

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

In the Matter of the Accusation Against:

DEBORA A. SOUKUP
Sacramento, CA 95825

Marriage and Family Therapist License
No. 39881

Respondent.

Case No. MF-2010-1539

OAH No. 2012110846

DECISION AFTER REJECTION OF PROPOSED DECISION

Administrative Law Judge Danette C. Brown, State of California, Office of Administrative Hearings, heard this matter in Sacramento, California, on June 2, 2014 through June 9, 2014.

Brian S. Turner, Deputy Attorney General, represented Kim Madsen (complainant), Executive Officer of the Board of Behavioral Sciences (Board), Department of Consumer Affairs.

John L. Fleer, Attorney at Law, represented Debora A. Soukup (respondent), who was present.

The record was left open to allow complainant to submit additional documents. No documents were received as of June 11, 2014. The case was submitted for decision on June 11, 2014.

The proposed decision of the administrative law judge was submitted to the Board on July 24, 2014. After due consideration thereof, the Board declined to adopt said proposed decision and thereafter on September 4, 2014 issued an Order of Non-Adoption rejecting the proposed decision. The Board requested written arguments from the parties due on or before October 26, 2014. No arguments were received from either party, but subsequently on November 5, 2014, complainant filed a Request to File Late Argument. On November 7, 2014, the Board granted the request, and notified the parties of its Order Granting Request To File Late Written Arguments. The time for filing late written arguments in this matter having expired, and written arguments having been received from complainant only, the entire record, including the

transcript and exhibits of said hearing, having been read and considered, pursuant to Government Code section 11517, the Board hereby makes the following decision after rejection of proposed decision:

FACTUAL FINDINGS

1. On October 24, 2003, the Board issued Marriage and Family Therapist (MFT) License Number MFC 39881 to respondent. The MFT license was in full force and effect at all times pertinent to this matter. It will expire on October 31, 2016, unless renewed. Respondent has no history of prior disciplinary action by the Board.

2. Complainant filed the First Amended Accusation, dated July 3, 2013, solely in her official capacity.

3. Complainant alleges in the First Amended Accusation that respondent engaged in unprofessional conduct in connection with her work as a licensed MFT, in that respondent was grossly negligent and incompetent, caused harm to clients, failed to maintain client confidentiality, and failed to properly disclose fees. Respondent denies the allegations.

Respondent's Professional Background

4. Respondent came to California in 1989 from Chicago. She began working at the YMCA in Sacramento, ultimately becoming the Operations Director. From 1989 to 1993, respondent volunteered at Women Escaping a Violent Environment (WEAVE), and at the University of California Medical Center on the sexual abuse response team. Her objective was to receive training in the mental health field. She began her psychology studies at California State University, Sacramento, in 1991. She received her bachelor's degree in psychology in approximately 1995, then received her master's degree in psychology in 1997. She worked for the Child and Family Institute in Sacramento, and ultimately became licensed as an MFT in 2003. Respondent began her own practice in 2004. Respondent's current practice involves therapy for children, couples and families. In addition to treating clients suffering from anxiety, depression, and bipolar disorder, respondent provides therapy services for co-parenting and anger management. She also provides alcohol and drug assessments. From 2009 to 2010, respondent provided supervised child visitation services.

Client AR's Complaint

5. On April 28, 2010, AR¹ filed a complaint with the Board. AR complained that respondent often spoke about herself during sessions, rescheduled appointments and charged AR even if AR was unable to make the appointment, and threatened to use her role as an MFT and co-parenting counselor to keep AR from maintaining custody of her child.

¹ Initials are used instead of names to protect client confidentiality.

EXCESSIVE SELF-DISCLOSURES

6. Respondent spent the majority of co-parenting sessions, both individually and jointly, talking to AR and TM (AR's ex-boyfriend and father of AR's daughter) about her drug addiction to valium, ghosts in her house, her daughters, and issues with her ex-husband. AR felt that respondent's self-disclosure of her personal issues served no benefit to the co-parenting counseling she sought.

SCHEDULING AND CHARGING FOR MISSED APPOINTMENTS

7. AR and TM had two to three joint sessions before respondent requested individual sessions with AR. AR was charged \$50 per individual session, and she thought that TM was also being charged \$50 per session. However, respondent charged inconsistent and variable fees, in that TM testified credibly that respondent charged him \$250 per session (while charging AR \$50 per session).

Respondent scheduled an appointment with AR on April 22, 2010, even though AR told respondent she could not make it on the date and time scheduled because she was in school. Respondent charged AR \$50 for the missed appointment. Respondent then called AR on June 27, 2010 after hours, while AR was attending a night class, and left a message that she scheduled an appointment for AR on April 30, 2010. Respondent made the appointment without checking for AR's availability. Respondent then stated on a voice message that she would assume that AR would make the appointment, and requested AR to bring the \$50 owed for the missed appointment on April 22, 2010, and another \$50 for the appointment scheduled for April 30, 2010. AR called respondent later that evening and told respondent she would not be making the appointment, and that AR would no longer be using respondent as a co-parenting therapist.

RESPONDENT'S VOICEMAILS LEFT WITH AR

8. On April 27, 2010, AR left a voice message with respondent terminating her services. Respondent returned AR's call, and left two voicemails, one on April 27, 2010, and the other on May 4, 2010. Respondent left the following voicemail on April 27, 2010:

Hello [AR] this is Debora Soukup your call is not at all surprising, I have known from the beginning that you manipulate everyone around you. You owe 50 dollars for your last week's session. You said you would be bringing it by, you did not. [TM] will probably be continuing to survey you and he has asked me to write a report, to start our co-parenting without you. So I would like you to please send it to 3071 Fulton Avenue Sacramento 95821. If you do not send the payment I will include that in the report as well that you did not [comply] with the payment and that you stopped going to co-parenting as soon as the courts went your way. This will not

be the end of the co-parenting and this will not be the end of court. So if you think that you are playing sly things have a way of turning around against you when you least expect it. So, just let that be a lesson to you. The 31-11 evaluation I did not suggest to you, I did not say that would be a great idea. I said if you have concerns that you should request it. I did not go your way, I know you are actually quite conniving and extremely manipulative and I realized that throughout our counseling together. I hope that [TM] eventually does get custody of [daughter] because I do not think that [daughter] being in your custody is in [daughter's] best interest actually. I think that you are quite immature for your age. So, I wish [daughter] and [TM] the best in trying to get custody back because honestly I don't think that you are using the medical marijuana for pain I think you are using it recreationally and I think that you are trying to basically manipulate anyone around you to feel sorry for you. It didn't work with me and that's why you want to get rid of me. So I am going to try to attempt to keep [TM] in co-parenting and I will work on his behalf to try to make sure that the courts realize that they made a mistake in giving you as many allowance as they did. Ok, good evening.

9. On May 4, 2010, respondent left another voicemail:

[AR], this is Deb Soukup. A couple of things. [TM] has continued parenting, or co-parenting counseling with me rather. He has asked me to write an extended letter to the courts explaining how you abruptly stopped counseling, how you did not pay the last 100 dollars that you owed me, and I guess I will do so because you did abruptly stop counseling, I know that you are supposed to go to someone else for stress counseling but that's not the co-parenting. I also have your book, the ex-etiquette for co-parenting and I'd like to return it to you but I would like payment for the last two sessions first before I return it to you out of courtesy. And I wanted you to know about the letter before I wrote it just so you know that he is asking for that for the court system. Give me call a 205-1673. And I would appreciate talking with you[.] Calling me at 10:20 at night presumably thinking I would not answer my phone I thought was rather on the elusive and kind of sneaky side, and you were very abrupt with me when I called, just makes me think that [TM's] reports of you that you were manipulative and very sneaky were accurate after all and, not make me think highly of you. So, 205-1673, thank you.

10. Respondent acted unprofessionally when leaving the voicemails, exercising favoritism towards TM and exhibiting discourteous treatment by calling AR immature and manipulative. AR's sessions with respondent made her relationship with her ex-boyfriend worse. AR stated, "To this day we don't talk. I thought I was trying to better my life."

THREAT TO AR ABOUT LOSING CUSTODY

11. AR suffered from migraines since she was 16 years of age. She tried different remedies, including marijuana for medicinal use. AR obtained a prescription for medical marijuana in 2009. Despite this, respondent concluded that AR had a drug problem, and instructed AR to go to Alcoholics Anonymous (AA), and to relinquish custody of her daughter for 30 days. Respondent told AR that if she did not do so, respondent would go to court with TM, and AR would lose complete custody of her daughter. AR took respondent's threat seriously. Scared that she was going to lose her daughter, AR reluctantly gave up custody of her daughter for 30 days and attended AA. AR was distraught and emotional at hearing as though the incident was still fresh in her mind.

DISCLOSURE OF CONFIDENTIAL INFORMATION

12. Respondent discussed AR's case information with respondent's daughter. During a session, respondent stated, "I was talking to my daughter about this and she thought" Respondent disclosed AR's case information without AR's knowledge or permission. Complainant alleged that respondent spoke about AR's case while in a public place and loud enough that a person who knew AR heard confidential information concerning AR. This allegation was not proven.

FAILURE TO PROVIDE WRITTEN AGREEMENT

13. AR contacted respondent in February 2010 and set up an appointment for her and TM. AR's understanding in attending co-parenting counseling was that she and TM would attend a fixed number of sessions, and respondent would then send a report to the court. Respondent failed to enter into a written agreement with AR for co-parenting counseling. She failed to disclose the terms of the counseling agreement with AR, including setting appointments, cancellation notice policy and fees.

Client DT's Complaint

14. DT sought child supervised visitation services in connection with his family law court proceeding. DT also sought an Alcohol and Drug (AOD) assessment as required by the court. He chose respondent from the list of court-approved counselors. On June 22, 2010, he called respondent, set up an appointment, and they discussed her fees. Respondent charged \$50 for an initial consultation, \$100 per visit, \$50 for the AOD assessment and \$100 for supervised visitations. At the time DT contacted respondent, it was a couple of months since he had seen his two children.

15. On June 28, 2010, DT filed a complaint with the Board against respondent. DT complained that respondent talked about herself so much during the AOD assessment that they needed to schedule a second appointment. Also, during his supervised child visitation, respondent made a phone call and spoke so loudly on the phone that DT and his children had to speak over her, disrupting his visit with his children. Lastly, he complained that respondent was rude and insulting and told him that he had a personality disorder.

EXCESSIVE SELF-DISCLOSURES

16. At their initial appointment, DT began talking about her sexual preferences. She stated to DT: that she was an animal in bed; dated younger guys because the guys her age were only interested in kids and golf; that she was 45 years old; a single mother of two; dated a 27 year-old man; that she is a sex therapist; her first kiss with her boyfriend lasted for 12 minutes; and when she makes love it is not for 15 minutes, it is for three days. Respondent told DT that she was on medication, and that the only reason she did not have a medical marijuana prescription was due to the stigma. Respondent called time with her daughters "mommy time." When DT expressed concern for his daughters because his wife was sexually abused, responded replied "I was abused too!" Due to respondent's numerous self-disclosures unrelated to his AOD assessment, time ran out, and DT had to schedule another \$50 appointment to complete the assessment.

FAILURE TO SUPERVISE CHILD VISITATION

17. On June 26, 2010, DT had a supervised child visitation scheduled at respondent's office. When DT arrived, respondent demanded that DT pay her immediately. Respondent did not want to begin the supervised visitation until she was paid. DT forgot his checkbook, and had to run across the street to a nearby automated teller machine to get cash to pay respondent. Respondent's office consisted of a front office and a back "playroom," with a door separating the two rooms. DT met with his children in the back room with the door to respondent's office open. DT's children are bilingual in Spanish and they were reading their father's day cards in Spanish to DT. DT asserted that respondent "barked," "English only" from the couch. Respondent then made a phone call from her front office while DT and his children were in the back room. Respondent's conversation was loud and dramatic. DT and his daughters overheard respondent talking about an upcoming picnic, and they attempted to speak over respondent's voice. DT attempted to close the door due to respondent's loud conversation, but respondent did not allow it.

DISRESPECTFUL COMMENTS/ABRUPTLY ENDING SERVICES

18. Following his supervised visit, DT asked respondent when she was going to finish the AOD assessment. Respondent replied, "You remind me of my ADD daughter and you push, push, push and push." DT left and drove away. Respondent then telephoned DT and left a voicemail that she was ending her services because DT would not listen to her. Respondent then

called a second time and DT answered. DT testified, "she was going off on what a dysfunctional narcissist I was, and threatened to write a letter to the court about me." Upset, DT hung up on respondent.

FAILURE TO PROVIDE AOD ASSESSMENT

19. DT hired respondent to perform an AOD assessment, paying respondent in advance in the amount of \$150 or \$175. He had also paid \$50 for the initial consultation, and \$125 for the supervised visit. DT did not receive an AOD assessment from respondent or a refund.

Client MT's Complaint

20. On June 30, 2010, MT filed a complaint with the Board against respondent. MT complained that respondent: charged for sessions that did not take place; breached client confidentiality; engaged in name calling, sarcasm and belittling behavior that was rude and mean; bullied all parties into continuing therapy after completing co-parenting sessions; threatened that MT would lose custody of his daughter if he did not continue attending sessions; was late or forgot about sessions; did not provide MT with his signed contract when asked and was judgmental towards MT and his wife.

