

6. The Subcommittee determined that the facts established by the investigation of the complaint supported a finding of unprofessional conduct and, by vote on April 18, 2024, concluded in relevant part that Respondent had engaged in Category C conduct.

7. Based on the Subcommittee's determination, the State specifically alleges that, while processing a DUI, and prior to the completion of charging the offense, Respondent learned that the driver had two prior convictions thus turning the DUI into a DUI, third offense, which is a felony outside of his scope of authority. *See* 20 V.S.A. § 2358(B) Respondent knew that he was required "to call upon an officer certified to respond and assume law enforcement authority over the incident." 20 V.S.A. § 2358(B)(iv). Respondent did not request that a Level III certified law enforcement officer take authority over the incident.

Conclusions of Law

8. Vermont law sets forth three categories of law enforcement officer unprofessional conduct: Category A, Category B and Category C. *See* 20 V.S.A. § 2401(1)-(3) (categories defined).

9. As relevant to this matter, Category C conduct is "any allegation of misconduct pertaining to Council processes or operations, including: ... (A) intentionally exceeding the scope of practice for an officer's certification level." 20 V.S.A. § 2401(3)(A).

11. The State alleges that Respondent engaged in Category C conduct by exceeding his scope of practice as a Level II officer when he charged a driving under the influence charge after he gained knowledge that it was a third offense and therefore a felony. *See* 20 V.S.A. 2401(3)(A).

12. Respondent acknowledges and does not contest that if this matter were to proceed to a contested hearing, the State could present evidence that, if accepted by the Council, could prove that Respondent engaged in prohibited Category C conduct. *See* 20 V.S.A. § 2401(3).

13. Consistent with Respondent's cooperation with the Council, Respondent acknowledges that if the State satisfies its burden at a hearing, then a finding adverse to Respondent could be entered by the Council pursuant to 20 V.S.A. §§ 2401, 2405-2407 and 3 V.S.A. § 812.

14. In the interest of resolving this matter, the Respondent and the State agree to enter this Stipulation and Consent Order, in lieu of proceeding to hearing.

15. The Council adopts as its facts and conclusions in this matter Paragraphs 1 through 7 above and Respondent agrees that this is an adequate basis for the Council actions set forth herein. Any representation by Respondent herein is made solely for the purposes set forth in this agreement.

16. Therefore, in the interest of Respondent's desire to fully and finally resolve the matter presently before the Council, Respondent has determined that Respondent shall enter into this agreement with the Council. Respondent enters no further admissions here, but to resolve this matter without further time, expense, and uncertainty Respondent has concluded that this agreement is acceptable and in the best interest of the parties.

17. Respondent agrees and understands that by executing this document Respondent is waiving any right to challenge the jurisdiction and continuing jurisdiction of the Council in this matter, to be presented with a specification of charges and evidence, to cross-examine witnesses, to offer evidence of his own to contest any allegations by the State or to appeal from this Stipulation and Consent Order.

18. Respondent is not under the influence of any drugs or alcohol at the time he signs this Stipulation and Consent Order

19. The parties agree that upon the Council's acceptance of this Stipulation and Consent Order, and pursuant to the terms herein, the above-captioned matter shall be resolved by the Council. Thereafter, the Council will take no further action as to this matter absent non-compliance with the terms and conditions of this document by Respondent.

20. This Stipulation and Consent Order is conditioned upon its acceptance by the Council. If the Council rejects any part of this document, the entire agreement shall be considered void. Respondent agrees that if the Council does not accept this agreement in its current form, Respondent shall not assert in any subsequent proceeding any claim of prejudice from any such prior consideration. If the Council rejects any part of this agreement, none of its terms shall bind Respondent or constitute an admission of any of the facts of the alleged misconduct, it shall not be used against Respondent in any way, it shall be kept in strict confidence, and it shall be without prejudice to any future unprofessional conduct disciplinary proceeding and the Council's final determination of any charge against Respondent.

21. Respondent acknowledges and understands that this Stipulation and Consent Order shall be a matter of public record, shall be entered in his permanent Council file, shall constitute an enforceable legal agreement, and may and shall be reported to other authorities, including the International Association of Law Enforcement Standards and Training National Decertification Index. In exchange for the actions of the Council, as set forth herein, Respondent expressly agrees to be bound by all terms and conditions of this Stipulation and Consent Order.

22. The parties therefore jointly agree that should the terms and conditions of this Stipulation and Consent Order be deemed acceptable by the Council, it may enter an order implementing the terms and conditions herein.

Order

WHEREFORE, on the basis of the foregoing Findings of Fact and Conclusions of Law, and on the basis of the consent of Respondent, it is hereby ORDERED that:

1. Respondent is decertified as of December 17, 2024 with an option to recertify by enrolling in, and successfully completing, a basic training course at the Vermont Police Academy.
2. Respondent shall provide a complete copy of this Stipulation and Consent Order to any Vermont law enforcement agency for which he works or to any prospective Vermont law enforcement agency to which he makes application for employment, as well as to any state regulatory body or other certification authority related to law enforcement officers in any location or jurisdiction where he may apply for law enforcement officer employment, for so long as this Stipulation and Consent Order remains in effect.
3. Respondent shall bear all costs of complying with the terms and conditions of this Stipulation and Consent Order.
4. Respondent agrees to be bound by all terms and conditions of this Stipulation and Consent Order.

DATED at S. Royalton, Vermont this 3 day of Dec, 2024.


By: 
Marc Preston
Respondent

Approved as to Legal Form:

DATED at _____, Vermont, this ____ day of _____, 20__.

By: N/A
_____, Esq.
Counsel for Respondent

DATED at Pittsford
3PA, Vermont, this 3rd day of Dec, 2024.

By: 
Christopher Brickell
Executive Director
Vermont Criminal Justice Council

Approved as to Legal Form:

DATED at Pittsford, Vermont this 3rd day of December, 2024.

By: Kim McManus
Kim McManus
Associate General Counsel
Vermont Criminal Justice Council

