

1 LEGAL DIVISION
2 Department of Social Services
3 Office of Chief Counsel
4 SHIRLEY D. RAMIREZ
5 Assistant Chief Counsel
6 NOAH ALLEN, State Bar No. 109503
7 Senior Staff Counsel
8 1000 Corporate Center Drive, Suite 670
9 Monterey Park, CA 91754
10 Telephone Number: (323) 981-3941
11 Facsimile Number: (323) 981-2799

12 Attorneys for Complainant

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
BEFORE THE
DEPARTMENT OF SOCIAL SERVICES
STATE OF CALIFORNIA

In the Matter:

SHEILA DUNN
dba Dunn, Sheila Family Child Care
2800 Buena Vista Street
Bakersfield, CA 93304

CDSS No. 7110062101
OAH No.

GREGORY DEWAYNE DUNN

CDSS No. 7110062101B

Respondents.

STIPULATION AND WAIVER; AND
ORDER

RESPONDENT **GREGORY DEWAYNE DUNN**, having obtained the counsel of Kyle J. Humphrey, has been fully advised of the charges of the **Accusation** (License Revocation and Exclusion Action) (hereafter "**Accusation**") in this matter (a copy of which is attached hereto as **Exhibit 1** and incorporated herein by reference), and hereby enters into the following Stipulation with the COMPLAINANT, **JEFFREY HIRATSUKA**, as a means of achieving a full and final resolution of the **Accusation** in lieu of an evidentiary hearing and decision.

Respondent and complainant hereby stipulate and agree as follows:

1. **FINDINGS**: The Department waives its right to make findings on the **Accusation**, in consideration of Respondent's waivers and stipulations herein. In the

1 event that Respondent violates the terms of this agreement by applying for a license,
2 the application shall not be considered. If a license is issued in error by the
3 Department, Respondent agrees that the license shall be revoked based upon the
4 allegations in the Accusation which shall be deemed true.

5 2. WAIVER OF APPLICATION; CONDITIONS ON EMPLOYMENT:

6 Application for Licensure and Certification: For the balance of Respondent's life,
7 Respondent shall not apply for, receive or hold any license or certification to operate
8 any care facility including any community care facility (CCF), certified family home
9 (CFH), residential care facility for the elderly (RCFE), residential care facilities for
10 persons with chronic, life-threatening illnesses (RCFCI) or child day care facility (CDCF)
11 (as CCF, CFH, RCFCI, RCFE, and CDCF are defined in sections 1502(a), 1506(d),
12 1568, 1568.01, 1569.2, and 1596.750 of the Health and Safety Code).

13 A. TrustLine Registry: For the balance of Respondent's life,
14 Respondent shall not apply for or be registered as a TrustLine Provider as
15 described in Health and Safety Code section 1596.60 et seq.

16 B. Employment and Presence: For the balance of Respondent's life,
17 Respondent shall not be a member of a board of directors, an executive director or
18 an officer of a licensee or an employee of a person licensed to operate a facility;
19 respondent shall not be present in a licensed facility or have contact with clients of
20 a licensed facility, except for presence incidental to and contact with a
21 client/resident of a facility who is Respondent's relative.

22 3. WAIVER OF HEARING RIGHTS: The parties waive their rights to a
23 hearing in this matter, to present any evidence on their behalf and to cross-examine
24 witnesses testifying on the other party's behalf. The parties further waive their rights to
25 further discovery in this matter.

26 4. WAIVER OF APPEAL/MODIFICATION RIGHTS: Respondent waives all
27 rights of review arising out of this action or this Stipulation or the Order implementing it,

1 including but not limited to a petition for reinstatement, reduction of penalty, or
2 rehearing, or by writ of administrative mandamus or under any other judicial,
3 administrative or other right or ability he may have to seek to have this agreement
4 modified or set aside on any grounds whatsoever.

5 5. WAIVER OF CLAIMS: The parties waive all known or unknown legal
6 actions or claims against each other, or their employees or agents that they may have
7 acquired or come to acquire arising out of this matter, with the following exceptions:

- 8 A. Civil penalties;
9 B. Monitoring fees; and
10 C. Any action arising out of an audit or other review to
11 establish, modify, preserve, enforce, or to recover an overpayment or to
12 reimburse an underpayment of public or private funds.

13 6. PUBLIC RECORD: This Stipulation is a public record as required by
14 section 11517(d) of the Government Code. It is accessible to the public pursuant to the
15 Public Records Act, section 6250 et seq. of the Government Code.

16 7. SIGNATURES: A facsimile of the signature page of this Stipulation will
17 bind the signing party or parties to the terms and conditions herein once any remaining
18 party or parties execute the document and once the Order is executed.

19 8. COUNTERPARTS: This Stipulation may be executed in counterparts.

