

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

In the Matter of the Petition to Revoke  
Probation Against:

**Charles H. Strole,**

Respondent.

Case No. : 2002014000716

OAH No. : 2014120833

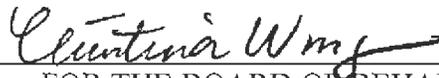
**DECISION**

Pursuant to Government Code section 11517 (c)(2)(C), the attached Proposed Decision is hereby Adopted by the Board of Behavioral Sciences as the final Decision in the above-entitled matter with the following technical changes:

- On page 1, in the address box, add the word Licensed in front of the word Marriage;
- On page 2, paragraph 1, change December 2013 to December 2003;
- On page 4, numbered paragraph 7, change May 27, 2015 to May 28, 2015;
- On page 9, numbered paragraphs 6 and 7, change the first word from Complainant to Petitioner; and
- On page 10, numbered paragraph 9, delete the word he after the word Respondent;

This Decision shall be effective on October 16, 2015.

It is so ORDERED September 16, 2015.



FOR THE BOARD OF BEHAVIORAL SCIENCES  
DEPARTMENT OF CONSUMER AFFAIRS

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

In the Matter of the Petition to Revoke  
Probation Against:

CHARLES H. STROLE,

Marriage and Family Therapist License  
Number LMFT 18086

Respondent.

Case No. 2002014000716

OAH No. 2014120833

**PROPOSED DECISION**

Administrative Law Judge Eileen Cohn heard this matter in Los Angeles, California on June 8 and 9, 2015.

Christina M. Thomas, Deputy Attorney General, represented Kim Madsen (petitioner).

Alan I. Kaplan, Attorney at Law, represented Charles H. Strole (respondent).

Evidence having been received and the matter having been submitted, the Administrative Law Judge makes the following Proposed Decision.

**FACTUAL FINDINGS**

1. Petitioner filed the Amended Petition to Revoke Probation in her official capacity as the Executive Officer of the Board of Behavioral Sciences (Board).
2. The Board issued Licensed Marriage and Family Therapist (LMFT) license number LMFT 18086 to respondent on December 10, 1982. The license has been renewed until September 30, 2016.
3. In a Stipulated Decision and Order (Stipulated Settlement) adopted by the Board on July 15, 2013, and effective August 14, 2013, under case number MF-2011-628, the Board revoked Respondent's license, stayed the revocation, and placed Respondent on probation for a period of five years on certain terms and conditions. The Stipulated Settlement was made after

the Board filed an Accusation against respondent on February 28, 2013, based upon his two misdemeanor convictions, in 1999 and 2008, for driving under the influence with a blood alcohol level of .08 percent or more. Respondent was found to have a blood alcohol level of .024 percent when he was arrested on February 17, 2007 and charged with his 2008 conviction. The Board's accusation also referenced respondent's 2004 misdemeanor conviction for battery of a cohabitant, also related to his alcohol abuse, which occurred in late December 2013. Respondent admitted to the truth of the allegations as part of the Stipulated Settlement.

4. The terms of the probation relevant to these proceedings are:

**2. Psychotherapy.** Respondent shall participate in ongoing psychotherapy with a California licensed mental health professional who has been approved by the Board. Within 60 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval the name and qualifications of one or more therapists of respondent's choice. Such therapist shall possess a valid California license to practice and shall have had no prior business, professional, or personal relationship with Respondent, and shall not be respondent's supervisor. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy is to be borne by respondent.

[...]

Respondent shall provide the therapist with a copy of the Board's decision no later than the first counseling session. Upon approval by the Board, respondent shall undergo and continue treatment until the Board or its designee determines that no further psychotherapy is necessary. Respondent shall take all necessary steps to ensure that the treating psychotherapist submits quarterly written reports to the Board concerning respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board. Respondent shall execute a Release of Information authorizing the therapist to divulge information to the Board.

If the treating psychotherapist finds that respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. [...]

