 20th day of December, 2012.



JEROME POLAHA
DISTRICT JUDGE

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 20 day of December, 2012, she mailed copies of the foregoing ORDER in Case No. CV11-01667 to the following:

The following have been served electronically:

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Administrative Assistant

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN, Petitioner, vs. CYNTHIA JONES and RENEE OLSON, as former and present Administrators; STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, EMPLOYMENT SECURITY DIVISION; and BRISTLECONE FAMILY RESOURCES, a Nevada Corporation, as Employer, Respondents.	CASE NO.: CV12-00253 DEPT. NO.: 3

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that on the 20th day of December, 2012, the Court entered its Order which denied Petition for Judicial Review in the above-entitled matter. A copy of said Order is attached hereto.

///

///

J. THOMAS SUSICH, ESQ.
Division Sr. Legal Counsel
STATE OF NEVADA DETR/ESD
1675 E. Prater Way, Ste. 103
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(775) 284-9533
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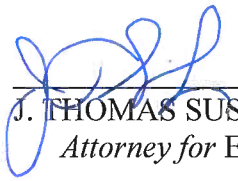
AFFIRMATION Pursuant to NRS 239B.030:

The undersigned does hereby affirm that the preceding document does not contain confidential information; including, but not limited to: the Social Security number or employer identification number of any person or party.

DATED this 21st day of December, 2012.



J. THOMAS SUSICH, ESQ.
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the State of Nevada, over the age of 18 years; and that on the date hereinbelow set forth, I served a true and correct copy of the foregoing NOTICE OF ENTRY OF ORDER, by placing the same within an envelope upon which first class postage was fully prepaid and affixed, which was thereafter sealed and deposited for mailing with the United States Postal Service at Sparks, Nevada, addressed for delivery as follows:

Brian R. Morris, Esq.
59 Damonte Ranch Pkwy., B-221
Reno, NV 89521

Bristlecone Family Resources
P.O. Box 52230
Sparks, NV 89435

DATED this 21st day of December, 2012.

Cheryl Kilgore
CHERYL KILGORE

J. THOMAS SUSICH, ESQ.
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Joey Orduna Hastings
Clerk of the Court
Transaction # 3421638

CODE 3370

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN,

Petitioner,

vs.

CYNTHIA JONES, et al.,

Respondents.

Case No. CV12-00253
Dept. No. 3

ORDER

The claimant was employed as an adult and family drug court administrator from September 2, 2003 to July 7, 2011, by Bristlecone Family Resources. She was terminated by the employer for misconduct. She applied for unemployment compensation and was denied, she filed an appeal and the referee affirmed the denial. She then filed an appeal with the Board of Review but it declined further review under its order of January 3, 2012. Then she timely filed this petition for judicial review. Both the initial adjudicator and the referee found that she was not entitled to receive unemployment insurance benefits because she was guilty of industrial misconduct under NRS 612. 385.

The standard of review this Court must adhere to is - if supported by evidence in the absence of fraud, the decision of the Board is conclusive. NRS 612. 530 (4); *State*

Employment Security Department v. Weber, 100 Nev. 121, 676 P.2d 1318(1984). In reviewing the Board's decision, the court is limited to determining whether the Board acted arbitrarily or capriciously. In performing its review function, this court may not substitute its judgment for that of the Board of Review. *See Weber, supra.* Nor may the court pass upon the credibility of witnesses or weigh the evidence but must limit review to a determination that the Board's decision is based upon substantial evidence. NRS 233.135(3). Substantial evidence has been defined as that which a reasonable mind might accept as adequate to support a conclusion. *Richardson v. Perales*, 402 U.S. 389 (1971). The court is confined to a review of the record presented below, the Board's action is not an abuse of discretion if it is supported by substantial evidence in the record. *State Department of Commerce v. Soeller,* 98 Nev. 579 at 586, 656 P.2d 224 (1982).

Here claimant admitted at the initial hearing that she had been informed of the requirement of obtaining her Bachelor's degree within a ten-year period and that fulfilling her educational requirements for licensure was a condition of her employment. The findings below concluded that petitioner was rightfully denied benefits on the grounds that she was discharged for reasons of misconduct. Misconduct is behavior that falls short of the standards that an employer has a reasonable right to expect and generally includes an element of wrongfulness. *Barnum v. Williams*, 84 Nev. 37, 436 P.2d 219 (1968). *Clark County School District v. Bundley,* 122 Nev. 1441, 48 P.3d 750 (2006).

This court finds that there is sufficient evidence to support the Board of Examiners findings. Claimant was aware she had 10 years to obtain the Bachelor's degree. She was advised partway through her tenure of that requirement, specifically, in February, 2007 and unfortunately, she failed to meet that requirement. Misconduct does not denote only

wrongful action in this case. It includes negligence and she was negligent in not maintaining her qualifications for the job.

The court finds the employer was within its rights to require such of their employees and notwithstanding Claimant's efforts throughout the 10 year period, her employer was within its rights to terminate her for failing the requirement.

Therefore the petition for judicial review is denied

Dated this 20th day of December, 2012.

JEROME POLAHA
DISTRICT JUDGE

CERTIFICATE OF MAILING

The undersigned hereby certifies that on the 20 day of December, 2012, she mailed copies of the foregoing ORDER in Case No. CV11-01667 to the following:

The following have been served electronically:

J. Thomas Susich, Esq.

The following have been served electronically:

Brian Morris, Esq.
59 Damonte Ranch Parkway B-221
Reno, NV 89521

Bristlecone Family Resources
P. O. Box 52230
Sparks, NV 89435

Administrative Assistant

F I L E D
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01-23-2013:11:59:17 AM
Joey Orduna Hastings
Clerk of the Court
Transaction # 3482666

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Attorney for Nadine Goodwin

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

NADINE GOODWIN, Petitioner/Plaintiff, vs. CYNTHIA JONES and RENEE OLSON, as former and present Administrators; STATE OF NEVADA, DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION, EMPLOYMENT SECURITY DIVISION; and BRISTLECONE FAMILY RESOURCES, a Nevada Corporation, Respondents/Defendants.	Case No. CV12-00253 Dept. No. 3

Notice of Appeal

Notice is hereby given that Petitioner/Plaintiff Nadine Goodwin hereby appeals to the Supreme Court of Nevada from the Order denying Ms. Goodwin's Petition for Judicial Review (a final order) entered in this matter on December 20, 2012.

No filing or appeal fee is allowed pursuant to N.R.S. § 612.705(1).

Affirmation

I certify that this filing does not contain the social security number of any person.

Dated this 23rd day of January, 2013.

Brian Morris, Esq.
Attorney for Petitioner/Plaintiff

CERTIFICATE OF SERVICE

I certify that on the 23rd day of January, 2013, I filed the foregoing with the Clerk of the Court, which sent notification of such filing using the eflex filing/notification system to:

J. Thomas Susich, Esq.
1675 East Prater Way, Ste. 103
Sparks, Nevada 89434

Brian Morris