

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

In the Matter of the Accusation Against:

FERN C. ROSS

1201 West Valencia Drive, Space 240
Fullerton, CA 92833
Marriage and Family Therapist License No.
MFC 32578

Respondent.

Case No. MF 2007-789

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Behavioral Sciences, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on September 3, 2009.

It is so ORDERED August 4, 2009.

Renee B. Jones

FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 JAMES M. LEDAKIS
Supervising Deputy Attorney General

3 BEN E. JOHNSON, State Bar No. 84406
Deputy Attorney General

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8 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. MF 2007-789

12 FERN C. ROSS

13 1201 West Valencia Drive, Space 240
14 Fullerton, CA 92833

15 Marriage and Family Therapist License No.
16 MFC 32578

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17 Respondent.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
19 proceeding that the following matters are true:

20 PARTIES

21 1. Paul Riches (Complainant) is the Executive Officer of the Board of Behavioral
22 Sciences. He brought this action solely in his official capacity and is represented in this matter
23 by Ben E. Johnson, Deputy Attorney General, on behalf of Edmund G. Brown Jr., Attorney
24 General of the State of California.

25 2. Fern C. Ross (Respondent) is represented in this proceeding by attorney Keith E.
26 Zwillinger, whose address is Law Offices of James R. Rogers, 125 S Hwy 101, #101, Solana
27 Beach, CA 92075.

1 uncertainty of further proceedings, Respondent agrees that at a hearing, Complainant could
2 establish a factual basis for the charges in the Accusation and that those charges constitute cause
3 for discipline. Respondent hereby gives up her right to contest that cause for discipline exists
4 based on those charges.

5 9. Respondent understands that by signing this stipulation she enables the Board to
6 issue an order accepting the surrender of her Marriage and Family Therapist License without
7 further process.

8 RESERVATION

9 10. The admissions made by Respondent herein are only for the purposes of this
10 proceeding, or any other proceedings in which the Board of Behavioral Sciences or other
11 professional licensing agency is involved, and shall not be admissible in any other criminal or
12 civil proceeding.

13 CONTINGENCY

14 11. This stipulation shall be subject to approval by the Board of Behavioral Sciences.
15 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
16 Behavioral Sciences may communicate directly with the Board regarding this stipulation and
17 surrender, without notice to or participation by Respondent or her counsel. By signing the
18 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
19 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
20 to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary
21 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
22 action between the parties, and the Board shall not be disqualified from further action by having
23 considered this matter.

24 12. The parties understand and agree that facsimile copies of this Stipulated Surrender
25 of License and Order, including facsimile signatures thereto, shall have the same force and effect
26 as the originals.

27 13. In consideration of the foregoing admissions, the parties agree that the Board may,
28 without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Marriage and Family Therapist License No. MFC 32578, issued to Respondent Fern C. Ross is surrendered and accepted by the Board of Behavioral Sciences.

14. The surrender of Respondent's Marriage and Family Therapist License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

15. Respondent shall lose all rights and privileges as a Marriage and Family Therapist in California as of the effective date of the Board's Decision and Order. Respondent understands and agrees that with the adoption by the Board of her license surrender, Respondent may not petition the Board for reinstatement of the surrendered license.

16. Respondent shall cause to be delivered to the Board both her wall license certificate and, if one was issued, pocket license on or before the effective date of the Decision and Order.

17. Respondent fully understands and agrees that at any time after she surrenders her license, that if she ever reapplies to the Board for licensure, she must meet all current requirements for licensure including, but not limited to filing a current application, meeting all current educational requirements, and taking and passing any and all examinations required of new applicants. The allegations contained in Accusation No. MF 2007-789 shall be deemed to be true, correct and admitted by Respondent.

18. Should Respondent ever apply or reapply for a new license or certification, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. MF 2007-789 shall be deemed to be true, correct, and admitted by Respondent for the purpose involving any proceeding seeking to deny or restrict licensure.

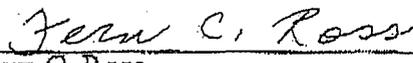
19. The Board waives costs at this time, however, Respondent shall pay the Board its costs of investigation and enforcement in the amount of \$5,609.00 prior to issuance of a new license in the future.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Keith E. Zwillingner. I understand the stipulation and the effect it will have on my Marriage and Family Therapist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Behavioral Sciences.

