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

In the Matter of the Accusation Against:  
**DOMINGO GARCIA**  
**1000 E. Walnut #235**  
**Pasadena, CA 91106**  
  
**Licensed Marriage and Family Therapist**  
**License No. MFC 44029**  
  
Respondent.

Case No. MF-2012-1790  
**DEFAULT DECISION AND ORDER**  
  
[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about December 4, 2014, Complainant Kim Madsen, in her official capacity as the Executive Officer of the Board of Behavioral Sciences, Department of Consumer Affairs (Board), filed Accusation No. MF-2012-1790 against Domingo Garcia (Respondent) before the Board. (Accusation attached as Exhibit A.)
2. On or about December 24, 2006, the Board issued Licensed Marriage and Family Therapist License Number MFC 44029 to Domingo Garcia (Respondent). The Licensed Marriage and Family Therapist License was in full force and effect at all times relevant to the charges brought herein and expired on September 30, 2014.

1           3.     On or about December 18, 2014, copies of the Accusation No. MF-2012-1790,  
2 Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes  
3 (Government Code sections 11507.5, 11507.6, and 11507.7) were sent to Respondent's address of  
4 record by Certified and First Class Mail. Pursuant to Business and Professions Code section 136,  
5 Respondent is required to report and maintain his address with the Board. Respondent's address  
6 of record was and is:

7     1000 Walnut Street, #235  
8     Pasadena, CA 91106.

9           4.     Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505, subdivision (c) or Business & Professions Code section 124.

11          5.     As of February 26, 2015, the aforementioned documents have not been returned by  
12 the U.S. Postal Service and are deemed to have been received.

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

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

19          7.     Respondent failed to file a Notice of Defense within 15 days after service upon him  
20 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
21 MF-2012-1790.

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

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

27          9.     Pursuant to its authority under Government Code section 11520, the Board finds  
28 Respondent is in default. The Board will take action without further hearing and, based on the  
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
taking official notice of all the investigatory reports, exhibits and statements contained therein on  
file at the Board's offices regarding the allegations contained in Accusation No. MF-2012-1790,

1 finds that the charges and allegations in Accusation No. MF-2012-1790, are separately and  
2 severally, found to be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and  
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
5 and Enforcement is \$7,729.04 as of February 26, 2015.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Domingo Garcia has subjected  
8 his Licensed Marriage and Family Therapist License No. MFC 44029 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Board of Behavioral Sciences is authorized to revoke Respondent's Marriage and  
11 Family Therapist License based upon the following violations alleged in the Accusation which  
12 are supported by the evidence contained in the Default Decision Evidence Packet in this case:

13 a. Code section 4982(d): Respondent engaged in unprofessional conduct because he  
14 committed acts of gross negligence and incompetence that were an extreme departure of the  
15 standard of care while providing marriage and family therapy to a client.

16 b. Code section 4982(k): Respondent engaged in unprofessional conduct because he  
17 engaged in sexual relations with a client, or a former client within two years following  
18 termination of therapy, solicited sexual relations with a client, or committed an act of sexual  
19 abuse, or sexual misconduct with a client, or committed an act punishable as a sexually related  
20 crime, and the act or solicitation is substantially related to the qualifications, functions, or duties  
21 of a marriage and family therapist.

22 c. Code section 4982(i): Respondent engaged in unprofessional conduct because he  
23 intentionally or recklessly caused physical or emotional harm to a client.

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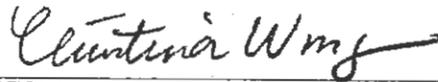
ORDER

IT IS SO ORDERED that Marriage and Family Therapist License No. MFC 44029, heretofore issued to Respondent Domingo Garcia, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on May 15, 2015.

It is so ORDERED April 15, 2015



FOR THE BOARD OF BEHAVIORAL SCIENCES  
DEPARTMENT OF CONSUMER AFFAIRS

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 KRITHHIKA VASUDEVAN  
Deputy Attorney General  
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Telephone: (213) 897-2540  
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E-mail: Cristina.Felix@doj.ca.gov  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. MF-2012-1790

12 **DOMINGO GARCIA**  
1000 E. Walnut #235  
13 Pasadena, CA 91106

**ACCUSATION**

14 **Licensed Marriage and Family Therapist**  
15 **License No. MFC 44029**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about December 24, 2006, the Board issued Licensed Marriage and Family  
24 Therapist License Number MFC 44029 to Domingo Garcia (Respondent). The Licensed  
25 Marriage and Family Therapist License was in full force and effect at all times relevant to the  
26 charges brought herein and expired on September 30, 2014.

