

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

In the Matter of the Accusation Against:

ROBERT JOSEPH HEATH, JR.
P.O. Box 20141
Castro Valley, CA 94546-8141

Marriage and Family Therapist License
No. MFC 47413

Respondent.

CASE No. MF-2013-1084

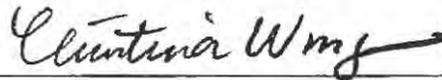
OAH No. 2014070426

DECISION AND ORDER

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

This Decision shall become effective on March 11, 2015.

It is so ORDERED February 9, 2015.



FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

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Attorney General of California
2 FRANK H. PACOE
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9 **STATE OF CALIFORNIA**

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Case No. MF-2013-1084

12 **ROBERT JOSEPH HEATH, JR.**
13 **P.O. Box 20141**
Castro Valley, CA 94546-8141

OAH No. 2014070426

14 **Marriage and Family Therapist License**
15 **No. MFC 47413**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

16 Respondent.

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Board of Behavioral Sciences of the Department of
20 Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and
21 Disciplinary Order which will be submitted to the Board for approval and adoption as the final
22 disposition of the Accusation.

23 PARTIES

24 1. Kim Madsen (Complainant) is the Executive Officer of the Board of Behavioral
25 Sciences (Board), Department of Consumer Affairs. She brought this action solely in her official
26 capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of
27 California, by Leslie E. Brast, Deputy Attorney General.

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1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. MF-2013-1084, if proven at a hearing, constitute cause for imposing discipline upon his
4 Marriage and Family Therapist License.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
8 those charges.

9 11. Respondent agrees that his Marriage and Family Therapist License is subject to
10 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
11 Disciplinary Order below.

12 CIRCUMSTANCES IN MITIGATION

13 12. Respondent has never been the subject of any disciplinary action. He is admitting
14 responsibility at an early stage in the proceedings.

15 CONTINGENCY

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

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

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1 unsuccessful due to the unavailability of qualified mental health care professionals in the area.
2 The Board may require that Respondent provide written documentation of his or her good faith
3 attempts to secure counseling via videoconferencing.

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

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

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

19 **2. Education**

20 Respondent shall take and successfully complete the equivalency of two (2) semester units
21 in substance abuse. All course work shall be taken at the graduate level at an accredited or
22 approved educational institution that offers a qualifying degree for licensure as a marriage and
23 family therapist, clinical social worker, educational psychologist, or professional clinical
24 counselor or through a course approved by the Board. Classroom attendance must be specifically
25 required. Course content shall be pertinent to the violation and all course work must be completed
26 within one year from the effective date of this Decision.

27 Within 90 days of the effective date of the decision Respondent shall submit a plan for prior
28 Board approval for meeting these educational requirements. All costs of the course work shall be

1 paid by the Respondent. Units obtained for an approved course shall not be used for continuing
2 education units required for renewal of licensure.

3 **3. Abstain from Controlled Substances / Submit to Biological Fluid Testing and**
4 **Samples**

5 Respondent shall completely abstain from the use or possession of controlled or illegal
6 substances unless lawfully prescribed by a medical practitioner for a bona fide illness.

7 Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon
8 request by the Board or its designee. The length of time and frequency will be determined by the
9 Board. There will be no confidentiality in test results. Any confirmed positive finding will be
10 immediately reported to Respondent's current employer and shall be a violation of probation.

11 **4. Abstain from Use of Alcohol / Submit to Biological Fluid Testing and Samples**

12 Respondent shall completely abstain from the use of alcoholic beverages during the period
13 of probation.

14 Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon
15 request by the Board or its designee. The length of time and frequency will be determined by the
16 Board. There will be no confidentiality in test results. Any confirmed positive finding will be
17 immediately reported to the Respondent's current employer and shall be a violation of probation.

18 **5. Attend Dependency Support Group.** Respondent shall attend a dependency support
19 program no less than two (2) times per week. Respondent shall provide proof of attendance at
20 said program with each quarterly report that Respondents submits during the period of probation.
21 Failure to attend, or to show proof of attendance, shall constitute a violation of probation.

22 **6. Obey All Laws**

23 Respondent shall obey all federal, state and local laws, all statutes and regulations
24 governing the licensee, and remain in full compliance with any court ordered criminal probation,
25 payments and other orders. A full and detailed account of any and all violations of law shall be
26 reported by the Respondent to the Board or its designee in writing within seventy-two (72) hours
27 of occurrence. To permit monitoring of compliance with this term, Respondent shall submit
28 fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days

1 of the effective date of the decision, unless previously submitted as part of the licensure
2 application process. Respondent shall pay the cost associated with the fingerprint process.

3 **7. File Quarterly Reports**

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

9 **8. Comply with Probation Program**

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

13 **9. Interviews with the Board**

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

16 **10. Failure to Practice**

17 In the event Respondent stops practicing in California, Respondent shall notify the Board or
18 its designee in writing within 30 calendar days prior to the dates of non-practice and return to
19 practice. Non-practice is defined as any period of time exceeding thirty calendar days in which
20 Respondent is not engaging in any activities defined in Sections 4980.02, 4989.14, 4996.9, or
21 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this
22 condition, will not apply to the reduction of the probationary term and will relieve Respondent of
23 the responsibility to comply with the probationary terms and conditions with the exception of this
24 condition and the following terms and conditions of probation: Obey All Laws; File Quarterly
25 Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost
26 Recovery. Respondent's license shall be automatically cancelled if Respondent's period of non-
27 practice total two years.

