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

In the Matter of the Accusation Against: **ROXY HARRIS DECOU** **3705 Carbon Canyon Road** **Malibu, CA 90265** **Licensed Clinical Social Worker License No. LCS 8622** Respondent.	Case No. LC-2012-1293 OAH No. 2014010339

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 March 20, 2015.

It is so ORDERED February 18, 2015.

Christina Wong

FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

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

In the Matter of the Accusation Against: **ROXY HARRIS DECOU** **3705 Carbon Canyon Road** **Malibu, CA 90265** **Licensed Clinical Social Worker License No. LCS 8622** Respondent.	Case No. LC-2012-1293 OAH No. 2014010339 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Kim Madsen ("Complainant") is the Executive Officer of the Board of Behavioral Sciences. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Sydney M. Mehringer, Deputy Attorney General.

2. Respondent Roxy Harris DeCou ("Respondent") is represented in this proceeding by attorney Scott J. Harris, whose address is: SJ Harris Law, 8383 Wilshire Blvd., Suite 830, Beverly Hills, CA 90211.

3. On or about April 24, 1981, the Board of Behavioral Sciences ("Board") issued Licensed Clinical Social Worker License No. LCS 8622 to Respondent. The Licensed Clinical

Social Worker License was in full force and effect at all times relevant to the charges brought in Accusation No. LC-2012-1293 and will expire on May 31, 2015, unless renewed.

JURISDICTION

4. Accusation No. LC-2012-1293 was filed before the Board, Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 10, 2013. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. LC-2012-1293 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. LC-2012-1293. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. LC-2012-1293, if proven at a hearing, constitute cause for imposing discipline upon her Licensed Clinical Social Worker License.

10. Respondent agrees that her Licensed Clinical Social Worker License is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

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

CONTINGENCY

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

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Licensed Clinical Social Worker License No. LCS 8622 issued to Respondent Roxy Harris DeCou ("Respondent") is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is granted another registration or license regulated by the Board.

1. **Law and Ethics Course**

Respondent shall take and successfully complete the equivalency of two semester units in law and ethics. Course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational psychologist, professional clinical counselor as defined in Sections 4980.40, 4996.18, 4999.32 or 4999.33 of the Business and Professions Codes and Section 1854 of Title 16 of the California Code of Regulations or through a course approved by the Board. Classroom attendance must be specifically required. Within 90 days of the effective date of this Decision, Respondent shall submit a plan for prior Board approval for meeting this educational requirement. Said course must be taken and completed within one year from the effective date of this Decision. The costs associated with the law and ethics course shall be paid by the Respondent. Units obtained for an approved course in law and ethics shall not be used for continuing education units required for renewal of licensure.

2. **Psychotherapy**

Respondent shall participate in ongoing psychotherapy with a California licensed mental health professional who has been approved by the Board. Within 15 days of the effective date of this decision, Respondent shall submit to the Board or its designee for its prior approval the name and qualifications of one or more therapists of respondent's choice. Such therapist shall possess a valid California license to practice and shall have had no prior business, professional, or personal

relationship with Respondent, and shall not be the Respondent's supervisor. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy is to be borne by Respondent.

Respondent may, after receiving the Board's written permission, receive therapy via videoconferencing if Respondent's good faith attempts to secure face-to-face counseling are unsuccessful due to the unavailability of qualified mental health care professionals in the area. The Board may require that Respondent provide written documentation of his or her good faith attempts to secure counseling via videoconferencing.

Respondent shall provide the therapist with a copy of the Board's decision no later than the first counseling session. Upon approval by the Board, respondent shall undergo and continue treatment until the Board or its designee determines that no further psychotherapy is necessary.

Respondent shall take all necessary steps to ensure that the treating psychotherapist submits quarterly written reports to the Board concerning Respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board. Respondent shall execute a Release of Information authorizing the therapist to divulge information to the Board.

If the treating psychotherapist finds that Respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, Respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that Respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified respondent that she may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

3. **Supervised Practice**

Within 30 days of the effective date of this decision, Respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor. The supervisor shall be a current California licensed practitioner in Respondent's field of practice, who shall submit written reports to the Board or its

designee on a quarterly basis verifying that supervision has taken place as required and including an evaluation of Respondent's performance. The supervisor shall be independent, with no prior business, professional or personal relationship with Respondent.