21. MT sought co-parenting counseling after having child custody issues with his daughter's mother, AH. At the first appointment, respondent discussed her fees, and MT signed a written contract. Respondent charged \$105 per 45-minute session. Respondent planned private individual sessions with MT and AH at first, then respondent planned on having joint sessions with MT and AH together.

EXCESSIVE SELF-DISCLOSURES

22. At the first session, respondent talked about herself and her background, and told MT and AH that she had "high influence" over the court's decision in MT's case. Respondent stated that whatever she recommended, the court would do. MT believed respondent, because he was naive about the child custody process, and he was scared of losing his daughter. MT asserted that all sessions were filled with respondent's self-disclosures about her bankruptcy, parenting her two daughters, and her "sand tray." MT testified that "the things we were supposed to talk about were not brought up at all." The 45-minute sessions were not entirely dedicated to his case. Respondent had her dogs present during the sessions and did not explain to him why the dogs were there. MT added that he cleaned respondent's dogs' feces from the carpet during a session.

USE OF DEROGATORY TERMS/THREATS TO MT

23. During joint sessions, MT felt he was a "punching bag." Respondent was "rude, bullying, threatening and consistently unprofessional." MT was not given an opportunity to

rebut AH's accusations or to have an opinion during those sessions. Respondent called MT "mindless," "brainless," and "a little boy," during a joint session, respondent stated that MT reminded her of her ex-husband. During a home visit, respondent demanded that MT buy her a coffee drink from Starbucks, stating to MT, "Look, you're going to get in your car, put the key in the ignition, and put the car in reverse-you're going to back out of your driveway, drive to Starbucks and buy me a double mocha frappuccino!" MT felt he was treated more as an errand boy than as a client. Respondent brought her dog to the home visit, and it defecated on MT's carpet. On another occasion, respondent told MT that if he "did not do it her way," he would lose custody of his daughter. By respondent's statements, MT felt that respondent had all the power to take his daughter away from him.

DISCLOSURE OF AH'S CONFIDENTIAL INFORMATION TO MT

24. MT began his individual sessions with respondent on June 30, 2009. MT's sessions with respondent ended in mid-December 2009. MT understood that anything he or AH said in their individual sessions was confidential. During the course of his individual sessions, respondent provided information to MT about AH's mood disorder and bipolar personality, men that AH had been with, who AH was dating at the time, and who was around MT's daughter. MT learned that AH had a lot of animosity towards MT and his wife, who was pregnant. AH felt that she should have been pregnant with MT's child, not MT's wife. MT was seriously concerned about respondent's breach of confidential information about AH to MT, and he was further concerned that respondent was disclosing confidential information about him to AH. He felt that respondent's breach of confidentiality was unprofessional.

FAILING TO MAINTAIN OBJECTIVITY

25. By counseling MT, MT's wife, and AH, respondent failed to maintain her objectivity, situating one party against the other. MT asserted that respondent "talked over" him, did not allow him to speak or to defend himself against AH. She allowed AH to yell, swear, call MT names, and berate MT, and took sides frequently, without hearing what MT had to say.

FAILURE TO PROVIDE COPY OF SIGNED, WRITTEN CONTRACT TO MT AS REQUESTED, FAILURE TO PROVIDE COPY OF REPORT TO THE COURT

26. MT requested a copy of the signed, written contract from respondent. Respondent failed to provide a copy of the contract to MT. She eventually provided a blank contract form to MT. MT requested a copy of respondent's report to the court, which respondent failed to provide until she could collect payment.

CHARGING DOUBLE FOR JOINT SESSIONS

27. MT understood respondent's fees to be \$105 per 45-minute session. However, he found that respondent was also charging AH \$105 per session, for a total of \$210 per 45-minute

session. When asked, respondent told MT that he signed a contract agreeing to the fee, but when asked for a copy, respondent did not provide a copy of the signed contract to MT.

CHARGING FOR A CANCELLED SESSION

28. On December 15, 2009, MT and his wife were present for a joint session, however AH cancelled. Respondent asked that MT and his wife stay for a private session, which MT and his wife declined. Respondent told MT and his wife that they were still going to be charged for the co-parenting session, because they did not cancel within a 24 hour period. Respondent charged MT for this session even though a session was not held.

Client RD's Complaint

29. On May 5, 2012, RD filed a complaint with the Board against respondent. RD sought respondent's services for an AOD assessment. RD complained that respondent spent session time talking about herself, breached client confidentiality by talking about his case with the mediator, and did not provide an AOD assessment that for which he paid respondent \$600 in advance.

EXCESSIVE SELF-DISCLOSURES

30. Respondent called RD on the morning of their Thursday appointment to cancel because she "could not wake up." She rescheduled their meeting to Friday from 12:00 p.m. to 2:00 p.m., and said that would give her enough time to prepare the AOD by that Monday. When RD met with respondent for the AOD assessment, RD asserted that respondent spent 15 minutes out of the two hours performing the assessment. Respondent spent the rest of the time talking about her personal life. She spoke about: her two daughters and that they were very smart; the older daughter was like respondent, and the younger daughter was like her dad; the prior week her daughter called respondent and told her that she got all "A's" in an exam and one "B," and her dad questioned her about the "B;" she told her daughter that her dad is living through her; she only gets her daughter some times; she and her husband are no longer together; she understood RD's situation, and five years ago, she was also participating in child supervised visits; she showed pictures of her daughters and her friends on her I-phone; she spoke in great detail about the two dogs in her office how she was able to train them; she told her daughter not to be afraid of the dogs; when she separated/divorced her husband, he tried to shut her business down, but she prevailed; she does everything for her daughters. Respondent also suggested other services that she could offer, which RD politely declined.

ADDITIONAL SESSIONS REQUIRED/UNAUTHORIZED CONTACT WITH MEDIATOR/DISOURTEOUS TREATMENT

31. After two hours, respondent stated that she needed two more sessions with RD to complete the AOD assessment. She asked if RD could meet her on Saturday and Monday, from noon to 1:00 p.m. Respondent told RD she would have his assessment ready by the end of the

session that Monday. RD paid respondent an extra \$500 for respondent's anticipated work that weekend so that she could start the written assessment. On Friday afternoon, respondent called RD and told him that he would have to utilize her services for a longer period of time because respondent called RD's mediator, who suggested that RD have a more extensive assessment done and contact collateral sources. RD's mediator's office was closed that day, so RD did not know who respondent talked to. Respondent did not have RD's verbal or written authorization to speak to RD's mediator about RD's assessment, and RD specifically instructed that RD was not to have any contact with the mediator.

32. Although she represented to RD that she had spoken to the mediator that Friday, respondent actually spoke to the mediator the following day, on May 5, 2012. The mediator testified that she recalled discussing the components of a substance abuse evaluation, including interviewing collateral sources. The mediator did not direct respondent to interview collateral sources.

33. RD called respondent back about a half hour later, telling respondent that he wanted the basic AOD assessment done as they agreed. Respondent told RD that she had already talked to the mediator and that RD would need to pay her more to complete the assessment. RD disagreed, and respondent told RD she would call him back in an hour. When respondent did not call RD back, RD called her at approximately 7:00 p.m. that evening. He left a voicemail stating that he "would go for the assessment that [his] attorney asked for." The evidence did not establish that respondent spoke to RD's mediator on six occasions, as alleged.

34. Respondent called RD back two and a half hours later and told RD that he would lose his child if he did not go with her recommended assessment, and that she is very "well-connected" with the legal system. Respondent declined when RD asked her to provide him with the assessment as agreed. She told RD that he came across as manipulative, and that she had the "inside scoop" from the mediator, whom she just spoke to on the phone. Respondent threatened RD that if he did not continue with additional sessions, it would not look good on his assessment. Respondent also told RD that she was having a bad day as she had not seen her own kids, and that she had not eaten. RD failed to see how this was relevant to his assessment. Respondent further threatened RD that he was "walking on thin ice" and that he did not "come up very credible." RD was scared, and did not want respondent to jeopardize his child custody case by calling his mediator with negative information.

COURT MEDIATOR DID NOT INSTRUCT RESPONDENT TO PERFORM MORE EXTENSIVE ASSESSMENT

35. Respondent contacted RD's court mediator, Peggy Hancock, on Saturday, May 5, 2012 regarding RD's assessment. Respondent did not provide Ms. Hancock with a release form signed by RD authorizing her to speak about RD's case. They discussed the components of a substance abuse evaluation, one of which would include collateral contacts. Ms. Hancock did

not advise respondent to do a collateral assessment exam. Respondent was angry and upset when speaking to Ms. Hancock, and told Ms. Hancock that she was very frustrated with RD. Ms. Hancock denied saying that RD was extremely manipulative and to be wary of him, despite respondent's claims that she did. Ms. Hancock's testimony at hearing and her letter to the Board reflecting her testimony were credible, and are given considerable weight.

EMOTIONAL HARM TO RD

36. Respondent did not provide RD with the AOD assessment, and RD wanted the return of his money that he paid respondent in advance. Respondent told RD that "we are all even," as she had to listen to RD "overnight." Respondent ultimately terminated her services with RD on August 8, 2012. RD felt that respondent took advantage of desperate people, by billing for services that were not necessary. During the time RD met with respondent, he was vulnerable and upset, and wanted custody of his child. He was under the stress of his court matter and mediation, and felt that he was taken advantage of by respondent.

Respondent's Testimony

37. Beginning in April 2007, respondent went through an extremely difficult divorce involving domestic violence, co-parenting counseling, anger management counseling and the family law court system. Respondent has two daughters, ages 13 and 16. During her divorce, she did not have custody of her children for six weeks. She was prescribed valium and became addicted. She attended Narcotics Anonymous (NA), and believes that the experience was successful. Respondent does not believe she now has an addiction problem. She did not testify how long she attended NA, what she learned from the experience, or whether she has a sponsor. She did not blame her behavior with her clients on her valium addiction.

HER CO-PARENTING TRAINING

38. Respondent considers co-parenting counseling more like guidance and education for her clients. She began providing co-parenting counseling services in late 2008/early 2009. She did not receive any formal training to provide co-parenting counseling. She based her qualifications to provide such training on her own experience, court guidelines and learning the process as she went. Respondent did not address her duties with respect to client confidentiality.

CLIENT MT

39. Respondent conceded that the co-parenting counseling with MT did not go well. There was a lot of animosity between MT and AH. Respondent made a home visit to MT's home in another county, in order to alleviate AH's concerns about her daughter being in the home. Respondent has two "therapy dogs." One dog is a 15-pound Pomeranian that respondent trained herself to follow German commands, and who is present to protect her. The other dog is a two-and-a-half pound Chihuahua. They are housebroken, but respondent admitted that she brought one of her therapy dogs to the home visit, and her dog defecated on the floor. MT cleaned up the

dog feces. It appears that the therapy dogs are for respondent's benefit, not her clients. In addition, respondent denied that she made a "personality disorder" diagnosis of AH, because it was not her duty to do so. Respondent also denied telling MT that he would lose custody of his daughter if he did not attend sessions with respondent. She also denied telling MT that she knew court staff personally. Respondent admitted being late for her sessions with MT, by about five to 10 minutes. She asserted that MT's sessions ran longer than the allotted time on many occasions. Respondent denied calling MT a "mindless, brainless, little boy," insisting that AH did so.

40. Respondent asserted that MT's files were inadvertently shredded by movers. The files were shredded prior to MT filing his complaint with the Board. She asserted that from her calendar, she created a document reflecting her appointments with MT, with some brief notes written next to a few dates. Because respondent's progress notes have been destroyed, it is difficult if not impossible to confirm MT's fee arrangement, or what occurred during each session. It is unbelievable that movers would shred confidential client files, unless they offered such services, or they were instructed to do so by respondent. Respondent's testimony lacked credibility.

CLIENT AR

41. With respect to AR, respondent denied: (1) excessive self-disclosures about herself during sessions with AR; (2) that the judge in AR's case prohibited respondent from testifying in AR and MT's case because the judge took respondent's kids away from her and would hear nothing from her; (3) threatening AR with removal of her daughter for 30 days if AR did not "explore" her marijuana use; (4) favoring TM over AR; (5) threatening that something bad would happen to AR if AR did not continue sessions with AR; (6) that her dogs were a distraction during sessions with AR; (7) that she refused to return AR's book unless AR paid her the outstanding balance due; and (8) charging AR for services she did not provide.

42. Respondent asserted that she encouraged AR to seek services if AR felt she had a substance abuse problem with marijuana. Respondent did not address that AR used marijuana for her migraines. Respondent presented herself at hearing as a fair, balanced, competent MFT who addressed co-parenting issues on both sides. She admitted that the co-parenting therapy did not end well, not because of anything she did, but because of the animosity between AR and TM.

43. Despite respondent's portrayal of herself as a fair, balanced, competent MFT, respondent admitted that she left the two threatening voicemail messages with AR set forth in Findings 8 and 9. Respondent explained that she did this because, "honestly, I was half asleep. I did not have a filter at that time. I was caught off guard." Respondent admitted that her voicemail messages were unprofessional, but expressed no remorse in leaving the messages.