**3. Education.** Respondent shall take and successfully complete the equivalency of two (2) semester units in Alcohol and Substance Abuse. All course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker or educational psychologist, or through a course approved by the Board. Classroom attendance must be specifically required. Course

content shall be pertinent to the violation and all course work must be completed within one year from the effective date of this Decision.

Within 90 days of the effective date of the decision, respondent shall submit a plan for prior Board approval for meeting these educational requirements.[...].

**5. Abstain from Use of Alcohol / Submit to Biological Fluid Testing and Samples.** Respondent shall completely abstain from the use of alcoholic beverages during the period of probation. Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the respondent's current employer and shall be a violation of probation.

**9. Comply with Probation Program.** Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the program.

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

#### *Respondent's Probation Violations*

5. On November 26, 2013, respondent failed a biological fluid test (alcohol test). The alcohol test measures the presence of alcohol in the body upwards of 80 hours prior to the test. In a letter dated December 4, 2013, the Board notified respondent that he tested positive for Ethyl Glucuronide (EtG), alcohol. The cut-off for a passing EtG reading is 100 ng/ml (nanogram per milliliter). Respondent's sample measured his EtG at 4326 ng/mL. To safeguard against a false positive EtG the alcohol test also measures Ethyl Sulfate (EtS), which, unlike EtG remains stable and is not sensitive to other conditions which could affect the readings such as uncontrolled diabetes in combination with a bacterial infection. The cut-off for EtS is 25 ng/mL and respondent's EtS levels were 1454 ng/mL. Phamatech Laboratories (Phamatech), a well-respected, federally-approved drug and alcohol testing laboratory, conducted the alcohol test. Six months later the sample was tested again by another well-

respected federally-approved drug and alcohol testing laboratory, Redwood Laboratories (Redwood). EtG and EtS were not detected and the results were negative.

6. On December 23, 2013, respondent failed an alcohol test. Respondent's EtG was 18436 ng/mL and his EtS was 5106 ng/mL. Six months later the sample was tested again by Redwood. Respondent's EtG was 7770 ng/mL, and his EtS was 715 ng/mL.

7. The Board notified respondent after each failed alcohol test, and gave respondent an opportunity to respond, which he did. On January 9, 2014, based on the December 2013 test results, the Board ordered respondent to cease practice as a LMFT. The Board notified respondent that it was forwarding his file to the Office of Attorney General to initiate revocation proceedings, and that respondent would have the opportunity to participate in a hearing once he received the Board's Petition to Revoke Probation. The Board first served respondent with its Petition on March 13, 2014 which was limited to his two failed alcohol tests, and on April 2, 2014, respondent filed his Notice of Defense. The Board did not initiate due process hearing proceedings with OAH until December 23, 2014, and filed an Amended Petition to Revoke Probation on May 27, 2015, adding respondent's violation of the psychotherapy and education terms of probation.

8. Respondent complied with the Board's order and closed his practice in January 2014. Between January and approximately September 2014 respondent adhered to the terms of probation by logging in each day to Phamatech and submitting to alcohol tests, which he passed, and taking a continuing education course in the area of substance abuse. After respondent closed his practice until approximately January 2015, he continued to attend weekly therapy sessions with his Board-authorized therapist as required. After January 2015 he continued to attend therapy sessions once every two weeks. Throughout his probation respondent demonstrated continued commitment to his sobriety by attending weekly Alcoholic's Anonymous (AA) meetings and calling his AA sponsor daily.

9. Respondent made every effort to adhere to the letter of his probation. After losing his practice, respondent's family was supported by the small amount of income respondent's wife obtained from her part-time seasonal job as a bookkeeper. Respondent used every available resource for his probation. He moved his family to his father-in-law's home to eliminate housing costs, sold his car, office and home furniture and watches, and depleted his savings to pay his probation costs.