20 9. EFFECTIVE DATE: This Stipulation and Waiver is effective on the date
21 on which the Department's Order adopting it is executed.

22 10. NO ORAL MODIFICATION: This Stipulation constitutes the entire
23 agreement between the parties with respect to the Accusation in this case. Moreover,
24 the terms of this Stipulation cannot be amended except in writing, signed by all the
25 parties thereto.

26 //

27 //

IT IS SO STIPULATED:

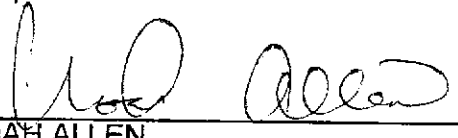
7-12-10

DATED


GREGORY DEWAYNE DUNN
Respondent

7-13-10

DATED


NOAH ALLEN
Senior Staff Counsel
Attorney for Complainant

7-19-10

DATED


JEFFREY HIRATSUKA, Complainant
Deputy Director
Community Care Licensing Division
Department of Social Services
State of California

DECISION AND ORDER

The preceding Stipulation hereby is adopted by the Department as its
Decision in this matter.

IT IS SO ORDERED THIS 2nd DAY OF August, 2010.


SHIRLEY D. RAMIREZ
Assistant Chief Counsel
Legal Division

1 LEGAL DIVISION
2 Department of Social Services
3 Office of Chief Counsel
4 SHIRLEY D. RAMIREZ
5 Assistant Chief Counsel
6 NOAH ALLEN State Bar No. 109503
7 Senior Staff Counsel
8 1000 Corporate Center Drive, Suite 670
9 Monterey Park, CA 91754
10 Telephone Number: (323) 981-3941
11 Facsimile Number: (323) 981-2799

12 Attorneys for Complainant

13 BEFORE THE
14 DEPARTMENT OF SOCIAL SERVICES
15 STATE OF CALIFORNIA

16 IN THE MATTER OF:

17 SHEILA DUNN
18 dba Dunn, Sheila Family Child Care
19 2800 Buena Vista Street
20 Bakersfield, CA 93304

CDSS No. 7110062101
OAH No.

ACCUSATION
(License Revocation)

21 GREGORY DEWAYNE DUNN

CDSS No. 7110062101B

ACCUSATION
(Exclusion Action)

22 Respondents.

23 JURISDICTION

24 1. This matter arises under the California Child Day Care Facilities Act,
25 Health and Safety Code section 1596.70 *et seq.*, which governs the licensing and
26 operation of family child care homes.

27 2. The regulations which govern the licensing and operation of family child
care homes are contained in California Code of Regulations, title 22, section 102351.1
*et seq.*¹ The term "family child care home", as used in regulation section 102352(f)(1),
//

¹ Subsequent references to any regulation section(s) are to Title 22 of the California Code of Regulations.

1 is the same as the term "family day care home" as used in Health and Safety Code
2 section 1596.78(a).

3 3. The California Department of Social Services ("Department") is the
4 agency of the State of California responsible for the licensing and inspection of family
5 child care homes.

6 4. The Department may prohibit a licensee from employing, continuing the
7 employment of, allowing in, or allowing contact with clients of a licensed facility by any
8 employee, prospective employee, or other person who is not a client of a family child
9 care home pursuant to Health and Safety Code section 1596.8897.

10 5. Administrative proceedings before the Department must be conducted in
11 conformity with the provisions of the California Administrative Procedure Act, Chapter 5,
12 Government Code section 11500 *et seq.*

13 6. Pursuant to Health and Safety Code section 1596.8897(f), the
14 Department may institute or continue a disciplinary proceeding against a person
15 following the resignation, withdrawal of employment application, or change of duties, or
16 any discharge, failure to hire, or reassignment of the person by the licensee or if the
17 person no longer has contact with clients of the facility.

18 7. Pursuant to Health and Safety Code section 1596.854, the Department
19 may institute or continue a disciplinary proceeding against a licensee following the
20 suspension, expiration, or forfeiture of a license.

21 8. Pursuant to Health and Safety Code sections 1596.887(b), 1596.889,
22 and 1596.8897(e), the standard of proof to be applied in this proceeding is the
23 preponderance of evidence.

24 //

25 //

26 //

27 //

THE PARTIES

9. Complainant **JOHN RODRIQUEZ** is the authorized representative of the Director of the Department pursuant to a delegation of authority. Pursuant to Government Code section 11503, Complainant files this Accusation (License Revocation and Exclusion Action) (hereafter "Accusation") in his official capacity pursuant to said delegation of authority which is attached as **ATTACHMENT A**.

10. Respondent **SHEILA DUNN** is licensed by the Department to operate a family child care home at 2800 Buena Vista Street, Bakersfield, California 93304 ("facility"). The facility was initially licensed on May 16, 2007. A copy of Respondent Sheila Dunn's most recent license setting forth the capacity, limitations, and effective dates accompanies this Accusation as **ATTACHMENT B** and is incorporated by reference.