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1 **11. Change of Place of Employment or Place of Residence**

2 Respondent shall notify the Board or its designee in writing within 30 days of any change
3 of place of employment or place of residence. The written notice shall include the address, the
4 telephone number and the date of the change.

5 **12. Supervision of Unlicensed Persons**

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

9 **13. Notification to Clients**

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

15 **14. Notification to Employer**

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

22 **15. Violation of Probation**

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

26 If during the period of probation, an accusation, petition to revoke probation, or statement
27 of issues has been filed against Respondent's license or application for licensure or registration,
28 or the Attorney General's office has been requested to prepare such an accusation, petition to

1 revoke probation, or statement of issues, the probation period set forth in this decision shall be
2 automatically extended and shall not expire until the accusation, petition to revoke probation, or
3 statement of issues has been acted upon by the Board. Upon successful completion of probation,
4 Respondent's license shall be fully restored.

5 **16. Maintain Valid License**

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

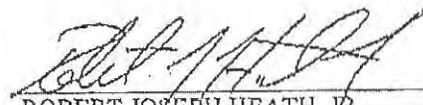
10 **17. License Surrender**

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

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

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1 will have on my Marriage and Family Therapist License. I enter into this Stipulated Settlement
 2 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
 3 Decision and Order of the Board of Behavioral Sciences.

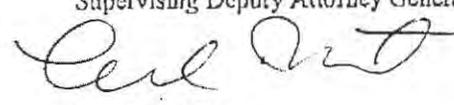
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 5 DATED: 11.6.14 
 6 ROBERT JOSEPH HEATH, JR.
 Respondent

7 I have read and fully discussed with my client, Respondent Robert Joseph Heath, Jr., the
 8 terms and conditions and other matters contained in the above Stipulated Settlement and
 9 Disciplinary Order. I approve its form and content.

10
 11 DATED: 11/6/14 
 12 MICHAEL J. PELLEGRINI
 Attorney for Respondent

13
 14 ENDORSEMENT

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

17 Dated: 11/7/14 Respectfully submitted,
 18 KAMALA D. HARRIS
 Attorney General of California
 19 FRANK H. PACOE
 Supervising Deputy Attorney General
 20
 21 
 22 LESLIE E. BRAST
 Deputy Attorney General
 23 Attorneys for Complainant

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Exhibit A

Accusation No. MF-2013-1084

1 KAMALA D. HARRIS
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2 FRANK H. PACOE
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12 **ROBERT JOSEPH HEATH, JR.**
13 **P.O. Box 20141**
Castro Valley, CA 94546-8141

A C C U S A T I O N

14 **Marriage and Family Therapist**
15 **License No. MFC 47413**

16 Respondent.

17 Complainant alleges:

18 PARTIES

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

21 2. On or about July 8, 2009, the Board issued Marriage and Family Therapist License
22 Number MFC 47413 to Robert Joseph Heath, Jr. (Respondent). The Marriage and Family
23 Therapist License was in full force and effect at all times relevant to the charges brought herein
24 and will expire on November 30, 2014, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board under the authority of the following laws.
27 All section references are to the Business and Professions Code unless otherwise indicated.
28

1 CAUSE FOR DISCIPLINE

2 **(Dangerous/Injurious Use of Controlled Substance/Dangerous Drug)**

3 9. Respondent is subject to disciplinary action under Code section 4982, subdivision (c),
4 for having used a controlled substance and/or dangerous drug to the extent or in a manner
5 dangerous or injurious to himself, to any other person or to the public, or to the extent that the use
6 impaired his ability to safely practice marriage and family therapy. The circumstances are as
7 follows:

8 10. On or about December 15, 2012, Alameda County Sheriff's Deputies were dispatched
9 to conduct a welfare check on Respondent who had been sitting in his car in a motel parking lot in
10 Castro Valley, California, for an extended period of time. Respondent was under the influence of
11 methamphetamine.¹

12 PRAYER

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

15 1. Revoking or suspending Marriage and Family Therapist License Number MFC 47413,
16 issued to Robert Joseph Heath, Jr.;

17 2. Ordering Robert Joseph Heath to pay the Board of Behavioral Sciences the reasonable
18 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
19 section 125.3;

20 ///

21 ///

22 ///

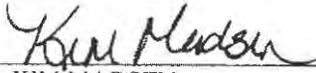
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24 _____
25 ¹ Methamphetamine is a Schedule II controlled substance as designated by Health and
26 Safety Code section 11055(d)(2), and a dangerous drug pursuant to Business and Professions
27 Code section 4022. Methamphetamine is a neurotoxin and a potent psychostimulant used illegally
28 for its aphrodisiac, euphoriant and stimulant effects.

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

DATED: 4/8/14


KIM MADSEN
Executive Officer
Board of Behavioral Sciences
State of California
Complainant

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