27 ///

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1 an independent and objective physician and surgeon, psychotherapist, or alcohol and drug abuse  
2 counselor recommended by a third-party physician and surgeon, psychotherapist, or alcohol and  
3 drug abuse counselor for treatment, is guilty of sexual exploitation by a physician and surgeon,  
4 psychotherapist, or alcohol and drug abuse counselor.

5 (b) Sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug  
6 abuse counselor is a public offense:

7 . . .

8 For purposes of subdivision (a), in no instance shall consent of the patient or client be a  
9 defense. However, physicians and surgeons shall not be guilty of sexual exploitation for touching  
10 any intimate part of a patient or client unless the touching is outside the scope of medical  
11 examination and treatment, or the touching is done for sexual gratification.

12 (c) For purposes of this section:

13 (1) "Psychotherapist" has the same meaning as defined in Section 728.

14 . . .

15 (3) "Sexual contact" means sexual intercourse or the touching of an intimate part of a  
16 patient for the purpose of sexual arousal, gratification, or abuse.

17 (4) "Intimate part" and "touching" have the same meanings as defined in Section 243.4 of  
18 the Penal Code.

19 (d) In the investigation and prosecution of a violation of this section, no person shall seek  
20 to obtain disclosure of any confidential files of other patients, clients, or former patients or clients  
21 of the physician and surgeon, psychotherapist, or alcohol and drug abuse counselor."

22 8. Section 4982 states:

23 "The board may deny a license or registration or may suspend or revoke the license or  
24 registration of a licensee or registrant if he or she has been guilty of unprofessional conduct.

25 Unprofessional conduct includes, but is not limited to, the following:

26 . . .

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

28

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

3 ...

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

5 ...

6 (k) Engaging in sexual relations with a client, or a former client within two years following  
7 termination of therapy, soliciting sexual relations with a client, or committing an act of sexual  
8 abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related  
9 crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of  
10 a marriage and family therapist.

11 (y) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division  
12 106 of the Health and Safety Code.

13 9. Section 4982.26 of the Code states:

14 "The board shall revoke any license issued under this chapter upon a decision made in  
15 accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1  
16 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the  
17 licensee or registrant engaged in any act of sexual contact, as defined in Section 729, when that  
18 act is with a patient, or with a former patient when the relationship was terminated primarily for  
19 the purpose of engaging in that act. The revocation shall not be stayed by the administrative law  
20 judge or the board."

21 **COST RECOVERY**

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

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1 FACTUAL SUMMARY

2 11. In 2007, "M.S." traveled from Virginia to Los Angeles, California. She found herself  
3 homeless when her housing plans fell through. She was referred to the Union Rescue Mission  
4 (Mission) located in Los Angeles, California, for housing.

5 12. In 2007, she was suffering from major depression and ADHD. The Mission required  
6 her to get therapy before she could get medications. She was referred to an organization called  
7 Amanecer, to help her get the medications. They in turn referred her to one of their employees,  
8 Respondent, for therapy. Beginning in April 2008, "M.S.": began receiving counseling from  
9 Respondent. She saw him from April 2008 until July 2011.

10 13. From April 2008 until May 2009, "M.S." was homeless and living at the Mission in  
11 Los Angeles, California. She confided to Respondent that it was hard for her to live at the  
12 Mission. In May 2009, Respondent told her that during the weekends, she could stay at  
13 Respondent's private practice office located in Pasadena, California. Respondent gave her the  
14 keys to his office. There were no showers in the office building or private bathrooms for "M.S."  
15 to use during the stay.

16 14. "M.S." would take the bus every Saturday and return to the Mission on Sunday.

17 15. "M.S." and Respondent began having a sexual relationship in fall of 2009 at his  
18 private practice office. They engaged in sexual intercourse and oral sex on a regular basis. Even  
19 though it started out as sexual intercourse, it became clear to "M.S." that Respondent only wanted  
20 to engage in oral sex. Respondent started to ask "M.S." to perform oral sex during the week at the  
21 end of "M.S.'s" therapy sessions. This continued until "M.S." terminated the relationship in July  
22 2011.