11. Respondent **GREGORY DEWAYNE DUNN** is the husband of licensee and Respondent Sheila Dunn and resides in the facility, pursuant to a conditional criminal records exemption.

12. Respondents Sheila Dunn and Gregory Dewayne Dunn (collectively "Respondents") were previously certified by Positive Attitude Outlook, Inc. to operate a certified foster family home located at 1121 Kyner Avenue, Bakersfield, California 93307 from July 28, 1997 to September 1999.

13. Respondent Sheila Dunn was previously licensed by the Department to operate family child care homes located at 1121 Kyner Avenue, Bakersfield, California 93307 from November 29, 1997 to September 23, 2003, and at 904 Nicki CT, Bakersfield, California 93307 from September 23, 2003 to May 16, 2007.

//

//

//

//

1 14. On June 18, 2001, the Department filed and served an Accusation
2 (Revocation/Exclusion Action/Decertification) to revoke the family child care home
3 license of Respondent Shelia Dunn, to exclude Respondent Gregory Dewayne Dunn,
4 and to decertify Respondents Shelia and Gregory Dunn as foster parents. The matter
5 was heard by Administrative Law Judge Leslie H. Greenfield on September 23, 1999.

6 15. On January 27, 2000, the Department adopted the Proposed Decision
7 of Administrative Law Judge Leslie H. Greenfield to exclude Respondent Gregory
8 Dewayne Dunn from employment in, physical presence in and/or contact with any
9 clients of any facility licensed by the Department during all normal hours of operation of
10 said facility. The Proposed Decision also revoked Respondents Shelia Dunn and
11 Gregory Dewayne Dunn's certification to operate a certified foster family home. A copy
12 of Administrative Law Judge Leslie H. Greenfield's Proposed Decision and a copy of the
13 Department's Decision and Order adopting the Proposed Decision accompany this
14 Accusation as **ATTACHMENT C** and are incorporated by reference.

15 16. On December 30, 2008, following his reinstatement, the Department
16 granted a conditional criminal record exemption to Respondent Gregory Dewayne Dunn
17 on specified conditions. A copy of the Conditional Exemption Approval accompanies
18 this Accusation as **ATTACHMENT D** and is incorporated by reference.

19 17. Respondent Shelia Dunn, by virtue of licensure, must operate in
20 accordance with the statutes and regulations governing the licensing and operation of
21 family child care homes. Respondent Gregory Dewayne Dunn, by virtue of presence in
22 or contact with clients of a family child care home, is subject to the jurisdictional
23 provisions of Health and Safety Code sections 1596.871 and 1596.8897. Copies of the
24 applicable statutes and regulations accompany this Accusation as **ATTACHMENT E**
25 and are incorporated by reference.

26 //

27 //

FACTUAL ALLEGATIONS

SUBJECT MATTER:

PERSONAL RIGHTS VIOLATION – SEXUAL AND
EMOTIONAL ABUSE; FAILURE TO PROVIDE
CARE AND SUPERVISION; FAILURE TO REPORT;
CONDUCT INMICAL

APPLICABLE LAW:

Health and Safety Code sections 1596.885(a-c) and
1596.8897
Regulation sections 83072(c)(10), 83078, and 102402(a), and
102423(a)(2)

ALLEGATIONS:

18. Commencing at or around the time when Child No. 1 was 6 years
of age (1996), and repeated at other unknown times and at different locations
subsequent to that date, Respondent Gregory Dewayne Dunn either emotionally
abused, sexually abused, and/or otherwise sexually molested Child No. 1 as follows:

A. Respondent Gregory Dewayne Dunn rubbed and touched child
no 1's entire body with his hands.

B. Respondent Gregory Dewayne Dunn instructed Child No. 1 to
orally copulate his penis and she complied with his instructions.

C. Respondent Gregory Dewayne Dunn inserted his penis into
Child No. 1's vagina.

D. Respondent Gregory Dewayne Dunn pulled Child No. 1 pants
off and inserted his fingers into her vagina.

E. Respondent Gregory Dewayne Dunn pulled Child No. 1 pants
off and orally copulated her vagina.

//

//

//

1 F. Respondent Gregory Dewayne Dunn exposed his penis to Child
2 No. 1 and placed her hand on his penis. Respondent Gregory Dewayne Dunn
3 then moved Child No. 1's hand up and down, while holding her hand on his penis.

4 G. When Child No. 1 rode a jet ski with Respondent Gregory
5 Dewayne Dunn, she sat in front of Respondent Gregory Dewayne Dunn wearing a
6 bathing suit. Respondent Gregory Dewayne Dunn moved the crotch area of her
7 bathing suit to the side and inserted his fingers into her vagina, as they rode the jet
8 ski.

