

BEFORE THE BOARD OF HEALING ARTS  
OF THE STATE OF KANSAS

KS State Board of Healing Arts

In the Matter of	)	
	)	KSBHA Docket No.: 21-HA00082
BRANDON M. MARTINO, A.T.	)	
Kansas License No. 24-00919	)	

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**CONSENT ORDER FOR SURRENDER**

COMES NOW, the Kansas State Board of Healing Arts (“Board”), by and through Tammie L. Mundil, Deputy Litigation Counsel, and Brandon M. Martino, A.T. (“Licensee”), by and through his attorney Barry Clark, and move the Board for approval of a Consent Order affecting Licensee’s license to practice as an athletic trainer in Kansas. The Board and Licensee stipulate and agree to the following:

**FACTS**

1. Licensee’s last known mailing address to the Board is: CONFIDENTIAL  
CONFIDENTIAL
2. Licensee’s last known email address to the Board is: CONFIDENTIAL
3. Licensee is or has been entitled to engage in the practice as an athletic trainer in the State of Kansas, having been issued License No. 24-00919 on or about December 31, 2013. Licensee last renewed such license on or about October 20, 2020.
4. On June 21, 2021, the Board approved a “Joint Consent Order for Indefinite Suspension” and Licensee’s current status is “suspended”.
5. This Consent Order is based on the following facts, which the parties agree to and stipulate to be true and relevant to the requested relief:

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- a. On or about July 12, 2021, in case number GE-2021-CR-000048 filed in the Geary County District Court, Licensee pled guilty to violating K.S.A. 21-5540(a)(2), Sexual Exploitation of a Child, a severity level 5, person felony. By entering this plea, Licensee admitted to knowingly committing the criminal conduct and to being guilty of the crime as charged.
- b. On or about August 16, 2021, Licensee was sentenced by the Geary County District Court to thirty-two (32) months with the Kansas Department of Corrections. Licensee was sentenced to sixty (60) days to be served immediately in the Geary County Detention Facility. Upon serving the sixty (60) days, Licensee will then be placed on probation for a period of thirty-six (36) months.
- c. Licensee will be required to register as a sex offender for twenty-five (25) years.

#### **VIOLATIONS OF THE ATHLETIC TRAINERS LICENSURE ACT**

6. Based on the stipulated facts, the Board has grounds to revoke Licensee's license to practice as an athletic trainer in Kansas under the following provisions of the Kansas Athletic Trainers Licensure Act:
  - a. K.S.A. 65-6911(a)(2), in that Licensee has been convicted of a felony.
5. Under K.S.A. 65-6911 *et seq.*, the Board has grounds to revoke, suspend, censure, place on probation or otherwise limit Licensee's license for violations of the Kansas Athletic Trainers Licensure Act.

## SURRENDER

6. In lieu of conducting a formal proceeding, Licensee, by signature affixed to this Consent Order, hereby surrenders his license to practice as an athletic trainer in the State of Kansas. Such surrender shall be treated as a revocation for all purposes, including reporting. Licensee agrees that an application for reinstatement of the license will be considered in accordance with the provisions of K.S.A. 65-2844 and all applicable statutes, law, rules, and regulations regarding qualifications for licensure and reinstatement. Further, Licensee's application will be governed by *Vakas v. the Kansas Board of Healing Arts*, 248 Kan. 589 (Kan. 1991).

## MISCELLANEOUS PROVISIONS

10. The Board is the sole and exclusive administrative agency of the State of Kansas authorized to regulate the practice of the healing arts, specifically the ability to engage in the practice as an athletic trainer.

11. This Consent Order and the filing of such document are in accordance with applicable law and the Board has jurisdiction to enter into the Consent Order as provided by K.S.A. 77-505 and K.S.A. 65-2838. Upon approval, these stipulations shall constitute the findings of the Board, and this Consent Order shall constitute the Board's Final Order.

12. The Kansas Athletic Trainers Licensure Act is constitutional on its face and as applied in this case. Licensee agrees that, in considering this matter, the Board is not acting beyond its jurisdiction as provided by law.

13. Licensee voluntarily and knowingly waives his right to a hearing. Licensee voluntarily and knowingly waives his right to present a defense by oral testimony and documentary evidence,

to submit rebuttal evidence, and to conduct cross-examination of witnesses. Licensee voluntarily and knowingly agrees to waive all possible substantive and procedural motions and defenses that could be raised if an administrative hearing were held.

14. The terms and conditions of the Consent Order are entered into between the undersigned parties and are submitted for the purpose of allowing these terms and conditions to become an Order of the Board. This Consent Order shall not be binding on the Board until an authorized signature is affixed at the end of this document. Licensee specifically acknowledges that counsel for the Board is not authorized to sign this Consent Order on behalf of the Board.

15. A protective order is hereby entered to protect all confidential information under 42 CFR Part II, and K.S.A. 65-4925.

16. According to K.S.A. 65-2838(b) and K.S.A. 77-505, the Board has authority to enter into this Consent Order without the necessity of proceeding to a formal hearing.