CLIENT RD

44. Respondent's progress notes indicate that RD "procrastinated" in seeking an AOD assessment, which "forced" respondent to produce a report in less time than usually necessary. Respondent also noted that RD "insisted" on paying \$600 up front for the assessment, which made respondent feel uncomfortable. Despite respondent's apprehension, she took RD's money and agreed to perform the assessment. She also asserted in her notes that RD provided a release so that respondent could talk to the mediator. However, no such release was provided to the mediator, nor was such a release submitted in evidence. Further, RD testified credibly that he provided no such release.

45. Respondent asserted in her testimony that she was told by the mediator that RD was "manipulative," and "slippery," "to be cautious of RD," because the mediator did not trust RD. However, respondent's testimony contradicts the very credible testimony of Ms. Hancock, the mediator who testified that she said no such things. Respondent insisted to RD that a collateral source assessment was necessary, as directed by Ms. Hancock. Again, respondent's testimony differed from Ms. Hancock's, who testified credibly that she did not direct respondent to conduct collateral assessments.

46. Respondent testified that she terminated her sessions with RD because he was verbally abusive and aggressive towards her. Ms. Hancock described RD as a "gentleman." Respondent failed to complete the assessment, and kept RD's money, based on her time expended on his case. She asserted that RD owed her an additional \$160, but because she chose to terminate her services, she graciously did not ask for additional funds.

CLIENT DT

47. With respect to DT, respondent testified that she was hired to conduct a supervised child visitation. Respondent asserted that she did not discuss doing an AOD assessment for DT. During their initial session, respondent did not think she disclosed anything about her personal life, such as her dating practices. However, she did recall saying that her husband was five months younger than she. She also recalled talking about culture and age, and how that affects relationships, as DT was walking out the door. Despite DT's very detailed accounting of respondent's lengthy self-disclosures, respondent denied that she took up so much time talking about her own issues that she and DT had to schedule another appointment.

48. During the supervised visitation, respondent asserted that she did not raise her voice or use an angry tone when telling DT, "English only." She admitted taking a call during the supervised visitation, but she spoke in hushed tones. She claimed that the call was from a client on suicide watch. She did not address why DT and his daughters observed respondent making the call, and overheard respondent talking loudly about an upcoming picnic.

49. Respondent terminated DT's sessions because he was anxious, and was very aggressive. However, at hearing, DT testified with a calm demeanor, and was credible.

50. Respondent admitted that she is not a "perfect therapist." She believes that she has learned from the complaints filed against her. She is now extremely cautious about self-disclosure with clients. She "observes" more, and does not make comments during sessions. She feels she is much more professional overall but did not provide specific details other than being extremely cautious and observing more. Curiously, she testified that she changed the face screen on her phone, as well as her ring tone. Respondent's testimony at hearing was full of denials, inaccuracies, and dishonesty, which undermined her overall credibility. She denied making excessive self-disclosures despite the incredible details each client provided about her personal life. She admitted leaving lengthy and threatening voicemails to AR, but attributed her behavior to being "half asleep" and not having a "filter." She denied breaching her duty of client confidentiality with AR, RD and MT. She lied about when she spoke to RD's mediator, and lied to RD's mediator that she had a confidentiality release authorized by RD. She misstated what the mediator told her about RD. She lied that she took a call from a client on suicide watch during DT's supervised visitation, when DT observed her make the call, and overheard her talking loudly about an upcoming picnic. Her therapy dogs were trained by her, not through any official training program, and they were present during client sessions and during MT's home visit for her benefit, not for the benefit of her clients. She incredibly testified that MT's client files were shredded by movers when she was moving. She was dishonest when she took money from RD and DT, and failed to complete their AOD assessments. Respondent is not to be believed. Moreover, her dismissiveness of her clients' complaints, her condescending treatment of her clients is indicative of her lack of understanding of her role and responsibilities of an MFT, and cannot be tolerated given the vulnerable clientele that she serves, and her threats to negatively impact their child custody cases.

RESPONDENT'S WITNESSES

51. Three witnesses testified on behalf of respondent. Cynthia Yang, L.C.S.W., has a private practice in Davis, California, counseling children, adolescents and adults with anxiety, depression and attention deficit disorder. Ms. Yang met respondent in June 1999, and was respondent's co-worker at the Child and Family Institute, providing group and family therapy. Ms. Yang and respondent left in September 2003. During the time Ms. Yang worked with respondent, she observed respondent to behave in a professional manner. She testified that respondent was open, honest, reliable and maintained good boundaries with her clients. Over the years, Ms. Yang has kept in contact with respondent as a professional and as a friend. They have contact a few times a year.

52. Diana Rutley is a property manager for a government agency. She met respondent when she worked at Women Escaping a Violent Environment (WEAVE) from 1989 to 1993. She and respondent volunteered taking crisis calls. She described respondent as

respectful and reliable. After volunteering at WEAVE, Ms. Rutley had an opportunity to work with respondent again. Ms. Rutley needed extra staff to prepare apartments for rent at Riverwood, near Sacramento State University. Respondent helped Ms. Rutley, who was again characterized by Ms. Rutley as a reliable employee. Respondent and Ms. Rutley reconnected several years ago, after respondent's divorce. Ms. Rutley described respondent as a caring mother, excellent parent, honest and straightforward. Ms. Rutley admitted that they have had "tussles" in their friendship; in that respondent has expectations that one is going to follow through with what one says they are going to do. Ms. Rutley has not known respondent to breach client confidentiality. Ms. Rutley had no knowledge of the Board's allegations against respondent.

53. TM also testified telephonically and wrote a letter on respondent's behalf. TM testified that he was respondent's client in 2010, when he was involved in a volatile co-parenting situation with AR. He testified that respondent saw respondent for individual sessions at first, because AR was so emotional and abusive. He felt that respondent acted in the best interests of their daughter, that respondent did not favor him and that respondent acted professionally during sessions. He recalled that there were one or two instances where respondent related her past experiences, but she did not talk about herself.

54. TM knew respondent would have her dogs present in her office during sessions. He did not object to having the dogs present. When TM's daughter was present, she played with the dogs. He recalled one or two instances when one of the dogs became disruptive, and respondent removed the dog from the room.

55. At the present time, AR and TM share custody of their daughter, but neither of them attributed the outcome to respondent's skills as a therapist.

56. TM testified that respondent charged \$250 per session, to be split evenly between TM and AR. TM offered to pay AR's half, and he believes there is approximately \$750 owed to respondent for AR's half. He did not know that respondent was also charging AR \$50 per session.

57. Respondent's witnesses spoke highly of respondent as a therapist. However, Ms. Yang has not had direct observations of respondent's work since 2003, and Ms. Rutley has not worked with respondent in a counseling capacity since 1993. Ms. Yang and Ms. Rutley see respondent on an occasional basis. TM's observations of respondent's conduct were only during his sessions with respondent. None of the witnesses were aware of the allegations at issue in this case. The testimony of respondent's witnesses is given little weight. Respondent did not offer testimony from family, close friends, medical practitioners or therapists with knowledge of respondent's practice, demeanor, and addiction, or any other persons currently familiar with respondent's day-to-day dealings with clients.

CLIENT EVALUATIONS

58. Respondent's client evaluations were received in evidence and considered to the extent permitted by Government Code section 11513, subdivision (d).² The evaluations covered the period from April 2011 to October 2012. Of the 26 evaluations submitted, only four pertained to co-parenting counseling. None pertained to supervised child visitations, or to AOD assessments. While the evaluations speak to the clients' good experience with respondent, they do not provide insight into the issues in this case. Thus, they are given very little weight.

Expert Testimony for the Board

59. Louis W. Heit reviewed this matter for the Board and testified at the hearing. He was instructed by the Board to assume that all of the allegations were true. He prepared four written reports as part of his review. Mr. Heit's November 7, 2011 report pertained to MT's complaint. His November 20, 2011 report pertained to DT's complaint. His December 13, 2011 report pertained to AR's complaint, and his March 26, 2013 report pertained to RD's complaint.

60. Mr. Heit has been a Licensed Clinical Social Worker (L.C.S.W.) since January 1993, and a licensed MFT since May 1991. He has been a member of the National Association of Social Workers since 1987. Mr. Heit obtained a Master's Degree in Clinical Social Work from California State University, San Diego in August 1989, and a Master's Degree in Psychology from the University for Humanistic Studies in San Diego in September 1985. He received his Bachelor of Arts Degree in Psychology from the University of Rochester, New York, in June 1984.

61. Mr. Heit currently has a private practice, providing outpatient individual, couples and family therapy, personal and executive coaching, family mediation, and clinical supervision. He is also a consultant with Kids First Foundation/Universal Health Services, providing clinical supervision to agency social services, nursing and program staff. He also works as a lead clinical social worker for Aurora Behavioral Healthcare in San Diego, providing assessment, case management, group, individual and family therapy, and crisis intervention to psychiatric inpatients and partial hospital patients.

62. Mr. Heit is a member of the National Association of Social Workers (NASW), and is an ethics committee member. The committee provides ethics consultations to members of the national association, and advises statewide chapters. The association only represents clinical social workers. Mr. Heit testified that there is a lot of overlap between the roles of MFT's and social workers. Social workers and MFT's have similar training, however social workers focus

² Government Code section 11513, subdivision (d), provides, in pertinent part, that "[h]earsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions"

on the broader community that might impact an individual's problems. MFT training is focused more narrowly.

CO-PARENTING COUNSELING AND SAFEGUARDING CONFIDENTIAL COMMUNICATIONS

63. Mr. Heit testified that co-parenting is a specific form of therapy or counseling where parents who are separating or divorcing can work effectively on parenting a child. The MFT helps the parents work together. The mode of treatment is to work with both parents to help them interact with one another. If the MFT chooses to meet individually, there is a risk of disclosing confidential information of one party to the other. However, sharing information with both parties is part of the co-parenting therapy. Mr. Heit emphasized that it puts the MFT in an impossible situation because the MFT must work to benefit both parents. The standard of care is to refer one of the parents to another MFT.

64. MFT's are required to explain to clients the nature and therapy of treatment, risks, alternatives, fees, confidentiality, and exceptions to confidentiality. All of these terms must be addressed in the written agreement between the MFT and the client.

65. According to the California Association of Marriage and Family Therapists (CAMFT), Revised Code of Ethical Standards for Marriage and Family Therapists, May 2002,³ (Ethical Standards), Section 2.1 of the CAMFT Ethical Standards provides:

[MFT's] do not disclose patient confidences, including the names or identities of their patients, to anyone except a) as mandated by law, b) as permitted by law, c) when the [MFT] is a defendant in a civil, criminal or disciplinary action arising from the therapy (in which case patient confidences may only be disclosed in the course of that action), or d) if there is an authorization previously obtained in writing, and then such information may only be revealed in accordance with the terms of the authorization.

Section 2.2 provides:

When there is a request for information related to any aspect of psychotherapy or treatment, each member of the unit receiving such therapeutic treatment must sign an authorization before a [MFT] will disclose information received from any member of the treatment unit.

³ Mr. Heit used the CAMFT Ethical Standards, May 2002 version in forming his expert opinion for AR, MT and DT. He used the CAMFT Ethical Standards, June 2011 version in forming his expert opinion for RD. The standards Mr. Heit cited from the May 2002 version are the same in the June 2011 version.

66. With respect to AR, Mr. Heit testified that MFTs are obligated to safeguard all discussions and disclosures with clients. An MFT must protect a client's privacy unless the client gives the MFT written and informed consent to disclose confidential communications. He opined in his report that outside of legally mandated exceptions, no disclosures about private patient information can be made unless the patient, or her legal representative, has given written, informed, prior consent for the MFT to do so. This is a foundational principle of sound clinical practice, without which effective therapy services cannot be delivered. Failure to safeguard patient confidences represents a fundamental breach of trust and care by the MFT.

67. With respect to RD, Mr. Heit opined in his report that none of the accepted exceptions to confidentiality existed, and RD clearly did not give respondent permission to discuss his case with the mediator. By doing so, respondent exacerbated RD's emotional upset arising from his custody dispute.

68. With respect to MT, respondent did not have written authorization by AH to disclose information from their individual sessions to MT and his wife, which caused MT and his wife significant distress, and further disrupted their sessions with respondent.

SELF-DISCLOSURES AND DUAL RELATIONSHIPS

69. The purpose of self-disclosures is to establish familiarity with the client. This is only done occasionally, since the issues must be focused on the client, not the MFT. Self-disclosures take time away from the co-parenting therapy. Such disclosures create more conversation for the MFT's benefit, and may create conflicts between the parties and the MFT that may sabotage the therapeutic relationship that has been established. A dual relationship occurs when an MFT has established a relationship with the client, and engages in a secondary relationship with the same client. For example, the secondary relationship could be a friendship, or a business or sexual relationship. The dual relationship creates a conflict of interest between the client and the MFT. The CAMFT Ethical Standards related to self-disclosures and dual relationships were identified by Mr. Heit as follows:

Section 1.2:

[MFT's] are aware of their influential position with respect to patients, and they avoid exploiting the trust and dependence of such persons. [MFT's] therefore avoid dual relationships with patients that are reasonably likely to impair professional judgment or lead to exploitation. A dual relationship occurs when a therapist and her patient engage in a separate and distinct relationship either simultaneously with the therapeutic relationship, or during a reasonable period of time following the termination of the therapeutic relationship. Not all dual relationships are unethical, and some dual relationships cannot be avoided. When a dual

relationship cannot be avoided, therapists take appropriate professional precautions to insure that judgment is not impaired and that no exploitation occurs.