If Respondent is unable to secure a supervisor in his or her field of practice due to the unavailability of mental health care professionals in the area, then the Board may consider the following options for satisfying this probationary term:

(1) Permitting the Respondent to receive supervision via videoconferencing; or,

(2) Permitting Respondent to secure a supervisor not in the Respondent's field of practice.

The forgoing options shall be considered and exhausted by the Board in the order listed above. The Board may require that Respondent provide written documentation of his or her good faith attempts to secure face-to-face supervision, supervision via videoconferencing or to locate a mental health professional that is licensed in the Respondent's field of practice. Failure to file the required reports in a timely fashion shall be a violation of probation. Respondent shall give the supervisor access to Respondent's fiscal and client records. Supervision obtained from a probation supervisor shall not be used as experience gained toward licensure. If the supervisor is no longer available, Respondent shall notify the Board within 15 days and shall not practice until a new supervisor has been approved by the Board. All costs of the supervision shall be borne by Respondent. Supervision shall consist of at least one (1) hour per week in individual face to face meetings. The supervisor shall not be the Respondent's therapist.

4. **Obey All Laws**

Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee, and remain in full compliance with any court ordered criminal probation, payments and other orders. A full and detailed account of any and all violations of law shall be reported by the Respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, Respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall pay the cost associated with the fingerprint process.

5. **File Quarterly Reports**

Respondent shall submit quarterly reports, to the Board or its designee, as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state under penalty of perjury whether she has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice Respondent shall continue to submit quarterly reports under penalty of perjury.

6. **Comply with Probation Program**

Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the program.

7. **Interviews with the Board**

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

8. **Failure to Practice**

In the event Respondent stops practicing in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Non-practice is defined as any period of time exceeding thirty calendar days in which Respondent is not engaging in any activities defined in Sections 4980.02, 4989.14, 4996.9, or 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term and will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; File Quarterly Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost Recovery. Respondent's license shall be automatically cancelled if Respondent's period of non-practice total two years.

9. **Change of Place of Employment or Place of Residence**

Respondent shall notify the Board or its designee in writing within 30 days of any change of place of employment or place of residence. The written notice shall include the address, the

telephone number and the date of the change.

10. **Supervision of Unlicensed Persons**

While on probation, Respondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this Decision.

11. **Notification to Clients**

Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

12. **Notification to Employer**

Respondent shall provide each of her current or future employers, when performing services that fall within the scope of practice of her license, a copy of this Decision and the Accusation before commencing employment. Notification to the Respondent's current employer shall occur no later than the effective date of the Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

13. **Violation of Probation**

If Respondent violates the conditions of her probation, the Board, after giving Respondent notice and the opportunity to be heard, may set aside the stay order and impose the discipline (revocation of Respondent's license) provided in the decision.

If during the period of probation, an accusation, petition to revoke probation, or statement of issues has been filed against Respondent's license or application for licensure, or the Attorney General's office has been requested to prepare such an accusation, petition to revoke probation, or statement of issues, the probation period set forth in this decision shall be automatically extended and shall not expire until the accusation, petition to revoke probation, or statement of issues has been acted upon by the board. Upon successful completion of probation, Respondent's license

shall be fully restored.

14. **Maintain Valid License**

Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should Respondent's license, by operation of law or otherwise, expire, upon renewal Respondent's license shall be subject to any and all terms of this probation not previously satisfied.

15. **License Surrender**

Following the effective date of this decision, if Respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily request the surrender of his/her license to the Board. The Board reserves the right to evaluate the Respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 30 calendar days deliver Respondent's license and certificate and if applicable wall certificate to the Board or its designee and Respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of Respondent's license shall be considered to be a disciplinary action and shall become a part of Respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should Respondent at any time after voluntary surrender ever reapply to the Board for licensure Respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

16. **Instruction of Coursework Qualifying for Continuing Education**

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

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17. **Notification to Referral Services**

Respondent shall immediately send a copy of this decision to all referral services registered with the Board in which Respondent is a participant. While on probation, Respondent shall send a copy of this decision to all referral services registered with the Board that Respondent seeks to join.

18. **Reimbursement of Probation Program**

Respondent shall reimburse the Board for the costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be $1,200.00 per year.

