

BEFORE THE
BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the First Amended
Accusation Against:

MARGARET JEAN FERRARI,
Marriage and Family Therapist Intern
Registration No. IMF 43686,

Respondent.

OAH No.: L2007010794

Case No.: IM-2006-88

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Behavioral Sciences as its Decision in the above-entitled matter.

This Decision shall become effective November 14, 2007.

IT IS SO ORDERED October 15, 2007.

BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

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DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

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MARGARET JEAN FERRARI,

Marriage and Family Therapist Intern
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Case No. IM-2006-88

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PROPOSED DECISION

This matter was heard by Erlinda G. Shrenger, Administrative Law Judge, Office of Administrative Hearings, State of California, on June 5, 2007, in Laguna Hills, California. Complainant was represented by Susan L. Fitzgerald, Deputy Attorney General. There was no appearance by, or on behalf of, Margaret Jean Ferrari (Respondent).

Documentary and stipulated¹ evidence was received, and the matter was submitted for decision on June 5, 2007.

FACTUAL FINDINGS

1. Complainant Paul Riches brought this action solely in his official capacity as the Executive Officer of the Board of Behavioral Sciences (Board), Department of Consumer Affairs.
2. On August 12, 2003, the Board issued Marriage and Family Therapist Intern Registration No. IMF 43686 (registration) to Respondent. The registration expired on July 31, 2005, for non-payment of fees, but was renewed on August 2, 2005. The renewed registration expired on July 31, 2006, and has not been renewed.
3. On December 21, 2006, Complainant filed and served an Accusation and all other statutorily required documents on Respondent at her address of record with the Board.

¹ See Factual Finding 7, below.

4. On January 17, 2007, Respondent filed a Notice of Defense contesting the Accusation. Respondent listed her address of record on the Notice of Defense.

5. On March 16, 2007, Complainant filed and served a First Amended Accusation, which is the operative pleading in this case. The First Amended Accusation sets forth two causes for discipline against Respondent's registration based on her conduct and criminal conviction described in Factual Findings 9 and 10, below.

6. On April 30, 2007, an Amended Notice of Hearing, setting forth the date, time and place of hearing, was served by certified mail on Respondent at her address of record. Service of the Amended Notice of Hearing conformed to the requirements of Government Code sections 11505, subdivision (c), and 11509.

7. On or about June 2, 2007, the parties entered into a Stipulation of the Parties Re: Administrative Hearing (exhibit 5) in which, among other things, Respondent admitted that the charges and allegations contained in the First Amended Accusation are true and establish grounds for disciplinary action against her registration. Respondent, however, reserved her right to present evidence at the hearing regarding mitigation, rehabilitation, and the appropriate discipline to be imposed against her registration.

8. Respondent did not appear at the June 5, 2007 hearing. At Complainant's request, the matter proceeded as a default pursuant to Government Code section 11520.

9. (A) On September 14, 2006, in the Orange County Superior Court, North Justice Center, case number 05NF3536, Respondent was convicted on her plea of guilty of violating Vehicle Code section 23103 (reckless driving), a misdemeanor.

(B) Respondent was placed on three years informal probation under various terms and conditions, including pay fines totaling \$390.00 or, in lieu of the fines, perform 35 days of community service; not drive with a measurable amount of alcohol or drugs in her blood; and submit to chemical biological fluid testing on demand of any peace officer or probation officer.

10. The facts and circumstances underlying Respondent's conviction were: On July 21, 2005, at approximately 0146 hours, Respondent was stopped by the Brea Police Department on suspicion of driving under the influence. She was unable to pass all of the field sobriety tests administered to her and she admitted having been drinking alcoholic beverages earlier in the evening. She was arrested on suspicion of drunk driving. Respondent tested at a 0.04 percent blood alcohol level. She also tested positive for cocaine, methamphetamine and marijuana metabolites. The police searched Respondent's vehicle and found marijuana and a silver cigarette case containing two bindles of cocaine.

11. Based on the stipulation of the parties (exhibit 5), Respondent used alcohol and cocaine to the extent and in such a manner as to be dangerous to herself and the public, and thereby subjected her registration to disciplinary action under Business and Professions Code section 4982, subdivision (c).