Section 1.2.1:

Other acts which would result in unethical dual relationships include, but are not limited to, borrowing money from a patient, hiring a patient, engaging in a business venture with a patient, or engaging in a close personal relationship with a patient. Such acts are with a patient's spouse, partner, or family member may also be considered unethical dual relationships.

Section 1.4.8:

[MFT's] inform patients of fee and fee arrangements prior to the provision of therapy.

Section 1.5:

[MFT's] do not use their professional relationships with patients to further their own interests.

Section 3.4:

[MFT's] seek appropriate professional assistance for their personal problems or conflicts that impair work performance or clinical judgment.

70. Mr. Heit testified that the standard of care for MFT's in dual relationship situations is that MFT's are obligated to stay aware of how their own personal problems impact the care they provide to patients, a common problem in psychotherapy referred to as counter-transference. MFT's are to seek out professional supervision and/or consultation, in order to re-focus services on the needs of the patient, and, if necessary, to transfer care of the patient to another provider.

71. Mr. Heit opined in his report that as to AR, respondent clearly violated the ethical standards by focusing so much of her time in sessions discussing her own issues, rather than attending to the therapy services. By doing so, respondent created a dual relationship, attempting to address her own needs rather than AR's, and making the sessions as much about herself as about her patients. Respondent's actions interfered with and disrupted the therapeutic goals that are the priority in therapy, creating the kinds of conflicts that AR complained of.

72. Mr. Heit opined in his report that as to RD, respondent's actions clearly exploited the trust and dependency of RD, through the multiple appointment cancellations and

rescheduling, knowing the deadline RD was working with, the importance to RD of acquiring the assessment, "all the while stringing [RD] along without honoring the agreement she made with [RD]." Respondent did so while creating a dual relationship and conflict of interest with RD, by using RD's appointment time to discuss the details of her personal life and problems, addressing her own needs to the exclusion of RD's, and exploiting RD's sense of urgency and emotional vulnerability about the custody dispute to furnish her own selfish interests.

73. Mr. Heit opined in his report that as to DT, respondent clearly violated the ethical standards pertaining to self-disclosures and dual relationships.

74. Mr. Heit opined in his report that as to MT, respondent violated section 1.2, in that respondent engaged in a dual relationship with MT, MT's wife, and MT's ex-girlfriend, AH. Respondent used sessions to discuss and complain about her own problems, addressing details of her own life rather than remaining focused on the problems her patients had contracted her to help them solve. In addition, respondent also created a second, concurrent dual relationship with AH, by siding with AH and giving in to a bias favoring AH's position in the co-parenting conflicts. These created substantial conflicts of interest, and impairment of respondent's objectivity and neutrality, that would have contributed to an inability to effectively carry out the therapeutic demands of the services she was hired to provide.

75. With regard to respondent's extensive self-disclosures during MT's sessions, Mr. Heit opined that respondent violated section 3.4, in that she was not aware of how her own personal problems impacted the care she provided, requiring her to seek professional assistance separately.

76. With regard to respondent's fees in MT's case, Mr. Heit opined in his report that respondent appeared to have changed her fee demands based on opportunity and financial gain, rather than adhering to a consistent fee structure. The standard of care is to state a fee structure at the beginning of services, in writing, which becomes part of the signed, informed consent between provider and patient, and does not vary, unless explicitly renegotiated. Mr. Heit concluded respondent violated sections 1.4.8, 1.5, 9.2 and 9.3. (See sections 9.2 and 9.3 in Findings 78 and 79).

SCHEDULING DIFFICULTIES/ CHARGING FOR MISSED OR CANCELLED APPOINTMENTS

77. Section 9.2 of the CAMFT Ethical Standards provides:

[MFT's] do not financially exploit their patients.

78. Section 9.3 of the CAMFT Ethical Standards provides:

[MFT's] disclose, in advance, their fees and the basis upon which they are computed, including, but not limited to, charges for

anceled or missed appointments and any interest to be charged on unpaid balances, at the beginning of treatment and give reasonable notice of any changes in fees or other charges.

79. Mr. Heit opined that the standard of care is for MFT's to provide consistent, reasonable, and rational appointment scheduling, and to take ownership of problems in scheduling that are the practitioner's. Blaming or manipulating the patient, or otherwise trying to shift responsibility for scheduling difficulties onto the patient reinforces the dual nature of the therapy relationship, again leading to the MFT expressing her own problems and using the patient for her own needs rather than maintaining the focus on the patient.

80. Mr. Heit opined that as for respondent's variable and apparently volatile behavior in setting fees, changing fees, and using manipulation, intimidation and threats to gain additional payments from clients, this behavior is clearly unprofessional, unethical and beyond justification. Doing so takes unfair advantage of a patient, who, by definition, is in a vulnerable emotional state, and with whom the MFT always carries a fiduciary responsibility to insure fair, reliable, and reasonable financial practices as a way of protecting the patient and developing the sense of trust and psychological safety that is at the foundation of sound therapeutic practice.

81. As to RD, respondent had an obligation to inform RD of the cost of completing the alcohol assessment, and if she needed more time to complete the assessment due to her excessive self-disclosures during sessions, it remained respondent's problem, not RD's, and respondent was wrong to pressure RD for more money.

82. MT requested a copy of respondent's report to the court, which respondent withheld, until MT could provide payment. Respondent's actions clearly violated section 1.11.

FEES FOR SERVICES NOT RENDERED OR NECESSARY

83. Mr. Heit identified the following CAMFT Ethical Standards related to charging for excess sessions and not providing the requested services:

Section 1.3.3:

[MFT's] do not maintain therapeutic relationships solely for financial gain.

Section 1.6:

[MFT's] do not use their professional relationships with patients to further their own interests and do not exert undue influence on patients.

Section 1.10:

[MFT's] do not withhold patient records or information solely because the therapist has not been paid for prior professional services.

84. As to RD, Mr. Heit found that respondent's unethical behavior created an inappropriate relationship with RD by attempting to charge RD additional fees for completion of an assessment that she could not do because of her use of RD's appointment times for her own needs. Mr. Heit characterized this conduct as a form of extortion, given the time constraints impressed upon respondent when RD agreed to her services.

85. As to RD, Mr. Heit further found that respondent acted unethically because she failed to deliver the AOD assessment as agreed, apparently due to RD's refusal to pay additional fees or to buy additional, unnecessary services.

86. As to MT, Mr. Heit found that respondent violated section 1.10 when she withheld a copy of her report to the court until MT paid her.

87. As to MT, Mr. Heit opined that respondent did not exercise her responsibility pursuant to section 1.6, by continuing to press services upon MT, even after it became clear that she was at odds with MT and his wife, and ceased to be constructively engaged with them.

MR. HEIT'S CONCLUSIONS AS TO RESPONDENT'S TREATMENT OF AR

88. Mr. Heit concluded that in addition to respondent's clear violation of CAMFT Ethical Standards sections 1.2, 1.2.1, 2.1, 3.4, 9.2 and 9.3, respondent's actions violated basic expectations of how she is to provide services. The practice standard in all work for MFT's is to demonstrate not only competence, but basic respect for clients that supports their dignity and integrity, and contributes to the effort to provide effective, meaningful and caring professional services. Even if some of respondent's observations of AR turned out to be true, this would not relieve respondent's obligations to remain professional and constructive. Overall, Mr. Heit concluded that respondent varied considerably from numerous requirements in the code of ethics, and did not discharge her duties as an MFT within the basic expectations for the profession.

89. Mr. Heit concluded that respondent's actions were "very grossly negligent", as defined by the Board as "an extreme departure from the standard of care," failing substantially outside the professional standards for an MFT. Respondent's actions also demonstrated incompetence, defined by the Board as "a lack of knowledge or ability in discharging professional obligations," in that she showed a clear lack of knowledge and ability expected for an MFT.

MR. HEIT'S CONCLUSIONS AS TO RESPONDENT'S TREATMENT OF DT

90. Mr. Heit concluded that respondent clearly violated the code of ethics related to respondent's excessive self-disclosures which required an extra session for which DT would be charged (CAMFT Ethical Standards 1.2, 1.2.1, 1.5, 3.4, 9.2 and 9.3). Respondent's actions also clearly violated basic expectations for MFT's providing services. As with AR, respondent was to demonstrate not only competence, but basic respect for DT that supported his dignity_ and integrity and contributed to the effort to provide effective, meaningful and caring professional services. Even if some of respondent's observations of DT turned out to be true, this would not relieve respondent's obligations to remain professional and constructive. Overall, Mr. Heit concluded that respondent varied considerably from numerous requirements in the code of ethics, and did not discharge her duties as an MFT within the basic expectations for the profession.

91. Mr. Heit concluded that respondent's actions were "very grossly negligent," and demonstrated incompetence.

MR. HEIT'S CONCLUSIONS AS TO RESPONDENT'S TREATMENT OF RD

92. Mr. Heit concluded that respondent clearly violated CAMFT Ethical Standards 1.2, 1.2.1, 1.3.3, 1.6, 1.10, 2.1, 2.2, 9.2 and 9.3. Mr. Heit also concluded-that respondent's actions were grossly negligent and demonstrated incompetence.

MR. HEIT'S CONCLUSIONS AS TO RESPONDENT'S TREATMENT OF MT

93. Mr. Heit concluded that respondent clearly violated CAMFT Ethical Standards 1.2, 1.3.3, 1.4.8, 1.5, 1.6, 1.11, 2.1, 9.2 and 9.3. Mr. Heit also concluded that respondent's actions were grossly negligent and demonstrated incompetence.

Expert Testimony for Respondent

94. Martin H. Williams, Ph.D., testified on behalf of respondent. He reviewed the documents in this case. Dr. Williams received his Bachelor of Arts degree in Psychology, with honors, from the University of California, Los Angeles in 1968. He received his PhD. in Psychology from the University of California, Berkeley in 1975. Dr. Williams has been a California-licensed psychologist since 1976. He holds many other certifications in Nevada and California related to the field of psychology.

95. Dr. Williams has been in private practice since 1985, providing forensic and clinical psychology services. He did not testify whether he engages in co-parenting therapy or AOD assessments. His offices are located in San Jose, San Francisco, Los Angeles, Glendale, Newport Beach, and San Diego. Since 2006, Dr. Williams has been a member of the Forensic Evaluation Panel for the Superior Court of California, whose members provide competency

evaluations for court. He has also been an approved psychological competency evaluator for United States Immigration and Customs Enforcement since 2011.

96. Dr. Williams has published numerous articles in the past 45 years. The subject matter of his articles include ethics and the law, sex therapy, boundary violations, false complaints against psychotherapists, maltreatment by state licensing boards, protecting psychologists, forensic skills, risk management, surviving licensing complaints, and the role of the psychologist in civil and criminal litigation. In 2009, Dr. Williams published an article entitled, "How Self-Disclosure Got a Bad Name."

97. Dr. Williams testified that the "population" respondent counsels are being compelled by the court to obtain counseling. Those clients are not "happy campers." He testified that respondent's clients are a high risk population for the therapist because a therapist is much more likely to get complaints "if you don't deliver the goods."

98. Dr. Williams criticized Mr. Heit's assumption that the complainant's allegations were true when examining the Board's documents and forming his expert opinions. In Dr. William's opinion, such an assumption would result in an incomplete opinion, and it would be a violation of the CAMFT Ethical Standards. However, Dr. Williams failed to identify which ethical standard(s) he was speaking of. Overall, he found Mr. Heit's reports "not very useful," but did not provide a detailed explanation why.

RESPONDENT'S FEE AGREEMENT AND BILLING PRACTICES

99. Dr. Williams reviewed respondent's fee agreement form. The form contains the fees charged for therapy, letter preparation for court, AOD assessments and telephone consultations. It also contains a statement that respondent does not accept insurance. Lastly, respondent warns the client to provide at least 48 hours' notice to cancel an appointment, otherwise, the client will be billed. Dr. Williams was impressed by respondent's fee agreement, in that it covered everything. Dr. Williams commented that most therapists charge for late cancellations for no-shows. He testified that this is perfectly appropriate and within the standard of care.

Dr. Williams did not address the allegation that respondent charged AR for an appointment that respondent scheduled and AR said that she could not make, or why respondent was charging MT and AH \$105 per session for a total of \$210 per session, when MT understood the joint sessions to be \$105. Respondent did not provide a copy of the signed fee agreement to MT when asked did not produce it at hearing and asserted that MT's files were inadvertently shredded by her movers in Spring 2010.

RESPONDENT'S SELF-DISCLOSURES

100. Dr. Williams testified that a therapist's self-disclosure does not violate any ethics code that he knows of, and that multiple relationships are not prohibited. He did not address the

conflicts of interests that arise in multiple relationships. He conceded that self-disclosures should not take up an undue amount of session time, and wasting a patient's time to advance the therapist's agenda is unethical. Respondent's disclosure to DT that she dates younger men and is an animal in bed "sounded" inappropriate to Dr. Williams. Self-disclosures must be beneficial to the client. Dr. Williams found that the allegations of self-absorbed behavior by respondent were inconsistent with respondent's session records. He observed that respondent's records contained so much information about her clients. Such information in her records is inconsistent with her clients' claims that she monopolized session time talking about her own issues.