19. **Cost Recovery**

Respondent shall pay the Board $3,450.00 as and for the reasonable costs of the investigation and prosecution of Case No. LC-2012-1293. Respondent shall make such payments in a payment plan to be determined. Respondent shall make the check or money order payable to the Board of Behavioral Sciences and shall indicate on the check or money order that it is the cost recovery payment for Case No. LC-2012-1293. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, Respondent shall be considered to be in violation of probation. A period of non-practice by Respondent shall not relieve Respondent of her obligation to reimburse the Board for its costs.

Cost recovery must be completed six months prior to the termination of probation. A payment plan authorized by the Board may be extended at the discretion of the Enforcement Manager based on good cause shown by the probationer.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Scott J. Harris. I understand the stipulation and the effect it will have on my Licensed Clinical Social Worker License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Behavioral Sciences.

DATED: 1/19/15

ROXY HARRIS DECOU
Respondent

I have read and fully discussed with Respondent Roxy Harris DeCou the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1.20.15

Scott J. Harris
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Behavioral Sciences.

Dated: January 13, 2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
THOMAS L. RINALDI
Deputy Attorney General

SYDNEY M. MEHRINGER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. LC-2012-1293

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BEFORE THE
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DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **ROXY HARRIS DECOU** **3705 Carbon Canyon Road** **Malibu, CA 90265** **Licensed Clinical Social Worker License No. LCS 8622** Respondent.	Case No. LC-2012-1293 **ACCUSATION**

Complainant alleges:

PARTIES

1. Kim Madsen ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Behavioral Sciences, Department of Consumer Affairs.

2. On or about April 24, 1981, the Board of Behavioral Sciences issued Licensed Clinical Social Worker License Number LCS 8622 to Roxy Harris DeCou ("Respondent"). The Licensed Clinical Social Worker License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2015, unless renewed.

JURISDICTION

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

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

5. Section 4996.11 of the Code states:

"The board may suspend or revoke the license of any person who is guilty on the grounds set forth in Section 4992.3. The proceedings for the suspension or revocation of licenses under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted in that chapter."

STATUTORY AND REGULATORY PROVISIONS

6. Section 4992.3 of the Code states, in pertinent part:

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

. . . .

"(d) Incompetence in the performance of clinical social work.

"(e) An act or omission that falls sufficiently below the standard of conduct of the profession as to constitute an act of gross negligence.

. . . .

"(j) Intentionally or recklessly causing physical or emotional harm to any client.

"(k) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

. . . .

"(n) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

. . . .

"(t) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered. . . . ."

7. California Code of Regulations, title 16, section 1881 states, in pertinent part:

"As used in Section 4992.3 of the code, unprofessional conduct includes, but is not limited to:

. . . .

"(d) Intentionally or recklessly causes physical or emotional harm to a client.

"(e) Commits any dishonest, corrupt, or fraudulent act which is substantially related to the qualifications, functions or duties of a licensee.

. . . .

"(m) Commits an act or omission which falls sufficiently below that standard of conduct of the profession as to constitute an act of gross negligence. . . . "

COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that 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.

PATIENTS S.H AND L.H.

BACKGROUND FACTS

9. On or about September 23, 2011, S.H. and L.H., a husband and wife, saw Respondent for an initial consultation. Respondent and S.H. and L.H. were not a good match for each other and S.H. and L.H. did not return for any further sessions with Respondent. However Respondent made a billing error and accidentally billed S.H.'s and L.H.'s insurance company for three sessions as opposed to one session.

10. On or about December 6, 2011, L.H. posted a negative review about her experience with Respondent on the website "Yelp." L.H. wrote about her experience during her session with Respondent and the billing error issue.

11. In a letter dated February 22, 2012, Respondent wrote to S.H. and L.H. She stated that she had consulted three attorneys, indicated that her business had been seriously damaged by the negative review on "Yelp," and told them to remove the review or her attorneys would initiate legal proceedings.

12. S.H. received a letter dated March 6, 2012 from "It Takes Two to Tango LLC." In this letter, the anonymous author stated:

> We hope you are having a great day and now we hope to ruin it.
>
> We know all about the game you and your wife are playing and we can all play this little game together. We know that you never paid Roxy for the time you saw her, and yes it was once, but since she saw another couple 3 times in the same time period, billing got confused.
>
> So you destroy her reputation on Yelp and accuse her of insurance fraud rather than trying to simply rectify the matter first. Not only are you accusing her of serious crimes, it is you who are the criminal as you never paid for services rendered.
>
> Let us be clear, we know where you work and we can send a letter to everyone you work with detailing the distinguishing habits that you and your wife engage in. Perhaps your 200+ contacts on LinkedIn would be interested in your extra curricular activities.
>
> Have your wife take down her review immediately or we will have a field day with your reputation, and in this case we only need the truth.

