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7

8 **BEFORE THE**
9 **BOARD OF BEHAVIORAL SCIENCES**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 WILLIAM WAYNE BABCOCK
1145 Jacobs Place
13 Marysville, CA 95901

14 Respondent.

Case No. MF-2002-657

OAH No.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

15
16 FINDINGS OF FACT

17 1. On or about September 24, 2002, Complainant Sherry Mehl, in her official
18 capacity as the Executive Officer of the Board of Behavioral Sciences, Department of Consumer
19 Affairs, filed Accusation No. MF-2002-657 against William Wayne Babcock (Respondent)
20 before the Board of Behavioral Sciences.

21 2. On or about December 20, 2000, the Board of Behavioral Sciences
22 (Board) issued Marriage, Family and Child Counselor No. MFC 37258 to Respondent. The
23 Marriage, Family and Child Counselor was in full force and effect at all times relevant to the
24 charges brought herein and will expire on March 31, 2002, unless renewed.

25 3. On or about October 1, 2002, Barbara Hampton, an employee of the
26 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.
27 MF-2002-657, Statement to Respondent, Notice of Defense, Request for Discovery, and
28 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record

1 with the Board, which was and is 1145 Jacobs Place Marysville, CA 95901. A copy of the
2 Accusation, the related documents, and Declaration of Service are attached as exhibit A, and are
3 incorporated herein by reference. These same documents were also served by Certified and First
4 Class Mail to Attorney Rick Worrell, who as Mr. Babcock's attorney in the underlying criminal
5 case, entitled *The People of the State of California v. William Wayne Babcock*, Case No. CRF02-
6 230, filed in the county of Yuba.

7 4. Service of the Accusation was effective as a matter of law under the
8 provisions of Government Code section 11505, subdivision (c).

9 5. Circa October 6, 2002, the green certified mailer receipt (from the certified
10 letter sent to Respondent's address of record), was returned to the Department of Justice, with the
11 signature of Nancy A. Babcock. A copy of the green certified mailer receipt is attached hereto as
12 exhibit B, and are incorporated herein by reference.

13 6. Government Code section 11506 states, in pertinent part:

14 "(c) The respondent shall be entitled to a hearing on
15 the merits if the respondent files a notice of defense, and the
16 notice shall be deemed a specific denial of all parts of the
17 accusation not expressly admitted. Failure to file a notice of
18 defense shall constitute a waiver of respondent's right to a
19 hearing, but the agency in its discretion may nevertheless grant a
20 hearing."

21 7. Respondent failed to file a Notice of Defense within 15 days after service
22 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
23 Accusation No. MF-2002-657.

24 8. California Government Code section 11520 states, in pertinent part:

25 "(a) If the respondent either fails to file a notice of
26 defense or to appear at the hearing, the agency may take action
27 based upon the respondent's express admissions or upon other
28 evidence and affidavits may be used as evidence without any
notice to respondent."

9. Pursuant to its authority under Government Code section 11520, the Board
finds Respondent is in default. The Board will take action without further hearing and, based on
Respondent's express admissions by way of default and the evidence before it, contained in
exhibits A and B finds that the allegations in Accusation No. MF-2002-657 are true.

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This Decision shall become effective on January 20, 2003.

It is so ORDERED December 20, 2002



FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

35039.wpd
DOJ docket number:SA2002AD0583

Attachments:

- Exhibit A: Accusation No.MF-2002-657, Related Documents, and Declaration of Service
- Exhibit B: Postal Return Documents

Exhibit A

Accusation No. MF-2002-657,
Related Documents and Declaration of Service

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8 **BEFORE THE**
9 **BOARD OF BEHAVIORAL SCIENCES**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation)
12 Against:) No. MF-2002-657
13 WILLIAM WAYNE BABCOCK)
1145 Jacobs Place) **ACCUSATION**
14 Marysville, CA 95901)
15 License No. MFC 37258)
16 Respondent.)

17
18 Complainant, Sherry Mehl, alleges as follows:

19 1. Complainant is the Executive Officer of the Board of Behavioral Science
20 Examiners, Department of Consumer Affairs, State of California ("Board"), and makes and files
21 this Accusation in her official capacity.

22 **I.**

23 **LICENSE INFORMATION**

24 2. On December 20, 2000, the Board issued to William Wayne Babcock
25 License Number MFC 37258, allowing Mr. Babcock to practice as a licensed Marriage, Family
26 and Child Counselor ("MFCC") in the State of California.