DATE: 5/20/09



Fern C. Ross
Respondent

I have read and fully discussed with Respondent Fern C. Ross the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 5/22/09



KEITH E. ZWILLINGER
Attorney for Respondent

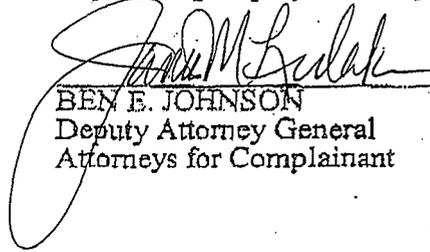
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Behavioral Sciences of the Department of Consumer Affairs.

DATED: 5/22/09

EDMUND G. BROWN JR., Attorney General
of the State of California

JAMES M. LEDAKIS
Supervising Deputy Attorney General



BEN E. JOHNSON
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. MF 2007-789

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 LINDA K. SCHNEIDER
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11 **BOARD OF BEHAVIORAL SCIENCES**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. MF 2007-789

15 FERN C. ROSS

ACCUSATION

16 1201 West Valencia Drive, Space 240
17 Fullerton, CA 92833

18 Marriage and Family Therapist License No.:
19 MFC 32578

Respondent.

20 Complainant alleges:

21 **PARTIES**

22 1. Paul Riches (Complainant) brings this Accusation solely in his official capacity as
23 the Executive Officer of the Board of Behavioral Sciences, Department of Consumer Affairs.

24 2. On or about June 20, 1995, the Board of Behavioral Sciences issued Marriage and
25 Family Therapist License Number MFC 32578 to Fern C. Ross (Respondent). The Marriage
26 and Family Therapist license was in full force and effect at all times relevant to the charges
27 brought herein. However, the Marriage and Family Therapist license expired on October 31,
28 2008, and has not been renewed.

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1 (3) "Intimate part" and "touching" have the same meaning as defined in
2 subdivisions (f) and (d), respectively, of Section 243.4 of the Penal Code.

3 (4) "The course of a prior treatment" means the period of time during which a
4 patient first commences treatment for services that a psychotherapist is authorized to provide
5 under his or her scope of practice, or that the psychotherapist represents to the patient as being
6 within his or her scope of practice, until the psychotherapist-patient relationship is terminated.

7 8. B & P Code section 729 provides that any psychotherapist who engages in an act
8 of sexual intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or with
9 a former patient or client when the relationship was terminated primarily for the purpose of
10 engaging in those acts, is guilty of sexual exploitation, a public offense punishable by a fine
11 and/or imprisonment, and in no instance shall consent of the patient or client be a defense.

12 9. B&P Code section 4982 states, in pertinent part:

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

17 ...
18 (d) Gross negligence or incompetence in the performance of marriage and family
19 therapy.

20 (e) Violating, attempting to violate, or conspiring to violate any of the provisions
21 of this chapter or any regulation adopted by the board.

22 ...
23 (i) Intentionally or recklessly causing physical or emotional harm to any client.
24 ...

25 (k) Engaging in sexual relations with a client, or a former client within two years
26 following termination of therapy, soliciting sexual relations with a client, or committing an act of
27 sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually
28 related crime, if that act or solicitation is substantially related to the qualifications, functions, or

1 duties of a marriage and family therapist.

2 ...”

3 10. B & P Code section 4982.26 provides:

4 “Notwithstanding Section 4982, any proposed decision or decision issued under
5 this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section
6 11500) of Part 1 of division 3 of Title 2 of the Government Code, that contains any finding of
7 fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 729,
8 when that act is with a patient, or with a former patient when the relationship was terminated
9 primarily for the purpose of engaging in that act, shall contain an order of revocation. The
10 revocation shall not be stayed by the administrative law judge.”

11 **FACTS PERTAINING TO COMPLAINANT PL**

12 **Complainant's Statement**

13 11. PL was born in 1956. PL is female and has three (3) adult children who shall be
14 referred to as K, N and B. In October of 1997, PL was in a long term relationship with KH, also
15 an adult female. PL and KH lived together; KH worked and financially supported PL.

16 12. On February 15, 2007, the Board received a written complaint from PL, which in
17 summary states the following:

18 a. PL was Fern Ross' patient from late October, 1997 until July, 2004. The
19 relationship began as a psychotherapist-patient relationship. However, about one year into
20 therapy, Respondent and PL became lovers and they continued as lovers until 2004.