9 H. Respondent Gregory Dewayne Dunn made inappropriate
10 comments or asked inappropriate questions of a sexual nature to Child No. 1, such
11 as: "Are you a virgin?" and "I can take you upstairs and show you how a real man
12 gets down."

13 I. Respondent Gregory Dewayne Dunn told Child No. 1 that if she
14 disclosed any of the events that are alleged in paragraph 18, he would kill her, her
15 mother, or her brother.

16 19. Commencing at or around the time when Child No. 2 was 7 years
17 of age (2000), and repeated at other unknown times subsequent to that date while Child
18 No. 2 resided at 1121Kyner Avenue, Bakersfield, California; Respondent Gregory
19 Dewayne Dunn either emotionally abused, sexually abused, and/or otherwise sexually
20 molested Child No. 2 as follows:

21 A. Respondent Gregory Dewayne Dunn touched Child No 2's
22 vagina on the skin under her clothing.

23 B. Respondent Gregory Dewayne Dunn told Child No. 2 that if she
24 disclosed any of the events that are alleged in paragraph 19, he would kill her.

25 20. Commencing at or around the time when Child No. 3 was 7 years
26 of age (1998), and repeated at other unknown times subsequent to that date while Child
27 No. 3 was a foster child under the care of the Respondents at 1121Kyner Avenue,

1 Bakersfield, California, Respondent Gregory Dewayne Dunn either emotionally abused,
2 sexually abused, and/or otherwise sexually molested Child No. 3 as follows:

3 A. Respondent Gregory Dewayne Dunn took off Child No. 3
4 underclothing and licked her vagina on the skin.

5 B. Respondent Gregory Dewayne Dunn took off Child No. 3
6 underclothing and licked her "butt" on the skin.

7 C. Respondent Gregory Dewayne Dunn told Child No. 3 that what
8 happened was a secret and not to disclosed any of the events that are alleged in
9 paragraph 20.

10 21. At or about when Child No. 4 was 15 years of age, he discussed his
11 belief that Respondent Gregory Dewayne Dunn was molesting Child No. 1 with his
12 mother, Anna Nolen; Paula Brown; and Respondent Shelia Dunn. Respondent Shelia
13 Dunn failed to report the incident as required of a mandated reporter.

14 22. At or about when Child No. 5 was 12 years of age, she informed
15 Respondent Shelia Dunn about the events alleged in paragraph 19. Respondent Shelia
16 Dunn failed to report the events as required of a mandated reporter.

17 23. During December of 2009, Respondents contacted Child No. 1 and
18 asked her to deny that Respondent Gregory Dewayne Dunn committed the acts that are
19 alleged in paragraphs 18, 19, and 20.

20 SUBJECT MATTER: CONDUCT INIMICAL

21 APPLICABLE LAW: Health and Safety Code sections 1596.885(c)
22 Regulation Section 102402

23 ALLEGATIONS:

24 24. Respondents engaged in conduct that is inimical to the health,
25 morals, welfare, or safety of either an individual in or receiving services from the facility,
26 or the people of the State of California as alleged in paragraphs 18 through 23, above,
27 and incorporated here by reference.

1 CAUSE FOR LICENSE REVOCATION AND ORDER OF EXCLUSION

2 25. The facts alleged in paragraphs 18 through 23, individually and/or
3 jointly, provide cause, pursuant to Health and Safety Code section 1596.885(a)-(c) to
4 revoke Respondent's license to operate the facility; and pursuant to Health and Safety
5 Code section 1596.8897 to prohibit Respondent's employment in, presence in, and
6 contact with clients of any facility licensed by the Department.

7 26. The facts alleged in paragraphs 18 through 23, individually and/or
8 jointly, constitute conduct by Respondent, which is inimical to the health, safety, morals
9 or welfare of clients receiving care from the facility, or to the people of the State of
10 California. These facts provide cause, pursuant to Health and Safety Code sections
11 1596.885(c) and 1596.8897(a)(2), to revoke the license to operate the facility, and to
12 prohibit Respondent's employment in, presence in, and contact with clients of any
13 facility licensed by the Department.

14 PETITION FOR RELIEF

15 27. WHEREFORE, complainant requests that Respondent Sheila
16 Dunn' license to operate a family child care home be revoked.

17 28. WHEREFORE, complainant requests that Respondent Gregory
18 Dewayne Dunn be prohibited for the remainder of Respondent's life from employment
19 in, presence in, and contact with clients of any facility licensed by the Department and
20 from being a member of the board of directors, an executive director, or an officer of a
21 licensee of any facility licensed by the Department.

22 DATED: March 11, 2010

23 
24 JOHN RODRIGUEZ
25 Office of the Deputy Director
26 Community Care Licensing Division
27 California Department of Social Services