13. In a letter dated March 8, 2012, Respondent wrote to L.H. She stated that she had "held off so far with you [i.e., L.H.]," that she had participated in a radio show on FKI about Yelp, that she gave an interview to the Santa Monica Daily Press about Yelp, and that she had revealed the "the real name of Dr. Acuala of Pasadena – but so far I've not told anyone about you and [S.H.]."

14. On or about June 6, 2012, Respondent participated in an interview with an investigator for the Board. During the interview, Respondent admitted that she had sent S.H. the letter from "It Takes Two to Tango LLC."

15. On or about December 3, 2012, Respondent provided a written statement to an investigator for the Board and clinical records for S.H. and L.H. In the written statement, Respondent stated that her daughter, who occasionally serves as her office assistant, composed the letter from "It Takes Two to Tango LLC" without her knowledge. The clinical records consisted

of a health insurance claim form, an explanation of benefits report, a one page transcription of her session notes, and three pages of handwritten session notes.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Incompetence)

16. Respondent is subject to disciplinary action under Code section 4992.3, subdivision (d) on the grounds of unprofessional conduct in that Respondent was incompetent in the performance of clinical social work. The circumstances, which include by reference Paragraphs 9 through 15 as though fully set forth herein, are as follows:

(a) On or about September 23, 2011, Respondent saw S.H. and L.H. for an initial consultation. Respondent did not provide S.H. or L.H. with documentation regarding their rights to protected health information, including their HIPAA rights, documentation regarding their rights and limits to confidentiality, and documentation regarding the purpose of the initial consultation. Respondent should have, but did not, provide S.H. and L.H. with this documentation and should have had them sign consent for treatment forms.

(b) On or about February 22, 2012, March 6, 2012, and March 8, 2012, Respondent sent letters to S.H. and L.H. in which she threatened to breach client confidentiality if they did not remove a negative review that L.H. had written about Respondent on "Yelp."

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence)

17. Respondent is subject to disciplinary action under Code section 4992.3, subdivision (e), in conjunction with California Code of Regulations, title 16, section 1881, subdivision (m), on the grounds of unprofessional conduct in that Respondent's conduct fell sufficiently below the standard of the practice so as to constitute gross negligence. The circumstances, which include by reference Paragraphs 9 through 15 as though fully set forth herein, are as follows:

(a) On or about September 23, 2011, Respondent saw S.H. and L.H. for an initial consultation. Respondent did not provide S.H. or L.H. with documentation regarding their rights to protected health information, including their HIPAA rights, documentation regarding their rights and limits to confidentiality, and documentation regarding the purpose of the initial

consultation. Respondent should have, but did not, provide S.H. and L.H. with this documentation should have had them sign consent for treatment forms.

(b) On or about February 22, 2012, March 6, 2012, and March 8, 2012, Respondent sent letters to S.H. and L.H. in which she threatened to breach client confidentiality if they did not remove a negative review that L.H. had written about Respondent on "Yelp."

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Intentionally or Recklessly Cause Physical and/or Emotional Harm to Clients)

18. Respondent is subject to disciplinary action under Code section 4992.3, subdivision (j), in conjunction with California Code of Regulations, title 16, section 1881, subdivision (d), on the grounds of unprofessional conduct in that Respondent intentionally or recklessly caused physical and/or emotional harm to her clients, S.H. and L.H. The circumstances, which include by reference Paragraphs 9 through 15 as though fully set forth herein, are as follows:

(a) On or about February 22, 2012, March 6, 2012, and March 8, 2012, Respondent sent letters to S.H. and L.H. in which she threatened to breach client confidentiality if they did not remove a negative post that L.H. had written about Respondent on "Yelp." S.H. and L.H. have two young children and Respondent's threats frightened them because Respondent knows their personal information.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Maintain Adequate Records)

19. Respondent is subject to disciplinary action under Code section 4992.3, subdivision (t) on the grounds of unprofessional conduct in that Respondent failed to maintain patient records that are consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered. The circumstances, which include by reference Paragraphs 9 through 15 as though fully set forth herein, are as follows:

(a) On or about September 23, 2011, Respondent saw S.H. and L.H. for an initial consultation. Respondent did not provide S.H. or L.H. with documentation regarding their rights to protected health information, including their HIPAA rights, documentation regarding their

rights and limits to confidentiality, and documentation regarding the purpose of the initial consultation. Respondent should have, but did not, provide S.H. and L.H. with this documentation and should have had them sign consent for treatment forms.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dishonest Acts)

20. Respondent is subject to disciplinary action under Code section 4992.3, subdivision (k), in conjunction with California Code of Regulations, title 16, section 1881, subdivision (e), on the grounds of unprofessional conduct in that Respondent committed dishonest acts regarding the identity of author of the "It Take Two To Tango LLC" letter. The circumstances, which include by reference Paragraphs 9 through 15 as though fully set forth herein, are as follows:

(a) Respondent gave the Board conflicting information regarding the identity of the author of the March 6, 2012 "It Takes Two to Tango LLC" letter to S.H. On or about June 6, 2012, Respondent told a Board investigator that she had sent S.H. the letter from "It Takes Two to Tango LLC." On or about December 3, 2012, Respondent told a Board investigator that her daughter composed the letter without her knowledge. Respondent was either dishonest in her statement to the Board on June 6, 2012 or in her statement to the Board on December 3, 2012.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Maintain Client Confidentiality)

21. Respondent is subject to disciplinary action under Code section 4992.3, subdivision (n) on the grounds of unprofessional conduct in that Respondent failed to maintain confidentiality of all information received from a client in confidence during the course of treatment and all information obtained about the client that obtained from tests and other means. The circumstances, which include by reference Paragraphs 9 through 15 as though fully set forth herein, are as follows:

(a) On or about December 3, 2012, Respondent told a Board investigator that her daughter composed a letter dated March 6, 2012 to S.H. from "It Takes Two to Tango LLC." Respondent stated that her daughter occasionally acted as her office assistant.

(b) The March 6, 2012 letter from "It Takes Two to Tango LLC" contained references to a billing issue as well as references to S.H.'s and L.H.'s personal preferences. Respondent's daughter would not have known this information unless Respondent had discussed it with her or – with respect to the billing issue – her daughter was handling the billing.

(c) Respondent did not provide S.H. or L.H. with documentation regarding their rights to protected health information, including their rights regarding use of a third party for billing information (i.e., Respondent's daughter) and documentation regarding their rights and limits to confidentiality. Respondent should have, but did not, provide S.H. and L.H. with this documentation and should have had them sign consent forms.

(d) If Respondent's daughter had access to S.H.'s and L.H.'s confidential information for billing purposes and/or Respondent told her daughter confidential about S.H. and L.H, Respondent breached client confidentiality.

PATIENT C.G.

BACKGROUND FACTS

22. On or about September 1, 2011, C.G. saw Respondent for an initial consultation. Respondent and C.G. were not a good match for each other and C.G. did not return for any further sessions with Respondent.

23. On or about September 6, 2011, C.G. posted a negative review about his experience with Respondent on the "Yelp." C.G.'s wife also posted a negative review on "Yelp."

24. Respondent wrote C.G. an undated letter that he received on March 8, 2012. In this letter, Respondent stated:

> You have some nerve calling me crazy. Your wife is a lot smarter than you. She took hers down.
>
> If you don't take your libelous review down I may have to – use your name the next time I am interviewed regarding the demonizing reviews people like you put on Yelp.
>
> I was on FKI Monday. I am currently in the S.M. Daily Press & who knows where next. I have been asked the names of the demonizers & so far I have refrained from using your name. That's up to you whether I do or not.
>
> This is a story that is in the appeals court in CA now. No different than my story that so many people want to hear.

There is also your place of employment. Do you think that they want to know you who you really are?

Take it down!!!

25. On or about March 13, 2012, C.G. sent Respondent a letter dated March 12, 2012. In his letter, C.G. requested copies of all his medical records and/or notes. Respondent failed to respond to C.G.'s letter. Thereafter, C.G. called Respondent to request his records. Respondent flew into a rage and told C.G. "you have no idea how much power I have." Respondent still did not send the requested records.

26. On or about December 3, 2012, Respondent provided C.G.'s clinical records to an investigator for the Board. The clinical records consisted of an intake and billing form, a referral form, a one page transcription of her session notes, and two pages of handwritten session notes.

SEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Incompetence)

27. Respondent is subject to disciplinary action under Code section 4992.3, subdivision (d) on the grounds of unprofessional conduct in that Respondent was incompetent in the performance of clinical social work. The circumstances, which include by reference Paragraphs 22 through 26 as though fully set forth herein, are as follows:

(a) On or about September 1, 2011, Respondent saw C.G. for an initial consultation. Respondent did not provide C.G. with documentation regarding his rights to protected health information, including his HIPAA rights, documentation regarding his rights and limits to confidentiality, and documentation regarding the purpose of the initial consultation. Respondent should have, but did not, provide C.G. with this documentation and should have had him sign a consent for treatment form.

(b) On or about March 13, 2012, C.G. sent Respondent a written request for copies of his medical records. Pursuant to Health and Safety Code section 123110, subdivision (b), Respondent had 15 days to respond to C.G.'s request. Respondent failed to comply timely and only sent the records to an investigator for the Board on December 3, 2012.

(c) On or about March 8, 2012, Respondent sent a letter to C.G. in which she threatened to breach client confidentiality if he did not remove a negative review that he had written about Respondent on "Yelp."

EIGHTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence)

28. Respondent is subject to disciplinary action under Code section 4992.3, subdivision (e), in conjunction with California Code of Regulations, title 16, section 1881, subdivision (m), on the grounds of unprofessional conduct in that Respondent's conduct fell sufficiently below the standard of the practice so as to constitute gross negligence. The circumstances, which include by reference Paragraphs 22 through 26 as though fully set forth herein, are as follows:

(a) On or about September 1, 2011, Respondent saw C.G. for an initial consultation. Respondent did not provide C.G. with documentation regarding his rights to protected health information, including his HIPAA rights, documentation regarding his rights and limits to confidentiality, and documentation regarding the purpose of the initial consultation. Respondent should have, but did not, provide C.G. with this documentation and should have had him a sign consent for treatment form.

(b) On or about March 13, 2012, C.G. sent Respondent a written request for copies of his medical records. Pursuant to Health and Safety Code section 123110, subdivision (b), Respondent had 15 days to respond to C.G.'s request. Respondent failed to comply timely and only sent the records to an investigator for the Board on December 3, 2012.

(c) On or about March 8, 2012, Respondent sent a letter to C.G. in which she threatened to breach client confidentiality if he did not remove a negative review that he had written about Respondent on "Yelp."

NINTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Intentionally or Recklessly Inflicting Emotional Harm on Client)

29. Respondent is subject to disciplinary action under Code section 4992.3, subdivision (j), in conjunction with California Code of Regulations, title 16, section 1881, subdivision (d), on the grounds of unprofessional conduct in that Respondent intentionally or recklessly caused

physical and/or emotional harm to her client C.G. The circumstances, which include by reference Paragraphs 22 through 26 as though fully set forth herein, are as follows:

(a) On or about March 8, 2012, Respondent sent a letter to C.G. in which she threatened to breach client confidentiality if he did not remove a negative post that he had written about Respondent on "Yelp." C.G. works in a highly sensitive field and even changed his job because he was so afraid of Respondent's threats.

TENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Keep Adequate Records)

30. Respondent is subject to disciplinary action under Code section 4992.3, subdivision (t) on the grounds of unprofessional conduct in that Respondent failed to maintain patient records that are consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered. The circumstances, which include by reference Paragraphs 22 through 26 as though fully set forth herein, are as follows:

(a) On or about September 1, 2011, Respondent saw C.G. for an initial consultation. Respondent did not provide C.G. with documentation regarding his right to protected health information, including his HIPAA rights, documentation regarding his rights and limits to confidentiality, and documentation regarding the purpose of the initial consultation. Respondent should have, but did not, provide C.G. with this documentation and should have had him sign a consent for treatment form.

(b) On or about March 13, 2012, C.G. sent Respondent a written request for copies of his medical records. Pursuant to Health and Safety Code section 123110, subdivision (b), Respondent had 15 days to respond to C.G.'s request. Respondent failed to comply timely and only sent the records to an investigator for the Board on December 3, 2012.

PRAYER

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. Revoking or suspending Licensed Clinical Social Worker License Number LCS 8622, issued to Roxy Harris DeCou;

2. Ordering Roxy Harris DeCou 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; amd

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

DATED: 11/22/13

KIM MADSEN
Executive Officer
Board of Behavioral Sciences
Department of Consumer Affairs
State of California
Complainant

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