23 16. On one occasion, when "M.S." was in a therapy session crying about something that  
24 had come up during therapy, Respondent looked at her and said, "I can't believe your tiny mouth  
25 can hold my big...."

26 17. On several occasions when "M.S." would be crying in therapy about past abuses she  
27 had faced, Respondent would say to her, "Can you put it in your mouth?," referring to his  
28 genitalia.

1           18. In January 2010, "M.S." had not saved enough money to qualify for housing. She had  
2 been spending eighty (\$80) dollars a month on a bus pass to travel from the Mission to  
3 Respondent's office in Pasadena, California. Respondent would bring her coffee and doughnuts,  
4 but she would have to go to the nearby supermarket and spend money to prepare food for the  
5 weekend.

6           19. "M.S." began living at Respondent's office in Pasadena, California on a full time  
7 basis in January 2010. She stayed there until July 2010 when she finally qualified for Section 8  
8 housing.

9           20. Respondent would use his private office to see other clients on Tuesday and  
10 Wednesday evenings, and on Saturday mornings. When Respondent would have other clients in  
11 his office, "M.S." would have to go to the public library or wait in the lobby.

12           21. To use the services of the Pasadena library, "M.S." was required to prove that she was  
13 a resident of Pasadena, California. Respondent wrote a letter verifying "M.S.'s" residential  
14 address as his private office address located in Pasadena, California, so that she could obtain a  
15 library card.

16           22. In July 2010, "M.S." received her Section 8 housing voucher. She moved into her  
17 own apartment in Eagle Rock, California.

18           23. She asked the apartment manager for an extra set of keys and garage remote for  
19 Respondent.

20           24. Respondent helped "M.S." move into the apartment. He bought her a bed, kitchen  
21 appliances, computer, clothes, and food.

22           25. During the course of the relationship, Respondent took "M.S." to the Hollywood  
23 Bowl on several occasions.

24           26. In fall of 2010 during one of her therapy sessions, Respondent ordered a vibrator for  
25 "M.S." According to "M.S.," Respondent went to a site called Adam and Eve, and selected a  
26 vibrator that was most like him. He also brought another one to her apartment in 2011.

27           27. Respondent also took nude pictures of "M.S." and had her take nude pictures of him.  
28 Respondent also took pictures of her performing oral sex on him. During one of the therapy

1 sessions, Respondent printed the pictures on a color printer. He told "M.S." it was dangerous for  
2 him to have and print these pictures because he could get fired if anyone found out they were  
3 involved.

4 28. Respondent also took "M.S." on several trips. In January 28, 2010, Respondent took  
5 "M.S." to Las Vegas. They stayed at the Tuscan Hotel while Respondent attended a workshop.  
6 He took her to Las Vegas again on December 2, 2010 and March 31, 2011 when he attended  
7 other workshops. On June 15, 2011, they were on their way to San Francisco, but Respondent's  
8 car broke down on the way; thus, they ended up spending the weekend at Arroyo Grande.

9 29. Respondent disclosed many personal details about his own life to "M.S." He told her  
10 he was a recovering alcoholic. He talked about his children and his first wife. Respondent told her  
11 he was divorced when "M.S." and Respondent began a sexual relationship. She found out later  
12 Respondent had lied to her, and that he was in fact still married.

13 30. By July 2011, "M.S." had completed all the requirements regarding her housing, and  
14 she was no longer required to participate in therapy. She contacted Respondent and ended  
15 therapy. She told him if he was willing to have a relationship in the open, he could contact her. In  
16 August 2011, Respondent wrote back stating he had issues and could not have a relationship.

17 31. "M.S." was emotionally upset and physically sick for several months. She went to see  
18 her psychiatrist. Her psychiatrist, unaware of "M.S.'s" sexual relationship with Respondent,  
19 asked "M.S." to resume therapy with Respondent. At that time, "M.S." told her psychiatrist all  
20 that had transpired over the two (2) year period. With her psychiatrist's encouragement, she filed  
21 a complaint with the Board.

22 32. The psychiatrist also notified Amanecer of Respondent's conduct. On May 17, 2012,  
23 Respondent, his supervisor, and the human resources of Amanecer sat down to discuss the  
24 allegations. During the meeting, Respondent admitted to having engaged in sexual intercourse  
25 with "M.S." Shortly after the meeting, Respondent was terminated from Amanecer.