21 b. PL, when she first went to see Respondent in late October 1997, was in a
22 state of deep depression, suffering with panic/anxiety attacks and she contemplated suicide.
23 PL went to Respondent due to the abuse she experienced from her prior psychotherapist and her
24 long family history of abuse, including incest. PL and the prior psychotherapist had been in a
25 two year patient-therapist relationship that turned sexual during the last year. On or about
26 October 9, 1997, after PL reported the prior psychotherapist to the authorities, the prior
27 psychotherapist committed suicide. As a result, PL went into a deep depression. She rarely got
28 out of bed except to go to therapy, stating she wanted to die every day. Twice during that period,

1 PL tried to take her life. On Thanksgiving of 1997, Respondent hospitalized PL. Respondent
2 spent the day at the hospital with PL and her partner, KH.

3 c. About a year into treatment, during a therapy session, Respondent invited
4 PL to put her head on a pillow in Respondent's lap. Prior to this session, Respondent had started
5 bringing food to the office, and they had become more and more like friends. Respondent told
6 PL about her children and family. When PL put her head in Respondent's lap she caressed PL.
7 Later, Respondent told PL that she knew PL wanted Respondent to kiss her. At the next session,
8 the same thing occurred, and this time Respondent kissed PL. The intimacy progressed with
9 each session until PL and Respondent had intimate sexual contact in the office, almost every
10 session. The sex began about one year after therapy started.

11 d. After that, Respondent and PL started meeting at PL's apartment when her
12 partner, KH, went to work. Respondent would arrive at about 6:00 a.m., and Respondent and PL
13 had sex and intimate conversation. At one point Respondent took PL to her house, introduced
14 PL to her husband and told him PL was her intern. At other times Respondent introduced PL to
15 her children and grandchildren. Respondent also attended PL's family functions, such as
16 birthday parties and Respondent went to the homes of PL's family members. PL also stayed at
17 Respondent's house when her husband went away on a fishing trip. Another time, PL and
18 Respondent spent the weekend at the Hilton in Huntington Beach. Respondent also took PL on
19 trips to the San Diego area where they stayed over the weekend in hotels. Another time,
20 Respondent introduced PL to her daughter and the daughter's lover and they all stayed together
21 at Respondent's house. Respondent admitted to all of them that she and PL were lovers.

22 e. Thereafter, Respondent told her husband their relationship was over, that
23 she was gay, and that she was with PL. Respondent and PL moved in with PL's daughter, N.
24 Respondent and PL slept in the spare bedroom for two weeks. At one point, Respondent and PL
25 moved in together, briefly, during this time. PL and KH, were still together, but having a
26 difficult time, so PL spent several days each week with Respondent and sometimes moved in
27 with her for days or weeks.

28 ///

1 f. Respondent leased a black Honda Civic and gave it to PL to drive.
2 Respondent also let PL's daughter N drive her car when N's car was in the shop. Respondent
3 and PL also stayed at PL's eldest daughter's house in the guest room. All three of PL's children,
4 K, B and N, were aware of the relationship between Respondent and their mother. Respondent
5 became involved in their lives. B cleaned Respondent's house. They also went to Respondent's
6 sister's house for birthday parties and out to the theater and movies.

7 g. After this period of living with Respondent, PL moved back in with KH,
8 but the relationship with Respondent continued. Respondent moved to a place near PL's house.
9 PL picked out the furniture for Respondent's apartment and the gray cat Respondent bought. PL
10 stayed with Respondent when KH was at work, or stayed for a couple of weeks if KH and PL
11 were fighting. Respondent changed her work schedule so she and PL could spend more time
12 together. Respondent drove PL to her orthopedic surgeon's office. Respondent bought PL
13 clothes and a diamond ring. PL bought Respondent an opal and diamond ring and a pendant
14 necklace.

15 h. Respondent put PL's daughter, N, on her cell phone plan. On March 10,
16 2000, Respondent went to a birthday party for PL's grandson at PL's daughter K's house.
17 Respondent was recorded on a DVD at the birthday party. By that time, PL's family was
18 reluctantly including Respondent in family events because she had become so central to PL's
19 daily life.

20 i. Another time, N, K, Respondent's sister, Respondent and PL went to a
21 hotel in San Diego and went gambling.