17. Licensee further understands and agrees that if the Board finds, after due written notice and an opportunity for a hearing, that Licensee has failed to comply with any of the terms of this Consent Order, the Board may immediately impose any sanction provided for by law, including but not limited to suspension or revocation of Licensee's license to practice as an athletic trainer in the State of Kansas. Licensee hereby expressly understands and agrees that, at any such hearing, the sole issue shall be whether or not Licensee has failed to comply with any of the terms or conditions set forth in this Consent Order. The Board acknowledges that at any such hearing, Licensee retains the right to confront and examine all witnesses, present evidence, testify on his own behalf, contest the allegations, present oral argument, appeal to the courts, and all other rights

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set forth in the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq., and the Kansas Athletic Trainers Licensure Act, K.S.A. 65-6901 et seq.

18. Nothing in this Consent Order shall be construed to deny the Board jurisdiction to investigate alleged violations of the Kansas Athletic Trainers Licensure Act, or to investigate complaints received under the Risk Management Law, K.S.A. 65-4921 et seq., that are known or unknown and are not covered under this Consent Order, or to initiate formal proceedings based upon known or unknown allegations of violations of the Kansas Athletic Trainers Licensure Act.

19. Licensee hereby releases the Board, its individual members (in their official and personal capacity), attorneys, employees and agents, hereinafter collectively referred to as "Releasees", from any and all claims, including but not limited to those alleged damages, actions, liabilities, both administrative and civil, including the Kansas Judicial Review Act, K.S.A. 77-601 et seq. arising out of the investigation and acts leading to the execution of this Consent Order. This release shall forever discharge the Releasees of any and all claims or demands of every kind and nature that Licensee has claimed to have had at the time of this release or might have had, either known or unknown, suspected or unsuspected, and Licensee shall not commence to prosecute, cause or permit to be prosecuted, any action or proceeding of any description against the Releasees.

20. Licensee further understands and agrees that upon signature by Licensee, this document shall be deemed a public record and shall be reported to any entities authorized to receive disclosure of this Consent Order.

21. This Consent Order, when signed by both parties, constitutes the entire agreement between the parties and may only be modified or amended by a subsequent document executed in the same manner by the parties.

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22. Licensee agrees that all information maintained by the Board pertaining to the nature and result of any complaint and/or investigation may be fully disclosed to and considered by the Board in conjunction with the presentation of any offer of settlement, even if Licensee is not present. Licensee further acknowledges that the Board may conduct further inquiry as it deems necessary before the complete or partial acceptance or rejection of any offer of settlement.

23. Licensee, by signature to this document, waives any objection to the participation of the Board members, including the Disciplinary Panel and General Counsel, in the consideration of this offer of settlement and agrees not to seek the disqualification or recusal of any Board member or General Counsel in any future proceedings on the basis that the Board member or General Counsel has received investigative information from any source which otherwise may not be admissible or admitted as evidence.

24. Licensee acknowledges he has read this Consent Order and fully understands the contents.

25. Licensee acknowledges this Consent Order has been entered into freely and voluntarily.

26. Licensee shall obey all federal, state and local laws and rules governing the practice of athletic training in the State of Kansas that may be in place at the time of execution of the Consent Order or may become effective subsequent to the execution of this document.

27. Upon execution of this Consent Order by affixing a Board authorized signature below, the provisions of this Consent Order shall become an Order under K.S.A. 65-2838. This Consent Order shall constitute the Board's Final Order when filed with the office of the Executive Director for the Board and no further Order is required.

28. This Consent Order constitutes **public disciplinary action**.

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29. The Board may consider all aspects of this Consent Order in any future matter regarding Licensee.

**IT IS THEREFORE ORDERED** that the Consent Order and agreement of the parties contained herein is adopted by the Board as findings of fact, conclusions of law, and as a Final Order of the Board.

**IT IS SO ORDERED** on this 11<sup>th</sup> day of October, 2021.

**FOR THE KANSAS STATE BOARD OF  
HEALING ARTS:**

*Susan Hill*

\_\_\_\_\_  
Executive Director

10/11/2021

\_\_\_\_\_  
Date

*Brandon M. Martino*

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Brandon M. Martino, A.T.

Licensee

*Bmm*

9-29-2021

\_\_\_\_\_  
Date

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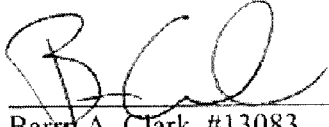
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PREPARED AND APPROVED BY:

/s Tammie Mundil

Tammie L. Mundil, #22039  
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APPROVED BY:

 9/29/2021

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*Attorney for Licensee*

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**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that the foregoing Consent Order for Surrender was served this 14<sup>th</sup> day of October, 2021, by depositing the same in the United States Mail, first-class postage prepaid, and addressed to:

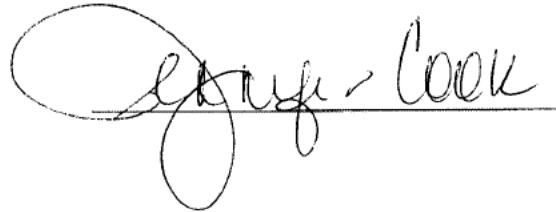
Brandon M. Martino, A.T.  
**CONFIDENTIAL**

*Licensee*

Barry A. Clark  
Clark & Platt, Chtd.  
417 Poyntz Avenue  
Manhattan, KS 66502  
[barry@clarkplatt.com](mailto:barry@clarkplatt.com)  
*Attorney for Licensee*

and the original was filed with the office of the Executive Director:

Executive Director  
Kansas State Board of Healing Arts  
800 SW Jackson Lower Level, Suite A  
Topeka, KS 66612

A handwritten signature in black ink, appearing to read "George Cook", written over a horizontal line.

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