26 32. "M.S." filed a civil lawsuit against Respondent.

27 33. Respondent was deposed on March 21, 2013. In the deposition, Respondent admitted  
28 giving "M.S." a bed, clothes, a vibrator, and a computer. He admitted he had received a vibrating

1 chair cushion, a neck massager, blotter board for his desk, and book of poetry from "M.S." He  
2 admitted that it was inappropriate for him to give her gifts when he was "M.S.'s" therapist.

3 34. In the deposition, Respondent admitted to developing feelings for "M.S." and being  
4 attracted to her.

5 35. He admitted that he would have "M.S." sleep at his office. He knew it was wrong at  
6 the time for him to have his patient sleep at his office.

7 36. In the deposition, he admitted taking "M.S." to Las Vegas at least twice and to the  
8 Hollywood Bowl on several occasions. He admitted to trying to take her to San Francisco, but his  
9 car broke down and they had to stay in Arroyo Grande.

10 37. In the deposition, Respondent admitted to helping "M.S." move into her apartment.  
11 He admitted it was wrong for him to accept the keys to her apartment.

12 38. He admitted to using the pet name "snowflake" when he referred or called "M.S."

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct- Gross Negligence and Incompetence)**

15 39. Respondent has subjected his Licensed Marriage and Family Therapist License to  
16 disciplinary action under Code section 4982, subdivision (d), for unprofessional conduct, because  
17 he committed acts of gross negligence and incompetence that were an extreme departure of the  
18 standard of care while providing marriage and family therapy to a client. From 2010 until July  
19 2011, Respondent engaged in numerous acts of sexual intercourse and oral sex with "M.S.," he  
20 took "M.S." on several trips, he gifted her with many presents, and took nude pictures of her,  
21 thus, intentionally or recklessly causing physical or emotional harm to "M.S." Respondent was  
22 incompetent in the practice of Marriage and Family Therapy. Complainant refers to and by this  
23 reference incorporates the allegations set forth above in paragraphs 11 through 38 inclusive, as  
24 though fully set forth herein.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct- Sexual Relations with a Client)**

27 40. Respondent has subjected his Licensed Marriage and Family Therapist License to  
28 disciplinary action under Code section 4982, subdivision (k), for unprofessional conduct, because

1 he engaged in sexual relations with a client, or a former client within two years following  
2 termination of therapy, solicited sexual relations with a client, or committed an act of sexual  
3 abuse, or sexual misconduct with a client, or committed an act punishable as a sexually related  
4 crime, and the act or solicitation is substantially related to the qualifications, functions, or duties  
5 of a marriage and family therapist. From 2010 until July 2011, Respondent engaged and  
6 participated in a sexual relationship with client "M.S.." Complainant refers to and by this  
7 reference incorporates the allegations set forth above in paragraphs 11 through 38, inclusive, as  
8 though fully set forth herein.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct- Recklessly Causing Emotional Harm to a Client)**

11 41. Respondent has subjected his Licensed Marriage and Family Therapist License to  
12 disciplinary action under Code section 4982, subdivision (i), for unprofessional conduct, because  
13 he intentionally or recklessly caused physical or emotional harm to a client. From 2010 until July  
14 2011, Respondent engaged in numerous acts of sexual intercourse and oral sex with "M.S.," he  
15 took "M.S." on several trips, he gifted her with many presents, and took nude pictures of her,  
16 thus, intentionally or recklessly causing physical or emotional harm to "M.S." Respondent was  
17 incompetent in the practice of Marriage and Family Therapy. Complainant refers to and by this  
18 reference incorporates the allegations set forth above in paragraphs 11 through 38, inclusive, as  
19 though fully set forth herein.

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1 PRAYER

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

4 1. Revoking or suspending Licensed Marriage and Family Therapist License Number  
5 MFC 44029, issued to Respondent Domingo Garcia;

6 2. Ordering Respondent to pay the Board of Behavioral Sciences the reasonable costs of  
7 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
8 125.3;

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

10 DATED: December 4, 2014



11 KIM MADSEN  
12 Executive Officer  
13 Board of Behavioral Sciences  
14 Department of Consumer Affairs  
15 State of California  
16 Complainant