27 On March 31, 2004, William Wayne Babcock's ("Respondent") MFC license
28 will expire, unless renewed.

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II.

RELEVANT STATUTES

3. Business and Professions Code section 118, subsection (b) provides that an expired license shall not deprive the board of its authority to institute a disciplinary proceeding against the license.

4. Business and Professions Code section 4982 states in pertinent part the following:

"The board may . . . suspend or revoke the license or registration of any registrant or licensee if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to:

- (a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or the registration of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing any such person to withdraw a plea of guilty and enter a plea of not guilty of setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

...

- (i) Intentionally or recklessly causing physical or emotional harm to any client.

...

- (k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an

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act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a marriage, family, and child counselor.

...”

5. The Business and California section 490 provides as follows:

§ 490. Conviction of a crime; relationship of crime to licensed activity

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.04 of the Penal Code.

...

6. Business and Professions Code §726, provides in pertinent part, the

following:

§726. Sexual abuse, misconduct, or relations with a patient

The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

...

7. Under Business and Professions Code section 125.3, the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 III.

2 **GENERAL BACKGROUND**

3 8. Circa 1993, Respondent William Wayne Babcock began working with
4 the Marysville Joint Unified School District. On April 9, 2002, William Wayne Babcock was
5 arrested by the Marysville Police Detectives for committing wilful, unlawful, lewd and
6 lascivious acts upon four minor boys, who were receiving counseling services from Respondent.

7 9. On April 11, 2002, a criminal action entitled, *The People of the State of*
8 *California v. William Wayne Babcock*, Case No. CRF02-230 was filed in the County of Yuba,
9 alleging four counts of violation of Penal Code section 288(a). On August 9, 2002, the criminal
10 complaint was amended adding additional counts.

11 10. On August 9, 2002, in Case No. CRF02-230, Respondent, in the criminal
12 action brought against him, pled guilty to eight (8) counts of Penal Code section 288(a).

13 IV.

14 **VIOLATIONS**

15 **Business & Professions Code §490 and §4982(a)**
16 **(Criminal Convictions)**

17 11. By reference paragraphs 8 through 10 are incorporated herein. Respondent
18 has subjected his license to discipline pursuant to Business and Professions Code section 490 and
19 section 4982(a) for criminal convictions of crimes related to the practice of his profession.
20 Respondent, while in a position of authority and trust, sexually abused and committed sexual
21 misconduct against school children. He did so while he was acting under his license.

22 **Business and Professions Code Section 4982(i)**
23 **(Intentionally, Recklessly Causing Harm To Clients)**

24 12. By reference paragraphs 8 through 10 are incorporated herein. From circa
25 September 2000 through March 2002, during his care and treatment of several school children
26 (i.e., T.G., K.A., D.P., J.C., D.H., Z.L., L.S., and B.Y.) Respondent committed wilful, unlawful,
27 lewd and lascivious acts upon these minors. Accordingly, Respondent violated Business and

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1 Professions Code section 4882(i), by intentionally and/or recklessly causing physical and/or
2 emotional harm to said children.

3 **Business and Professions Code Section 4982(k)**
4 **(Engaging In Sexual Relationships With Clients)**

5 13. By reference paragraphs 8 through 10 are incorporated herein. From circa
6 September 2000 through March 2002, during his care and treatment of school children (i.e., T.G.,
7 K.A., D.P., J.C., D.H., Z.L., L.S., and B.Y.,) Respondent committed wilful, unlawful, lewd and
8 lascivious acts upon these minors. Accordingly, Respondent violated Business and Professions
9 Code section 4982(k), and section 726, by engaging in sexual abuse and misconduct with clients.

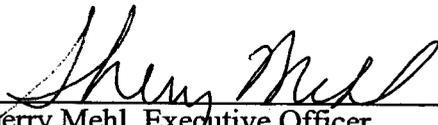
10 V.

11 **PRAYER**

12 WHEREFORE, complainant prays that a hearing be held and that the Board of
13 Behavioral Sciences make its order:

- 14 1. Revoking or suspending License Number MFC 37258 issued to William
15 Wayne Babcock;
- 16 2. Ordering William Wayne Babcock to pay to the Board its costs in
17 investigating and enforcing the case according to proof at the hearing, pursuant to Business and
18 Professions Code section 125.3.
- 19 3. Taking such other and further action as may be deemed proper and
20 appropriate.

21 DATED: September 24, 2002

22
23 
24 Sherry Mehl, Executive Officer
25 Board of Behavioral Sciences
26 Department of Consumer Affairs
27 State of California

28 **Complainant**