RESPONDENT DIAGNOSING DT WITH A PERSONALITY DISORDER

101. Dr. Williams did not address the allegation that respondent diagnosed DT with a personality disorder even though she was not hired to do so, and why she told DT that he had one. He did not address whether respondent's conduct in this regard was unethical. Dr. Williams testified that people with personality disorders can be manipulative and have a sense of extreme entitlement. They may react with hurt or rage if they are unhappy with their therapists. People with personality disorders at first admire their therapist. Over time, they may have a negative impression of their therapists. Dr. Williams stated, "It's either all love, or all hate. They are willing to put in the energy to punish you." Their feeling toward their therapist is not consistent.

RESPONDENT SPEAKING TO RD'S MEDIATOR WITHOUT AUTHORIZATION

102. Dr. Williams testified that there was nothing unethical about respondent speaking to the mediator about RD's AOD assessment. Respondent's communication with the mediator was within the standard of care, and that it is not a violation of ethics when a patient does not provide a release and respondent reports to the mediator. He stated that there were concerns about RD's drinking, and in order to reduce those concerns, more time was needed to find out what the collateral sources had to say. If the assessment was for the mediator, and respondent did not talk to the mediator about the assessment, RD "would have been throwing his money away." Dr. Williams failed to address that it was RD, not the mediator, who requested the assessment. Dr. Williams assumed that RD gave his authorization to respondent by the context "of the service he was buying." Dr. Williams testified that if there was a release, it was verbal. The only way to accomplish the AOD assessment was for respondent to speak to the mediator.

RESPONDENT'S THREATS TO AR

103. Dr. Williams testified that it was "perfectly appropriate" for respondent to tell AR that she was immature, and that AR was in jeopardy of losing custody. He testified respondent's words were not threatening to the AR, but rather, were for the purpose of "confronting AR to get her attention." Dr. Williams stated that "sometimes in substance abuse situations, you have to carry a big stick." Dr. Williams conceded that respondent's emails to AR were inappropriate and below the standard of care because the emails seem more punitive than confrontational.

RESPONDENT'S BREACH OF AR'S CONFIDENTIALITY

104. Dr. Williams conceded that respondent violated the standard of care when she told TM information that AR disclosed during her individual sessions. He opined that informed consent should be acquired by participants in co-parenting sessions, in order to clarify the limits of confidentiality. The evidence did not establish that respondent obtained informed consent from AR or TM. Thus, she violated the standard of care.

DT'S MONITORED CHILD VISITATION

105. Dr. Williams testified that DT's complaint about respondent taking a phone call during his monitored child visitation was not unethical. Dr. Williams stated that we are all professionals, and often times have to return urgent phone calls. While Dr. William's opinion has merit, he did not address DT's complaint of respondent speaking so loudly that DT and his daughters had to "talk over" respondent's voice or that the content of the phone conversation involved an upcoming picnic.

RESPONDENT'S TERMINATION OF SERVICES

106. Dr. Williams addressed respondent's termination of services with RD. He did not address respondent's termination of services with DT. He testified that termination is appropriate if no services are being rendered. He noted that respondent's session notes appear that she conducted an assessment for RD, and that she had to stop the assessment because RD was getting hostile and confrontational, and he prevented respondent from doing her work because of the additional collateral assessment that the mediator required. However, the mediator testified credibly that she did not direct respondent to perform collateral assessments. According to Dr. William's testimony, it would not have been appropriate to terminate DT and RD's sessions, because she did not complete their AOD assessments.

Discussion

107. Mr. Heit and Dr. Williams appeared to be in agreement on what constitutes unethical behavior by an MFT:

- (a) Excessive self-disclosures by the MFT that take up a majority of session time;
- (b) Self-disclosing sexual preferences or sexual behavior;
- (c) Lack of disclosure of fees or a fee agreement; and,
- (d) Termination of sessions by the MFT when services are not completed.

The evidence established that respondent made excessive self-disclosures during her sessions with AR, DT, MT and RD, thus violating the standard of care.

The evidence further established that respondent self-disclosed her sexual preferences and sexual behavior during a session with DT, thus violating the standard of care.

The evidence further established that respondent failed to disclose her fees or provide a fee agreement with AR, DT, MT and RD, particularly when she required additional sessions, thus violating the standard of care.

The evidence established that respondent terminated her sessions with DT and RD and did not provide the AOD assessments she was hired to do, thus violating the standard of care.

108. Mr. Heit's opinion that co-parenting requires the MFT to work with both parents, that sharing information with both parties is part of the therapy, and that there is a risk of disclosing information from one party to the other during individual sessions is persuasive. Dr. William's testimony did not address the issue of individual counseling in co-parenting therapy.

The evidence established that respondent's disclosures of confidential information obtained during her individual sessions with AR, MT, MT's wife, and RD breached Section 2.1 of the CAMFT Ethical Standards.

109. Mr. Heit opined, and Dr. Williams did not disagree, that respondent's excessive self-disclosures created dual relationships with her clients. Both agreed that excessive self-disclosures by respondent without a therapeutic purpose, requiring additional sessions with the client, were a violation of the standard of care. Dr. Williams noted, however, that respondent could not have engaged in excessive self-disclosures, because her progress notes contained so much information about her clients. However, MT's progress notes were inadvertently shredded, and the preparation of the progress notes for RD, AR and DT on the dates indicated is questionable, due to respondent's overall lack of credibility. Regardless, four different clients complained about respondent's self-disclosures, and provided specific details about what she said.

The number of credible complaints and the level of detail of respondent's self-disclosures provided ample evidence that established that respondent breached Sections 1.2, 1.2.1, 1.5, and 3.4 of the CAMFT Ethical Standards.

110. Mr. Heit's opinion that respondent's conduct in billing AR for an appointment that respondent set and AR could not make, scheduling more sessions because she took up valuable session time talking about her own personal issues, threatening not to return AR's book until AR paid her fees, keeping RD's "retainer" without doing the AOD assessment, charging MT for a session that did not take place, and withholding a copy of her co-parenting report until all fees

were paid, were all a violation of the standards of care. Dr. Williams did not address these issues. Mr. Heit's opinion is persuasive.

The evidence established that respondent breached Sections 1.4.8, 1.5, 9.2 and 9.3 of the CAMFT Ethical Standards.

111. In her progress notes, respondent appeared to be more concerned at the inconveniences that her clients caused her, rather than showing genuine concern for the needs of her clients:

DT Progress Notes, 6/23/2010:

[T]his writer received approximately six to eight repeated calls from client [sic] either asked for more information, wanting to discuss his case, or asking for legal information. (Note: I mentioned briefly to the client that I had lost a very close family member that day and also was not working, but the client **continued to bombard this writer** with calls regardless ...

DT Progress Notes, 6/25/2010:

[T]his writer appeared a bit disappointed that for every effort extended to client, **he appeared to demand more and more**, including legal information, demanding more from his visits and **generally exhausting this writer**.

AR Progress Notes, 3/28/2010:

Recv'd many multiple calls from client & other part (day off & after hours) regarding weekend exchange agreements etc. ... Spoke [to] each party at least 3x each this evening before finally agreeing that the arrangements were solidified ...

AR Progress Notes, 3/28/2010:

This writer was in office at approximately 10:20 p.m. **sleeping on couch after long day of sessions** when call was received by client. ... immediately went to voice mail. I called client back and left lengthy message [Findings 10 and 11], stating that this writer was disappointed in client's decision to abruptly end sessions ... This writer requested that client call this writer to confirm payment of two sessions. **This writer returned to the couch and rested some more.**

RD Session Notes, 5/2/2012:

Clinician discussed two main concerns: 1) the large amount of time in procrastinating, thus forcing clinician to produce report in much less time than usually necessary and 2) client's insistence on paying \$600 at the beginning. **Clinician explained hourly rate & level of discomfort in accepting "retainer"** and told client possibility of not being able to complete accurate report in time allotted.

RD Session Notes, 5/4/2012:

Nearly 3-hour session with client becoming increasingly **aggressive and demanding** ... Client appears hostile when confronted. Clinician ended session but continued to talk on phone between mediator & client until nearly 10:30 pm (at home). Client had to terminate case due to client's increased hostility & threats. Client continued to call several times after termination to apparently **attempt to intimidate and harass this writer**.

(Bold added.)

112. Respondent failed to recognize the desperate situation of her clients, who were in danger of losing custody of their children. Clients were in a vulnerable state, and needed to be handled with compassion and understanding, which respondent failed to provide. Respondent further lacks insight into the consequences of her words and actions. Common themes ran through each complaint-breach of client confidentiality, charging for sessions that did not occur, disparaging treatment and unprofessional conduct, and excessive self-disclosures. None of the clients knew each other and they did not have a reason to lie about respondent's conduct. They provided an immense level of detail with respondent's self-disclosures and overall conduct that provide a heightened level of credibility and trustworthiness to their complaints and their testimony at hearing.

113. In addition to respondent's lack of insight and compassion for her client's needs, respondent's lack of adequate training in co-parenting counseling contributed to the harm caused to her clients, particularly the emotional harm caused by her confidential information disclosures and threats that she would make adverse recommendations to the court. She was so focused on getting paid, that she lost her objectivity, patience and common courtesy. Once paid, she failed to deliver the services she was hired for. Her conduct as an MFT lacked professionalism, represents a troubling pattern of abuse, and puts the profession in a bad light.

Costs

114. Complainant has requested reimbursement for costs incurred by the board in connection with the prosecution of this matter, in the total amount of \$20,592.50. The costs were

certified in the manner provided by Business and Professions Code section 125.3, subdivision (c). The requested costs are:

Department of Justice (DOJ)

2011/2012	24.25 hours	@ \$170.00	\$4,122.50
2012/2013	22.75 hours	@ \$170.00	\$3,867.50
2013/2014	51.75 hours	@ \$170.00	\$8,797.50

Expert Witness Fees \$1,425

115. Deputy Attorney General Brian S. Turner provided in his certification of costs a good faith estimate of additional charges for witness and hearing preparation in the amount of \$2,380 (14 hours x \$170/hour).

116. The reasonableness of complainant's request for costs is discussed in the Legal Conclusions below.

LEGAL CONCLUSIONS

Standard of Proof

1. In this action to discipline respondent's license as an MFT, complainant bears the burden of proof on the charges alleged in the Accusation. The standard of proof is clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.)

Applicable Statutes

2. Business and Professions Code section 118, subdivision (b) provides, in pertinent part, that the suspension, forfeiture, or cancellation by order of the board shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee.

3. Business and Professions Code section 4982 provides, in pertinent part, that the board may suspend or revoke the license or registration of a licensee or registrant if she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

[¶...¶]

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

[¶...¶]

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

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

[¶...¶]

(m) 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.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

[¶...¶]

Causes for Discipline

FIRST CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - GROSS NEGLIGENCE)

4. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (d), for unprofessional conduct, in that respondent committed gross negligence in the performance of respondent's professional relationship and obligations to AR, (dual relationship, excessive self-disclosures taking up session time and serving no therapeutic purpose, scheduling and charging for missed appointment), by reason of the matters set forth in Findings 5, 6, 7, 69 to 71, 77 to 80, 88, 89, 107, 109, and 110.

SECOND CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT-HARM TO PATIENT)

5. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (i), for unprofessional conduct, in that respondent intentionally or recklessly caused emotional harm to AR, by leaving voicemail messages stating that she would not return AR's book until AR paid fees owed, saying AR was manipulative and immature, informing AR that she would inform the court that AR refused to

attend counseling sessions and owed for services, and that she wanted TM to have full custody of the child, by reason of the matters set forth in Findings 8 through 10, 88 and 110. On another occasion, respondent directed AR to give up her daughter for 30 days or respondent would tell the court about her drug use, by reason of the matters set forth in Findings 11 and 88.

THIRD CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - PATIENT CONFIDENTIALITY)

6. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (m), for unprofessional conduct, in that respondent failed to maintain AR's client confidentiality, by reason of the matters set forth in Findings 12, 63 to 66, 88, 104 and 108.

FOURTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - FAILURE TO DISCLOSE FEES)

7. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (n), for unprofessional conduct, in that respondent failed to disclose to AR the fees and the basis upon which the fees were calculated, by reason of the matters set forth in Findings 5, 7, 13, 77 to 80, 88, 107 and 110.

FIFTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - GROSS NEGLIGENCE)

8. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (d), for unprofessional conduct, in that respondent committed gross negligence in the performance of duties and obligations owed to DT (excessive self-disclosures taking up session time and serving no therapeutic purpose), by reason of the matters set forth in Findings 15, 16, 69, 70, 73, 90, 91, 107 and 109.

SIXTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - INCOMPETENCE)

9. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (d), for unprofessional conduct, in that respondent was incompetent in discharging her duties and obligations to DT during the course of the professional relationship (interrupted supervised child visitation by making a personal phone call), by reason of the matters set forth in Findings 17, 90, and 91.

SEVENTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - HARM TO PATIENT)

10. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (i), for unprofessional conduct, in that respondent intentionally or recklessly caused emotional harm to DT (failing to demonstrate

proper respect and telling DT he had a personality disorder), by reason of the matters set forth in Findings 15, 18, 90, 91, and 107 to 109.

EIGHTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - DISHONESTY)

11. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (i), for unprofessional conduct, in that respondent was dishonest by receiving and retaining an advance fee from DT to perform an AOD assessment, and did not conduct or complete the assessment, by reason of the matters set forth in Findings 14, 15, 50, 19, 90, 91, and 107.

NINTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - GROSS NEGLIGENCE)

12. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (d), for unprofessional conduct, in that respondent's acts were an extreme departure from the standard of care, constituting gross negligence (excessive self-disclosures taking up session time and serving no therapeutic purpose, referring to MT in derogatory terms in front of AH, disclosing confidential information, making threats to disclose confidential information to coerce MT, failing to maintain objectivity by counseling multiple persons), by reason of the matters set forth in Findings 20, 22 to 25, 63 to 65, 68 to 70, 74 to 76, 93, 107 to 109.

TENTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - INCOMPETENCE)

13. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (d), for unprofessional conduct, in that respondent was incompetent during the course of her professional relationship with MT, in that she failed to exercise that degree of learning, skill and care ordinarily exercised by a competent MFT (continuous excessive self-disclosure taking up session time and serving no therapeutic purpose, referring to MT in derogatory terms, disclosing confidential information, making threats to disclose confidential information to coerce MT, failing to maintain objectivity by counseling multiple persons), by reason of the matters set forth in Findings 20, 22 to 25, 63 to 65, 68 to 70, 74 to 76, 93, 107 to 109.

ELEVENTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - HARM TO PATIENT)

14. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (i), for unprofessional conduct, in that respondent caused emotional harm to MT (threatening MT with disclosure of confidential information, disclosing confidential information from AH, referring to MT in derogatory terms

and names in sessions in the presence of others, failing to maintain objectivity, refusing to provide a copy of her report submitted to the court or copy of signed contract, demanding MT do an errand for respondent), by reason of the matters set forth in Findings 20, 23 to 26, 63 to 65, 68, 77 to 80, 82, 86, 93, and 107 to 110.

TWELFTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - FAILURE TO MAINTAIN CONFIDENTIALITY)

15. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (m), for unprofessional conduct, in that respondent failed to maintain patient confidentiality (disclosing confidential information about MT and AH), by reason of the matters set forth in Findings 24, 63 to 65, 68, 93, and 108.

THIRTEENTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - FAILURE TO DISCLOSE FEES)

16. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (n), for unprofessional conduct, in that respondent failed to disclose her fees (failed to provide a copy of the written agreement to MT, refused to provide a copy of her report until she collected payment, charged MT and AH in excess of what they agreed to pay, and charged MT for a cancelled appointment even though MT was present and available), by reason of the matters set forth in Findings 20, 21, 26 to 28, 69, 70, 76 to 80, 82, 83, 86, 93, 107 and 110.

FOURTEENTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - GROSS NEGLIGENCE)

17. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (n), for unprofessional conduct, in that respondent engaged in conduct constituting gross negligence (dual relationship, excessive self-disclosures, requiring additional sessions for more extensive AOD assessment, requiring additional fees to complete assessment, contacting mediator without a release, exploiting RD's sense of urgency and emotional vulnerability concerning custody dispute), by reason of the matters set forth in Findings 29 to 35, 69, 70, 72, 77 to 81, 83 to 85, 92, 107 and 110.

FIFTEENTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - INCOMPETENCE)

18. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (d), for unprofessional conduct, in that respondent was incompetent in her actions and treatment of RD by failing to exercise that degree of learning, care and skill exhibited by an MFT under similar circumstances (dual relationship, excessive self-disclosures, requiring additional sessions for more extensive AOD assessment, requiring additional fees to complete assessment, contacting mediator without a release,

exploiting RD's sense of urgency and emotional vulnerability concerning custody dispute), by reason of the matters set forth in Findings 29 to 35, 69, 70, 72, 77 to 81, 83 to 85, 92, and 107 to 110.

SIXTEENTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - EMOTIONAL HARM)

19. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (i), for unprofessional conduct, in that respondent engaged in conduct that caused RD emotional harm (respondent told RD that failure to have full AOD assessment would not look good, RD would lose his child if RD did not have full AOD assessment with respondent, respondent was well-connected with the legal system, RD was walking on thin ice, RD would come across as manipulative in the report), by reason of the matters set forth in Findings 34 and 36, 69, 70, and 72.

SEVENTEENTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - FAILURE TO MAINTAIN CONFIDENTIALITY)

20. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (m), for unprofessional conduct, in that respondent failed to maintain confidentiality by contacting RD's mediator to discuss his case, without RD's permission, by reason of the matters set forth in Findings 31 to 35, 63 to 65, 67, 92, and 108.

EIGHTEENTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - FAILURE TO DISCLOSE FEES TO CLIENT)

21. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (m), for unprofessional conduct, in that respondent failed to disclose the cost of completing the AOD assessment when attempting to change the scope of services, and failing to complete AOD assessment after taking payment from RD, by reason of the matters set forth in Findings 31 to 34, 77 to 81, 83 to 85, 92, 107 and 110.

NINETEENTH CAUSE FOR DISCIPLINE (UNPROFESSIONAL CONDUCT - DISHONEST ACTS SUBSTANTIALLY RELATED)

22. Clear and convincing evidence established cause for disciplinary action under Business and Professions Code section 4982, subdivision (j), for unprofessional conduct, in that respondent was dishonest in demanding additional fees for increased services, and failed to complete and deliver the AOD assessment, and kept RD's money, by reason of the matters set forth in Findings 31 to 34, 83 to 85, 92, 107 and 110.

Disciplinary Considerations

23. The Board has established criteria to evaluate the rehabilitation of a licensee when considering suspension or revocation of licensure, which are set forth in California Code of Regulations, title 16, section 1814. The criteria of rehabilitation include the following:

- (1) Nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for suspension or revocation under Section 490 of the Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) giving rise to the suspension or revocation.
- [¶...¶]
- (8) Evidence, if any, of rehabilitation submitted by the licensee.

24. Respondent's misconduct was extremely serious and touched several basic and critical elements of practice as an MFT. The misconduct additionally demonstrated a pattern of incompetence and gross negligence in that it involved the performance of her duties as an MFT with four clients. The nature of respondent's misconduct suggests that she is unclear about the duties of her role as an MFT and the basics of ethical practice. She appeared to be motivated by money, by charging for additional sessions, withholding services until she was paid, threatening to tell the court that a client did not pay for her services, charging double, or charging one party more than the other. She was not genuinely concerned for the welfare of her clients, who were in the vulnerable and desperate situation of losing custody of their children.

25. By reason of Finding 111, respondent felt inconvenienced and bothered by her clients. She consistently blamed her clients for her ethical violations, labeling them "immature, manipulative, mindless, and aggressive."

26. By reason of Findings 112 and 113, respondent was insensitive to her clients' needs, and over a period of three years, repeatedly violated the ethical standards regarding confidentiality, self-disclosures, fee disclosures, and overall unprofessional conduct.

27. It has been two years since respondent committed the most recent acts which constitute grounds for disciplinary action, and while there are no allegations of subsequent acts that would be grounds for license discipline, respondent testimony for the most part was not credible.

28. Respondent presented little, if any, evidence of rehabilitation from her misconduct. She lacked remorse for her actions, and feels extremely competent to practice as an

MFT, despite the fact that the violations are all elementary to the basic practice and despite the large number of allegations and the commonality of the complaints in this matter.

29. Respondent has been in practice as an MFT since 2003, a period of over 10 years. She has no history of prior disciplinary action by the Board (Finding 1). All four complaints came from clients involved in child custody cases before the family court. All four complainants claimed that respondent threatened to use her influence in the system to negatively affect their cases.

30. Under the Penalty Guidelines adopted by the Board in accordance with California Code of Regulations, title 16, section 1888 (Rev. December 2012, Eff. July 1, 2013), the minimum penalty for violation of Business and Professions Code section 4982, subdivisions (d), (j) and (m), is a stayed revocation; 60 to 90 days actual suspension; and five years' probation, with specified terms and conditions of probation. The minimum penalty for general unprofessional conduct is the same. The minimum penalty for violation of Business and Professions Code section 4982, subdivision (n) is revocation stayed, one year probation, with specified terms and conditions of probation.

31. Respondent's failure to recognize and address her excessive self-disclosures, her rude and inconsiderate behavior toward clients, her focus on being paid rather than the welfare of her clients, her lack of fee agreements, her abuse of her position as a mental health professional *inter alia*, all evidence a lack of the basic skills and understanding of her ethical and moral obligations needed for safe work as a therapist. The above matters having all been considered, it is determined that given the wide array of violations, respondent's inability or unwillingness to recognize her deficiencies, her lack of credibility and remorse, and the fact that most of the violations represent elementary skills needed for safe practice as an MFT, the Board has determined that under these circumstances probationary terms would be ineffective to protect the public.

Costs

32. Business and Professions Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.⁴ Business and Professions Code section 125.3, subdivision (c), states:

⁴ California Code of Regulations, title 1, section 1042, implementing Business and Professions Code section 125.3, states:

(a) An agency shall allege in its pleading any request for costs, citing the applicable cost recovery statute or regulation.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

33. As set forth in Findings 114 and 115, the Board seeks reimbursement for costs in the total amount of \$20,592.50. Of the total amount sought, \$18,212.50 (\$16,787.50 (DOJ costs)

(b) Except as otherwise provided by law, proof of costs at the Hearing may be made by Declarations that contain specific and sufficient facts to support findings regarding actual costs incurred and the reasonableness of the costs, which shall be presented as follows:

(1) For services provided by a regular agency employee, the Declaration may be executed by the agency or its designee and shall describe the general tasks performed, the time spent on each task and the method of calculating the cost. For other costs, the bill, invoice or similar supporting document shall be attached to the Declaration.

(2) For services provided by persons who are not agency employees, the Declaration shall be executed by the person providing the service and describe the general tasks performed, the time spent on each task and the hourly rate or other compensation for the service. In lieu of this Declaration, the agency may attach to its Declaration copies of the time and billing records submitted by the service provider.

(3) When the agency presents an estimate of actual costs incurred, its Declaration shall explain the reason actual cost information is not available.

(4) The ALJ may permit a party to present testimony relevant to the amount and reasonableness of costs.

(c) The proposed decision shall include a factual finding and legal conclusion on the request for costs and shall state the reasons for denying a request or awarding less than the amount requested. Any award of costs shall be specified in the order.

plus \$1,425 (Expert witness fees)) constitutes actual costs billed to the Board as of the date of hearing, plus \$2,380 in projected additional costs. Complainant did not seek to amend the cost certification to establish the actual costs incurred up to the date of hearing. However, Business and Professions Code section 125.3, subdivision (c), permits the agency to submit a good faith estimate of costs where actual costs are not available. The projected additional costs are reasonable. Consequently, the costs of investigation and enforcement established by the Board herein are in the amount of \$20,592.50.

34. *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, identifies the factors to be considered in determining the reasonableness of costs pursuant to statutory provisions like Business and Professions Code section 125.3. The factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced; the licensee's subjective good faith belief in the merits of his or her position; whether the licensee has raised a colorable challenge to the proposed discipline; the financial ability of the licensee to pay; and whether the scope of the investigation was appropriate to the alleged misconduct. In this case, respondent was not successful in getting the charges dismissed or reduced, and she had a subjective good faith belief in the merits of her position, at least with respect to some of the allegations. Respondent raised no colorable challenge to the proposed discipline (outright revocation of her license). There was no evidence addressing respondent's financial ability to pay costs.

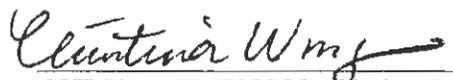
35. Under all of the circumstances herein, an award of costs in the amount of \$20,592.50 is reasonable and appropriate. Respondent shall be given the opportunity to pay costs by means of a payment plan.

ORDER

Marriage and Family Therapist License Number MFC 39881 issued to Debora A. Soukup is revoked pursuant to Legal Conclusions 4 to 22, jointly and individually. Respondent is ordered to reimburse the Board for the cost of investigation and enforcement in the amount of \$20,592.50 by means of a payment plan developed by the Board.

This Decision shall become effective on: January 15, 2015

IT IS SO ORDERED: December 16, 2014


CHRISTINA WONG, Chair
Board of Behavioral Sciences

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COPY

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

12 In the Matter of the Accusation Against:

13 **DEBORA A. SOUKUP**
1200 Fulton Avenue, #225
14 Sacramento, CA 95825

15 **Marriage and Family Therapist License**
16 **No. MFC 39881**

17 Respondent.

Case No. MF-2010-1539

FIRST AMENDED ACCUSATION

18
19 Kim Madsen ("Complainant") alleges:

20 **I.**

21 **PARTIES**

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

24 2. On or about October 24, 2003, the Board of Behavioral Sciences issued Marriage
25 and Family Therapist License Number MFC 39881 to Debora A. Soukup ("Respondent"). The
26 Marriage and Family Therapist License was in full force and effect at all times relevant to the
27 charges brought herein and will expire on October 31, 2014, unless renewed.

28 ///

1 II.

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

10 III.

11 STATUTORY AND REGULATORY PROVISIONS

12 5. Section 4982 provides:

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

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

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

21 (j) The commission of any dishonest, corrupt, or fraudulent act
22 substantially related to the qualifications, functions, or duties of
23 a licensee or registrant.