22 j. Another time, as part of therapy, Respondent took PL to the hotel where
23 PL's former therapist had taken her life. Respondent booked the very room and had PL sit in the
24 hot tub where her former therapist committed suicide. Respondent also took PL to her former
25 therapist's grave at Loma Vista Cemetery and drove by the former therapist's home.

26 k. Respondent frequently told PL details about sessions with other patients.
27 When Respondent and PL were out together, patients would call Respondent and she would talk
28 to them in front of me. Respondent said she was in love with PL and that she wanted to make a

1 five-year plan for me to leave my partner.

2 l. Respondent's son began to pressure her about her relationship with PL.

3 m. In early June, 2004, after a 5 year relationship, Respondent told PL she
4 wasn't in love with her and she was not gay. PL went through a period of deep depression and
5 suicidal thoughts and was eventually admitted to College Hospital.

6 n. PL has returned to therapy, but it has taken a long time to begin to
7 establish trust with her current therapist. This has made her progress in therapy much slower
8 than it would otherwise have been.

9 o. Respondent testified in PL's lawsuit against her former therapist's estate.
10 PL lost the case against her former therapist.

11 **FIRST CAUSE OF ACTION**

12 (Sexual Misconduct)

13 15. Respondent is subject to disciplinary action under B&P Code section 726 in that
14 she engaged in unprofessional conduct by engaging in sexual relations with a client, as set forth
15 in paragraphs 11 and 12-a through 12-o above, which paragraphs are incorporated herein by this
16 reference.

17 **SECOND CAUSE OF ACTION**

18 (Unprofessional Conduct-Sexual Exploitation)

19 16. Respondent is subject to disciplinary action under B&P Code section 729 in that
20 she engaged in unprofessional conduct by engaging in sexual contact with a patient or client
21 while Respondent functioned as the patient's psychotherapist, as set forth above in paragraphs 11
22 and 12-a through 12-o, which paragraphs are incorporated herein by this reference.

23 **THIRD CAUSE OF ACTION**

24 (Unprofessional Conduct-Gross Negligence)

25 17. Respondent is subject to disciplinary action under B&P Code section 4982,
26 subdivision (d), in that she engaged in unprofessional conduct by engaging in sexual contact
27 with a patient or client while Respondent functioned as a Marriage and Family Therapist, as set
28 forth above in paragraphs 11 and 12-a through 12-o, which paragraphs are incorporated herein

1 by this reference.

2 **FOURTH CAUSE FOR DISCIPLINE**

3 (Unprofessional Conduct-Conspiring To Violate The Law)

4 18. Respondent is subject to disciplinary action under B&P Code section 4982,
5 subdivision (e), in that she engaged in unprofessional conduct by conspiring with her patient, PL,
6 to conceal Respondent's sexual contacts with patient PL while Respondent functioned as a
7 Marriage and Family Therapist, as set forth above in paragraphs 11 and 12-a through 12-o,
8 which paragraphs are incorporated herein by this reference.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 (Unprofessional Conduct-Recklessly Causing Harm To A Client)

11 19. Respondent is subject to disciplinary action under B&P Code section 4982,
12 subdivision (i), in that while functioning as a Marriage and Family Therapist, Respondent
13 recklessly caused harm to her client when she engaged in sexual contacts with patient PL, as set
14 forth in paragraphs 11 and 12-a through 12-o, which paragraphs are incorporated herein by this
15 reference.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 (Unprofessional Conduct-Respondent Engaged In Sexual Relations With A Patient Within Two
18 Years Of Termination of Therapy)

19 20. Respondent is subject to disciplinary action under B&P Code section 4982,
20 subdivision (k), in that while functioning as a Marriage and Family Therapist, Respondent
21 engaged in sexual relations with patient PL during therapy and within two years of terminating
22 therapy, as set forth in paragraphs 11 and 12-a through 12-o, which paragraphs are incorporated
23 herein by this reference.

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PRAVER

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

1. Pursuant to Business and Professions Code section 4982.26, revoking Marriage and Family Therapist License number MFC 32578 issued to Fern C. Ross.

2. Ordering Fern C. Ross to pay the Board of Behavioral Sciences the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3.

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

DATED: February 13, 2009



PAUL RICHES
Executive Director
Board of Behavioral Sciences
State of California
Complainant

Accusation Final.wpd