12. Based on the stipulation of the parties (exhibit 5), Respondent's conviction for misdemeanor reckless driving was for a crime substantially related to the qualifications, functions, or duties of a marriage and family therapist intern, and thereby subjected her registration to disciplinary action under Business and Professions Code section 4982, subdivision (a).

13. No evidence of rehabilitation or mitigation was offered at the hearing.

14. Complainant established that costs in the amount of \$4,700.50 were reasonably incurred in the investigation and prosecution of this case.

LEGAL CONCLUSIONS

1. Respondent is subject to disciplinary action under Business and Professions Code section 4982, subdivision (c), on the grounds of unprofessional conduct, for her use of both alcohol and cocaine to the extent and in such a manner as to be dangerous to herself and the public. (Factual Findings 7, 9-12.)

2. Respondent is subject to disciplinary action under Business and Professions Code section 4982, subdivision (a), for conviction of a crime substantially related to the qualifications, functions, or duties of a marriage and family therapist intern. (Factual Findings 7, 9-12.)

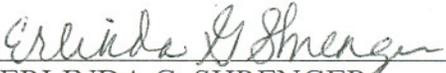
3. Business and Professions Code section 125.3 allows the Board to request a licensee found to have committed a violation of its licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. In this case, Complainant established reasonable costs in the amount of \$ 4,700.50. (Factual Finding 14.)

ORDER

The Marriage and Family Therapist Intern Registration No. IMF 43686 issued to Respondent Margaret Jean Ferrari is revoked.

Respondent Margaret Jean Ferrari shall pay the Board of Behavioral Sciences costs in the amount of \$4,700.50.

DATED: July 5, 2007


ERLINDA G. SHRENGER
Administrative Law Judge
Office of Administrative Hearings

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 MARGARET A. LAFKO
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9 Attorneys for Complainant

10 **BEFORE THE**
11 **BOARD OF BEHAVIORAL SCIENCES**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. IM-2006-88

14 MARGARET JEAN FERRARI
1316 N. Lowell St
15 Santa Ana, CA 92706

**FIRST AMENDED
ACCUSATION**

16 Marriage and Family Therapist Intern
Registration No. IMF 43686

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Paul Riches (Complainant) brings this First Amended Accusation solely in his
22 official capacity as the Executive Officer of the Board of Behavioral Sciences, Department of
23 Consumer Affairs. This First Amended Accusation supersedes the original Accusation in its
24 entirety. For ease of reference, the additions to this document are italicized.

25 2. On or about August 12, 2003, the Board of Behavioral Sciences issued Marriage
26 and Family Therapist Intern Registration No. IMF 43686 to Margaret Jean Ferrari (Respondent).
27 The Marriage and Family Therapist Intern registration expired on July 31, 2005 for non-payment
28 of fees and was renewed on August 2, 2005. The renewed registration expired on July 31, 2006,

1 and has not been renewed.

2 **JURISDICTION**

3 3. This Accusation is brought before the Board of Behavioral Sciences (Board),
4 Department of Consumer Affairs, under the authority of the following laws. All section
5 references are to the Business and Professions Code unless otherwise indicated.

6 A. Section 4982 states in pertinent part:

7 "The board may refuse to issue any registration or license, or may suspend or revoke the
8 license or registration of any registrant or licensee if the applicant, licensee, or registrant has been
9 guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

10 *"(a) Conviction of a crime substantially related to the qualifications, functions or duties*
11 *of a licensee or registrant under this chapter. The record of conviction shall be conclusive*
12 *evidence only of the fact that the conviction occurred. The Board may inquire into the*
13 *circumstances surrounding the commission of the crime in order to fix the degree of discipline or*
14 *to determine if the conviction is substantially related to the qualifications, functions, or duties of*
15 *a licensee or registrant under the chapter. . . .*

16 *"(c) Administering to himself or herself any controlled substance or using of any of the*
17 *dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a*
18 *manner, as to be dangerous or injurious to the person applying for a registration or license or*
19 *holding a registration or license under this chapter, or to any other person, or to the public. . . .*

20 ". . . ."

21 B. Section 118, subdivision (b), of the Code provides that the expiration of a license
22 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
23 within which the license may be renewed, restored, reissued or reinstated.

24 C. Section 492 of the Code states:

25 "Notwithstanding any other provision of law, successful completion of any diversion
26 program under the Penal Code, or successful completion of an alcohol and drug problem
27 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
28 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2

1 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in
2 that division, from taking disciplinary action against a licensee or from denying a license for
3 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
4 record pertaining to an arrest.