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

(n) Prior to the commencement of treatment, failing to disclose to
the client or prospective client the fee to be charged for the
professional services, or the basis upon which that fee will be
computed.

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IV.

COST RECOVERY

6. 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.

V.

FACTUAL ALLEGATIONS AS TO PATIENT AR

7. In or about February 2010, AR was involved in a custody dispute with her ex-husband, TM, over Z. The court ordered AR and TM to attend co-parenting counseling. AR contacted Respondent and arranged co-parenting counseling sessions starting on February 25, 2010. Counseling with Respondent terminated on April 16, 2010. Respondent charged and collected fees from AR for each of sixteen (16) sessions without first discussing the amount to be charged or entering a written agreement setting out the scope of services.

8. During the course of the sessions with AR and TM, Respondent acquired personal information about both patients. Respondent spent a majority of the time during each session talking about Respondent's personal issues including family, financial, medical, and sexual matters leaving little time devoted to providing professional services. Respondent brought animals to the sessions and spent time engaged with the animals further detracting from the time spent with AR.

9. Respondent scheduled appointments with AR and then cancelled the appointments with little notice. Respondent charged cancellation fees for appointments unilaterally set by Respondent without agreement by AR. During the course of the professional relationship, Respondent informed AR that higher paying clients get priority.

10. At one point in the counseling sessions, Respondent informed AR that Respondent had discussed confidential matters and information disclosed by AR during the professional relationship with Respondent's daughter. AR had not given permission to Respondent to disclose confidential information with any person other than the courts and persons in the counseling

1 sessions. On another occasion, Respondent attended court proceeding with TM who was seeking
2 to increase his custody time. During testimony, Respondent disclosed privileged information
3 obtained from AR and expressed opinions detrimental to AR. In another session, Respondent
4 demanded AR transfer custody of Z to TM for thirty (30) consecutive days. Respondent stated
5 she would inform the court about AR's medical treatment that Respondent knew or had reason to
6 know would adversely affect AR unless AR agreed to transfer custody.

7 11. Subsequently, AR terminated Respondent's services. Respondent left a voicemail
8 for AR stating that Respondent would not return a book belonging to AR until Respondent was
9 paid in full for amounts Respondent claimed was owed, Respondent would send a report to the
10 court stating AR had abruptly discontinued counseling and owed for services, Respondent was
11 recommending TM have full custody of Z, that AR was immature and manipulative, that AR
12 could not manipulate Respondent and that was the reason AR was terminating Respondent's
13 services.

14 VI.

15 FIRST CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct-Gross Negligence)

17 12. Respondent's Marriage and Family Therapist license is subject to disciplinary
18 action pursuant to section 4982 (d) on grounds that Respondent committed gross negligence in
19 the performance of Respondent's professional relationship and obligations to AR. The
20 circumstances are as follows:

21 13. Paragraphs 7 through 11 are incorporated herein as though set forth at length.
22 During sessions with AR, Respondent spent the majority of the time talking about Respondent's
23 personal problems, history, sexual matters and financial status. In doing the acts and disclosing
24 personal information as set forth herein, Respondent's conduct was an extreme departure from the
25 standard of care.

26 Respondent's scheduling of appointments with AR was erratic, inconsistent and
27 unreasonable. Respondent assigned responsibility to AR for rescheduling, failure to attend an
28 appointments and failing to pay cancellation charges. Respondent had inconsistent and variable

1 fees. Respondent's methods in setting and cancelling appointments and charging cancellation
2 fees took advantage of AR's vulnerable condition and status. Respondent's conduct represents
3 an extreme departure from the standard of care so as to constitute gross negligence within the
4 meaning of section 4982(d).

5 **VII.**

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct-Harm to Patient)**

8 14. Respondent's Marriage and Family Therapist license is subject to discipline for
9 unprofessional conduct pursuant to section 4982(i) by intentionally or recklessly causing
10 emotional harm to AR. The circumstances are as follows:

11 15. Paragraphs 7 through 11 are incorporated herein as though set forth at length. When
12 AR terminated the counseling services, Respondent abused AR by leaving a voicemail message
13 stating that:

14 a. Respondent would not return AR's book without payment of fees Respondent
15 claimed were owed.

16 b. Saying AR was manipulative and immature.

17 c. Informing AR that Respondent intended to inform the court that AR refused to attend
18 counseling sessions and owed for counseling services.

19 d. Telling AR that Respondent wanted TM to have full custody of Z.

20 e. Demanding that AR transfer full custody of Z to TM for thirty (30) days or
21 Respondent would disclose confidential medical information about AR to the court.

22 Respondent's acts set forth herein constitute intentional or reckless conduct resulting in
23 emotional harm to AR within the meaning of section 4892(i).

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1 VIII.

2 THIRD CAUSE FOR DISCIPLINE

3 (Unprofessional Conduct-Patient Confidentiality)

4 16. Respondent's Marriage and Family Therapist license is subject to discipline for
5 unprofessional conduct pursuant to section 4982(m) by failing to maintain patient confidentiality.
6 The circumstances are as follows:

7 17. Paragraphs 7 through 11 are incorporated herein as though set forth at length.
8 Respondent discussed AR's condition, confidential information and other matters connected with
9 AR's case with Respondent's daughter. In a separate occasion, Respondent spoke about AR's
10 case while in a public place and loud enough that a person who knows AR heard privileged
11 information and matters concerning AR. Respondent disclosed privileged information without
12 AR's knowledge, permission or authorization.

13 Respondent failed to protect AR's confidentiality within the meaning of section 4982(m).

14 IX.

15 FOURTH CAUSE FOR DISCIPLINE

16 (Failure to Properly Disclose Fees)

17 18. Respondent's Marriage and Family Therapist license is subject to discipline for
18 violation of section 4982(n) by failing to disclose to AR the fees and basis upon which the fee
19 will be calculated. The circumstances are as follows;

20 19. Paragraphs 7 through 11 are incorporated herein as though set forth at length.
21 Respondent failed to enter a written agreement with AR for co-parenting counseling services.
22 Respondent failed to disclose the terms to AR prior to providing professional services to AR,
23 including setting appointments, cancellation notice policy and fees. Respondent changed
24 appointment times or unilaterally set AR for an appointment times without AR's consent.
25 Respondent charged AR for missed appointments even though AR had not agreed to the
26 appointment. When AR terminated Respondent's services, Respondent left a message for AR as
27 more particularly set forth in paragraphs 7 through 11.

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FACTUAL ALLEGATIONS AS TO PATIENT DT

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3 20. DT was involved in legal proceedings concerning custody of his children. DT
4 contacted Respondent to retain her services for supervised visits with his children whom he had
5 not seen in three weeks at that time. DT was satisfied with the initial session with Respondent so
6 DT scheduled an alcohol and drug assessment (AOD) DT needed for the custody proceedings.

7 21. On or about June 24, 2010, DT appeared at Respondent's office for the AOD. DT
8 paid respondent in advance for the AOD and for a consultation on June 25, 2010. Instead of
9 conducting the AOD, Respondent talked to DT about Respondent's personal history including
10 child custody, abuse, medical conditions, sexual matters and relationships. Respondent failed to
11 complete the AOD and demanded DT schedule another appointment to complete the AOD.

12 22. On or about June 26, 2010, DT appeared at Respondent's office for a supervised visit
13 with his children. During the course of the supervised visit, Respondent failed to supervise by
14 talking on the telephone about personal matters in a voice so loud it interrupted DT's visit with
15 DT's children. At the conclusion of the visit, DT inquired when the AOD would be completed.
16 Respondent stated DT had a personality disorder because DT "pushed" excessively.

17 23. Within five minutes after DT left Respondent's office, Respondent called DT.
18 Respondent informed DT she would no longer provide counseling services to DT because DT
19 would not listen. On or about June 28, 2010, DT left a voicemail message for Respondent stating
20 Respondent's services were no longer needed. Later that same day, Respondent left a voicemail
21 message stating DT had personality disorders.

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1 XI.

2 FIFTH CAUSE FOR DISCIPLINE

3 (Unprofessional Conduct-Gross Negligence)

4 24. Respondent has subjected her Marriage and Family Therapist license to discipline
5 for unprofessional conduct pursuant to section 4982(d) by committing gross negligence in the
6 performance of the duties and obligations owed to patient DT. The circumstances are as follows:

7 25. Paragraphs 20 through 23 are incorporated herein as though set forth at length.
8 Respondent consumed a majority of the appointments disclosing excessive amounts of
9 Respondent's personal information including personal problems past and present, medical, family
10 and relationships. The extent of personal information disclosed by Respondent served no
11 recognized therapeutic purpose. Respondent's actions constitute an extreme departure from the
12 standard of care so as to constitute gross negligence within the meaning of section 4982(d).

13 XII.

14 SIXTH CAUSE FOR DISCIPLINE

15 (Unprofessional Conduct-Incompetence)

16 26. Respondent has subjected her Marriage and Family Therapist license to discipline
17 for unprofessional conduct pursuant to section 4982(d) by her incompetent conduct in discharging
18 her duties and obligations to DT during the course of the professional relationship. The
19 circumstances are as follows:

20 27. Paragraphs 20 through 23 are incorporated herein as though set forth at length.
21 During the course of Respondent's professional relationship with DT, Respondent disclosed
22 extensive and impermissible amount of personal information and details. During the course of a
23 supervised visit Respondent answered at least one personal telephone call and interrupted DT's
24 supervised visit with his children. In doing the things set forth herein, Respondent demonstrated
25 a lack of knowledge and ability in discharging professional obligations and was incompetent
26 within the meaning of section 4982(d).

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XIII.

SEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Harm to Patient)

28. Respondent has subjected her Marriage and Family Therapist license to disciplinary action for unprofessional conduct pursuant to section 4982(i) by intentionally or recklessly engaging in conduct that caused emotional harm to DT.

29. Paragraphs 20 through 23 are incorporated herein as though set forth at length. During the course of her professional relationship with DT, Respondent failed to demonstrate the proper respect for DT and communicated to DT that DT had personality disorders. Respondent's statements and conduct intentionally or recklessly caused emotional harm within the meaning of section 4982(i) so as to constitute unprofessional conduct.

XIV.

EIGHTH CAUSE FOR DISCIPLINE

(Dishonesty)

30. Respondent has subjected her Marriage and Family Therapist license to disciplinary action for unprofessional conduct pursuant to section 4982(j) by committing an act of dishonesty by charging DT for an AOD and failing to perform the assessment. The circumstances are as follows:

31. Paragraph 20 through 23 are incorporated herein as though set forth at length. On or about June 24, 2010, Respondent was paid by DT to perform an AOD for use in court proceedings. Respondent failed to conduct or complete the AOD and discharged the patient without refunding the unused portion of the fee. By retaining the unused fee, Respondent engaged in a dishonest act within the meaning of section 4982(j).

XV.

FACTUAL ALLEGATIONS AS TO PATIENT MT

32. MT was involved in court proceedings concerning a custody dispute with his ex-girlfriend/biologic mother, and was ordered by the court to arrange for co-parenting counseling.

1 MT contacted Respondent and signed a written agreement with Respondent for counseling
2 services, but was never provided a copy of the agreement despite requests for a copy.

3 33. Counseling with Respondent began on or about June 30, 2009, and after eighteen
4 appointments, concluded on December 3, 2009. Participants at the appointments varied. Some
5 appointments were limited to MT while others involved MT and wife, MT and ex-
6 girlfriend/biologic mother, and some appointments with all three. Respondent consumed a
7 substantial amount of time during each appointment, regardless of the participants, by talking
8 about her past and present personal life, and activities including problems involving finances,
9 marriage and children. During individual sessions with MT, Respondent asked and encouraged
10 MT to disclose personal information some of which MT requested to be kept confidential based
11 on his belief disclosure would harm MT's interests and MT's psychological status.

12 34. When sessions with MT's ex-girlfriend began, Respondent continued talking for
13 substantial portions of each session about her personal life and issues. Respondent disclosed to
14 MT's ex-girlfriend, matters which MT requested be kept confidential. Respondent conveyed
15 confidential information from Respondent's ex-girlfriend. As a result, the relationship and co-
16 parenting with MT's ex-girlfriend deteriorated and adversely affected MT and the custody
17 arrangements. During the dual sessions, Respondent failed to listen to MT, allowed the ex-
18 girlfriend to berate and use inappropriate terms in referring to MT, and seemed to support the ex-
19 girlfriend's position. Respondent at times referred to MT in derogatory terms during the sessions.
20 Respondent informed MT that she would use information obtained from MT in confidence during
21 the relationship to MT's detriment unless MT agreed to Respondent's demands.

22 35. At dual sessions, Respondent charged and collected a fee from MT and his ex-
23 girlfriend that was equal to being paid twice. This fee was not permitted under the terms of any
24 agreement with MT and the ex-girlfriend. Respondent attempted to charge MT twice for
25 preparation of a report sent to the court and then refused to send MT a copy of the letter and a
26 copy of the original signed agreement unless MT paid an additional amount.

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XVI.

NINTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Gross Negligence)

36. Respondent has subjected her Marriage and Family Therapist license to disciplinary action for unprofessional conduct pursuant to section 4982(d) by committing gross negligence in the course of the professional relationship with MT. The circumstances are as follows:

37. Paragraphs 32 through 35 are incorporated herein as though set forth at length. Respondent's acts as set forth below constitute an extreme departure from the standard of care of a Marriage and Family Therapist:

a. Continuing disclosure of Respondent's personal history, life and views for a majority of each appointment.

b. Referring to MT in derogatory terms in the presence of the ex-girlfriend during counseling sessions.

c. Disclosing confidential information obtained in the course of the professional relationship and performance of duties without the knowledge or consent of MT.

d. Disclosure of MT and ex-girlfriend's confidential information obtained in the professional relationship resulting in detriment and emotional damage.

e. Making threats to disclose confidential information to the MT to coerce the MT.

f. Failing to maintain objectivity in counseling multiple persons.

Respondent's acts constitute gross negligence within the meaning of section 4982(d).

XVII.

TENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Incompetence)

38. Respondent has subjected her Marriage and Family Therapist license to disciplinary action for unprofessional conduct pursuant to section 4982(d) because Respondent was incompetent in the course of the professional relationship with MT. The circumstances are as follows:

- 1 d. Failing to maintain objectivity.
- 2 e. Refusing to provide a copy of the report Respondent submitted to the court or a
- 3 copy of the signed contract unless MT paid an additional fee.
- 4 f. Demanding MT do errands for Respondent.
- 5 g. Threatening MT with arrest.

6 **XVIV.**

7 **TWELFTH CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct-Failure to Maintain Confidentiality)**

9 42. Respondent has subjected her Marriage and Family Therapist license to

10 disciplinary action for unprofessional conduct pursuant to section 4982(m) in that Respondent

11 failed to maintain patient confidentiality. The circumstances are as follows:

12 43. Paragraphs 32 through 35 are incorporated herein as though set forth at length.

13 During the course of counseling, Respondent breached patient confidentiality by disclosing

14 confidential information about MT and the ex-girlfriend and disclosing Respondent's assessment

15 of other persons in the professional relationship. Respondent's acts included but are not limited

16 to informing MT of confidential statements of others obtained in counseling and disclosing to

17 other persons statements and information obtained from MT, Respondent's diagnosis of other

18 participants in the co-parenting counseling, information provided by third parties about conditions

19 affecting participants in the counseling, information MT disclosed for counseling purposes and

20 not for disclosure to others, and opinions Respondent had reached about other participants in the

21 counseling session.

22 Respondent's disclosures were a breach of patient confidentiality within the meaning of

23 section 4982(m).

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25 **THIRTEENTH CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct-Failure to Disclose Fees)**

27 44. Respondent has subjected her Marriage and Family Therapist license to

28 disciplinary action by committing unprofessional conduct pursuant to section 4982(n) in that

1 Respondent failed to disclose the fee to be charged and how the fee is computed. The
2 circumstances are as follows:

3 45. Paragraphs 32 through 35 are incorporated herein as though set forth at length.
4 Respondent failed to provide a copy of the written agreement to MT and when requested by MT,
5 Respondent refused to provide the agreement unless MT paid an additional fee. Respondent
6 charged MT and the ex-girlfriend fees in excess of the agreement without disclosing the charges.
7 Respondent charged MT for a cancelled appointment even though MT was present and available
8 for counseling.

9 **FACTUAL ALLEGATIONS AS TO PATIENT RD**

10 46. On or about May 2, 2012, RD contacted Respondent to perform an alcohol
11 assessment and furnish a report to be used in connection with family law proceedings involving
12 child custody issues. Patient RD advised Respondent the assessment and report needed to be
13 available prior to a mediation scheduled for May 10, 2012 with mediator Penny Hancock.
14 Respondent agreed to perform the requested services, and had a first appointment on Wednesday
15 May 2, 2012 starting at 8 p.m. and ending either at 11:00 p.m. or 11:30 p.m.

16 47. During the first appointment RD informed Respondent he needed a basic alcohol
17 assessment report and provided Respondent with information including the identity of the
18 mediator. Respondent did not obtain written or verbal permission to contact the mediator at any
19 time. When Respondent stated she intended to contact the mediator, RD expressly stated that
20 Respondent was not authorized to contact the mediator. At the first session, Respondent provided
21 RD with a schedule of her fees and collected \$600 to perform the services.

22 48. Respondent scheduled the next appointment with RD for May 3, 2012 for 11 a.m. At
23 approximately 10:00 a.m., Respondent advised RD that she could not wake up and was cancelling
24 the appointment. A two hour session was scheduled for Friday May 4, 2012 at 12 p.m. to
25 complete the alcohol assessment.

26 49. RD attended the session on May 4. RD paid Respondent an additional \$500 for
27 Respondent's anticipated work on the weekend preparing the written assessment. Respondent did
28 not furnish RD with a receipt, instead promising RD everything would be provided Monday when

1 the report was completed and furnished to RD. During the May 4 session, Respondent spent
2 approximately an hour and forty-five minutes (1:45) discussing Respondent's personal views and
3 family matters unrelated to RD's alcohol assessment. Respondent inquired about the identity of
4 the judge assigned to RD's case, and claimed she could draft her written assessment according to
5 the judge's attitude and preferences. At the conclusion of the session, Respondent informed RD
6 that completion of the alcohol assessment would require at least two more sessions, and offered
7 other professional services to RD, including weekly therapy sessions and therapy with his spouse.
8 RD declined the additional services and requested completion of the basic alcohol assessment.

9 50. Within an hour of the conclusion of the May 4 session, Respondent contacted RD and
10 informed RD more detailed and extensive services were required based on Respondent's
11 communication with the mediator. Respondent represented to RD that the mediator wanted a
12 more thorough assessment, including contacting collateral sources to verify the information
13 provided by RD. RD advised Respondent that he was employing Respondent for preparation of
14 a basic assessment. At approximately 9:30 p.m., Respondent contacted RD again. Respondent
15 said RD would lose his child if RD did not pay for Respondent's recommended assessment and
16 that Respondent was well-connected with the legal system. Respondent informed RD her
17 evaluation included that RD was manipulative, that Respondent had recently spoken with the
18 mediator who believed RD was manipulative, that RD was not credible, that RD was on thin ice,
19 and that if RD did not continue with Respondent it will not look good on RD's report. RD again
20 informed Respondent he wanted a basic alcohol assessment report.

21 51. The mediator's office was closed May 4, 2012. Respondent did contact the mediator
22 on May 5, 2012. Respondent never had verbal or written authorization from RD to disclose any
23 information regarding RD's case to the mediator, and Respondent was specifically instructed by
24 RD not to have any contact with the mediator. Respondent contacted the mediator on May 5,
25 2012, and discussed the components of a substance abuse evaluation including interviewing
26 collateral sources. The mediator never instructed Respondent on the type of report necessary for
27 RD's mediation.

28 52. Respondent terminated RD as a client, and never furnished the requested report.

1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct-Gross Negligence)**

3 53. Respondent has subjected her Marriage and Family Therapist license to
4 disciplinary action for unprofessional conduct pursuant to section 4982(d) because Respondent
5 engaged in conduct constituting gross negligence. The circumstances are as follows:

6 54. Paragraphs 46 to 52 are incorporated herein as though set fourth at length. During the
7 course of the professional relationship with RD, Respondent:

8 a. Entered a dual relationship with RD by spending an inappropriate amount of time
9 talking about Respondent's personal information and family.

10 b. Violated RD's trust and dependency in Respondent, including but not limited to
11 canceling and rescheduling appointments with the assessment due, failing to disclose at the outset
12 the potential for a more detailed report, assuring RD the assessment would be completed timely,
13 offering services not requested, knowing the importance of the assessment to RD but failing to
14 complete the assessment, knowing the problems it created for RD in a pending legal matter, and
15 making false statements intended to force RD to pay for more services.

16 c. Attempting to charge additional fees for completion of the alcohol assessment that
17 was caused, in whole or in part, by engaging in a dual relationship that interfered with acquisition
18 of necessary information and shortened the available time to prepare the assessment.

19 d. Contacting the mediator without a release from RD, and in violation of direct
20 instructions from RD not to contact the mediator.

21 e. Exploiting RD's sense of urgency and emotional vulnerability surrounding RD's
22 custody dispute.

23 **FIFTHTEENTH CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct-Incompetence)**

25 55. Respondent has subjected her Marriage and Family Therapist license to disciplinary
26 action for unprofessional conduct pursuant to section 4982(d) because Respondent was
27 incompetent in her actions and treatment of RD by failing to exercise that degree of learning, care
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1 and skill ordinarily exhibited by a Marriage and Family Therapist under similar circumstances.

2 The circumstances are as follows:

3 56. Paragraphs 46 to 52 are incorporated herein as though set fourth at length. During the
4 course of the professional relationship with RD, Respondent:

5 a. Entered a dual relationship with RD by spending an inappropriate amount of time
6 talking about Respondent's personal information and family.

7 b. Violated RD's trust and dependency in Respondent, including but not limited to
8 canceling and rescheduling appointments with the assessment due, failing to disclose at the outset
9 the potential for a more detailed report, assuring RD the assessment would be completed timely,
10 offering services not requested, knowing the importance of the assessment to RD, but failing to
11 complete the assessment knowing the problems it created for RD in a pending legal matter and
12 making false statements intended to force RD to pay for more services.

13 c. Attempting to charge additional fees for completion of the alcohol assessment that
14 was caused in whole or in part by engaging in a dual relationship that interfered with acquisition
15 of necessary information and shortened the available time to prepare the assessment.

16 d. Contacting the mediator without a release from RD, and in violation of direct
17 instructions from RD not to contact the mediator.

18 e. Exploiting RD's sense of urgency and emotional vulnerability surrounding RD's
19 custody dispute.

20 **SIXTEENTH CAUSE FOR DISCIPLINE**

21 **(Emotional Harm)**

22 57. Respondent has subjected her Marriage and Family Therapist license to disciplinary
23 action for intentionally or recklessly causing emotional harm pursuant to section 4982(i) because
24 Respondent engaged in conduct that caused RD emotional harm. The circumstances are as
25 follows:

26 56. Paragraphs 46 to 52 are incorporated herein as though set fourth at length.

27 Respondent told RD after the professional relationship was established that Respondent:

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1 a. Was in contact with the mediator, and that failure to complete the full alcohol
2 assessment with Respondent would not look good on Respondent's report.

3 b. Stated RD would lose his kid if RD did not have full alcohol assessment with
4 Respondent.

5 c. Was well-connected with the legal system.

6 d. That RD was walking on thin ice.

7 e. That RD would come across as manipulative in her report.

8 f. That is would not look good in her report if RD did not complete the assessment with
9 Respondent.

10 57. The statements by Respondent caused emotional harm to RD. At the time
11 Respondent made these statements, Respondent knew or should have known RD was
12 emotionally vulnerable.

13 **SEVENTEENTH CAUSE FOR DISCIPLINE**

14 **(Failure to Maintain Confidence)**

15 58. Respondent has subjected her Marriage and Family Therapist license to disciplinary
16 action for failure to maintain patient confidence pursuant to section 4982(m) because Respondent
17 disclosed information regarding RD to a third party without permission. The circumstances are
18 as follows:

19 59. Paragraphs 46 to 52 are incorporated herein as though set fourth at length. After
20 establishing a therapist/patient relationship, RD instructed Respondent not to contact the mediator
21 for the pending legal matter. On May 5, 2012, without written or verbal authorization from RD,
22 Respondent contacted the mediator and discussed RD's pending legal matter, and by August 8,
23 2012 Respondent had contacted the mediator on six (6) different occasions discussing RD's case.

24 **EIGHTEENTH CAUSE FOR DISCIPLINE**

25 **(Failure to Disclose Cost of Service)**

26 60. Respondent has subjected her Marriage and Family Therapist license to disciplinary
27 action for failure to disclose the cost of services pursuant to section 4982(n) because Respondent
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1 failed to disclose the cost of completing the alcohol assessment prior to providing the services.

2 The circumstances are as follows:

3 61. Paragraphs 46 to 52 are incorporated herein as though set fourth at length.

4 Respondent was hired by RD to perform a basic alcohol assessment. Respondent's actions during
5 the course of the relationship increased the cost of the services through no fault of RD. In
6 addition, during the course of the relationship, Respondent attempted to change the scope of
7 services without any necessity to do so. Respondent failed to complete the services, but accepted
8 payment from RD.

9 **NINETEENTH CAUSE FOR DISCIPLINE**

10 **(Dishonest Acts)**

11 62. Respondent has subjected her Marriage and Family Therapist license to disciplinary
12 action for dishonest acts pursuant to section 4982(j) because Respondent failed to deliver the
13 alcohol assessment, and withheld RD's records and information because RD refused
14 Respondent's demand to pay increased costs for services. The circumstances are as follows:

15 61. Paragraphs 46 to 52 are incorporated herein as though set fourth at length. After
16 establishing a patient/therapist relationship and agreeing to the scope of services, Respondent
17 began demanding RD agree to pay additional sums for increased services from Respondent, not
18 requested nor needed by RD. When RD refused to pay the increased amount, Respondent failed
19 to deliver the alcohol assessment or any other information requested by RD.

20 In doing and failing to do these acts, Respondent acted dishonestly within the meaning of
21 4982(j).

22 **PRAYER**

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

25 1. Revoking or suspending Marriage and Family Therapist License No. MFC 39881
26 issued to Debora Soukup.

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2. Ordering Debra Soukup 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; and

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

DATED: July 3, 2013



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

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