5 “This section shall not be construed to apply to any drug diversion program operated by
6 any agency established under Division 2 (commencing with Section 500) of this code, or any
7 initiative act referred to in that division.”

8 D. Section 125.3 of the Code provides, in pertinent part, that the Board may request
9 the administrative law judge to direct a licensee found to have committed a violation or
10 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
11 and enforcement of the case.

12 4. This Accusation also refers to the following sections of Title 16, California Code
13 of Regulation (CCR):

14 A. CCR section 1812 provides in pertinent part that:

15 “For purposes of . . . suspension, or revocation of a license or registration pursuant
16 to Division 1.5. . . a crime or act shall be considered to be substantially related to the
17 qualifications, functions, or duties of a person holding a license. . . if to a substantial degree it
18 evidences present or potential unfitness of a person holding a license to perform the functions
19 authorized by his or her license in a manner consistent with the public health, safety, or welfare.”

20 B. CCR section 1814 provides in pertinent part that:

21 “(a) When considering the suspension or revocation of a license, the board, in
22 evaluating the rehabilitation of such person and his or her eligibility for a license will consider
23 the following criteria:

24 (1) Nature and severity of the act(s) or crime(s) under consideration as grounds for
25 suspension or revocation.

26 “. . . .

27 (3) The time that has elapsed since commission of the act(s) or crime(s) giving rise to the
28 suspension or revocation.

1 (4) Whether the licensee has complied with any terms of probation, parole, restitution or
2 any other sanctions lawfully imposed against such person.

3 “....

4 (8) Evidence, if any, of rehabilitation submitted by the licensee.

5 “....”

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct: Dangerous Administration or Use
8 of Controlled Substance and Alcohol)**

9 5 Respondent is subject to disciplinary action under section 4982(c) for use of both
10 alcohol and cocaine to the extent and in such a manner as to be dangerous to herself and the
11 public, as more particularly alleged below:

12 A. On or about July 21, 2005 at approximately 0146 hours Respondent was stopped
13 by the Brea Police Department on suspicion of driving under the influence. She was unable to
14 pass all of the field sobriety tests administered to her and she admitted having been drinking
15 alcoholic beverages earlier in the evening. She was arrested on suspicion of drunk driving.

16 B. On or about July 21, 2005, Respondent tested at 0.04 blood alcohol and also
17 tested positive for cocaine, methamphetamine and marijuana metabolites.

18 C. On or about July 21, 2005, Respondent possessed cocaine in two bindles found in
19 a silver cigarette case in her vehicle. Marijuana was also found in her vehicle.

20 ***SECOND CAUSE FOR DISCIPLINE***

21 ***(Unprofessional Conduct: Conviction of a Substantially Related Crime
22 Incident Date: July 21, 2005 - Conviction Date: September 14, 2006)***

23 6. Respondent is subject to disciplinary action under section 4982(a) for conviction
24 for a crime substantially related to the qualifications, functions, or duties of a marriage and
25 family therapist intern, as more particularly alleged below:

26 A. On or about September 14, 2006, in Orange County Superior Court, North
27 Justice Center Case No. 05NF3536, Respondent was convicted on a plea of guilty to
28 misdemeanor reckless driving, a violation of Vehicle Code section 23103.

1 BILL LOCKYER, Attorney General
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17 Respondent.

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ACCUSATION

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18 within which the license may be renewed, restored, reissued or reinstated.

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28 ///

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14 tested positive for cocaine, methamphetamine and marijuana metabolites.

15 C. On or about July 21, 2005, Respondent possessed cocaine in two bindles found in
16 a silver cigarette case in her vehicle. Marijuana was also found in her vehicle.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein
19 alleged, and that following the hearing, the Board of Behavioral Sciences issue a decision:

20 1. Revoking or suspending Marriage and Family Therapist Intern Registration No.
21 IMF 43686, issued to Margaret Jean Ferrari;

22 2. Ordering Margaret Jean Ferrari to pay the Board of Behavioral Sciences the
23 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
24 Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: December 21, 2006



PAUL RICHES
Executive Officer
Board of Behavioral Sciences
Department of Consumer Affairs
State of California
Complainant