10. Respondent's alcohol testing cost him approximately \$300 a month. Due to lack of funds, on or after September 7, 2014, respondent violated the terms of his probation when he stopped logging in daily as required to determine whether he was selected to test that day and stopped submitting to alcohol tests. Respondent failed to login or call, or test on and after September 7, 2014. On average respondent was required to submit to alcohol tests four

times each month. Between September 7, 2014 and April 2015, respondent failed to test as required approximately 32 times.

11. After he closed his practice, respondent continued to receive psychotherapy sessions as required by his probation but violated his probation when he cut back on the frequency of his psychotherapy by January 2015. Respondent's Board-approved and well qualified psychiatrist, Allen Pack, M.D., P.C. prepared the required quarterly reports attesting to respondent's commitment to his 12-step program, and respondent's sobriety despite the failed alcohol tests. As required by his probation, respondent continued to meet with Dr. Pack weekly through approximately December 2014. By that time he could no longer afford to pay Dr. Pack. Dr. Pack arranged to "run up" his bill and see him twice monthly instead.

12. Respondent made progress in complying with the educational component of his probation, but failed to complete 30 hours of coursework. As required, the Board approved the training respondent proposed, but respondent did not satisfy his educational requirements. The Board's records confirmed respondent's completion of one six hour training in the area of alcohol and substance abuse on October 25, 2013, not the two semester units, or 30 hours of training, required. Respondent submitted a certificate for an additional six and one-half unit training held on March 21, 2014.

*Respondent's Sobriety and the November and December 2013 Failed Alcohol Tests*

13. Respondent insisted the two alcohol tests were mistakes because he has been sober since June 1, 2007, and never once violated his commitment to sobriety. Respondent's sobriety was supported by Dr. Pack, John Paul Coakley, his AA sponsor, and Gregory E. Skipper, M.D., Director Professionals Health Services, Promises Treatment Center, a renown substance abuse expert. Dr. Pack reported respondent's emotional struggles related to the Board's closure of his practice, but consistently confirmed respondent's sobriety in his quarterly reports to the Board.

14. Mr. Coakley, a 31-year veteran of AA, who has sponsored about 40 recovering alcoholics, attested to respondent's fidelity to the 12-step program. Mr. Coakley has been respondent's sponsor for eight years and described respondent as one of the most conscientious members of AA. Respondent attended weekly meetings in Los Angeles, even after he moved to the Palm Springs area with his family to live rent-free with his father-in-law. Mr. Coakley was a credible witness who clearly understood the pattern of recidivism common to recovering alcoholics. Generally, those individuals who break the AA rules and drink do not call when they drink and generally engage in a spiral of alcohol dependence that begins with one drink. Often those who drink break ties with him altogether. Respondent never missed making a daily phone call to Mr. Coakly and continued to commute from Palm Springs to his weekly AA meetings in Los Angeles, although respondent reduced the number of face-to-face meetings with Mr. Coakley after his Los Angeles practice closed. Respondent's fidelity to the 12-step

program continued after the Board notified him of his failed tests and ordered him to stop practicing. Respondent's conduct was not characteristic of an individual who violated his pledge of sobriety.

15. Dr. Skipper is a nationally-renown expert in alcohol testing, having brought EtG testing to the United States. He also participated in the creation of testing guidelines used by federal and state-authorized laboratories, including Phamatech and Redwood. When initially presented with respondent's case, Dr. Skipper did not find Phamatech's test results suspect, but after he met with respondent, he concluded from his 30 years-long experience developing sobriety programming, that respondent did not meet the profile of someone who violated his AA pledge and strayed from sobriety. Similar to Mr. Coakley, Dr. Skipper maintained that it was improbable given respondent's history that he could drink alcohol once or twice and not spiral into complete recidivism. Respondent's otherwise negative alcohol tests did not support a conclusion that respondent's positive test results on two occasions were due to alcohol consumption.

16. Dr. Skipper's criticism of Phamatech's testing and his preference for the technology used by Redwood the lab that re-tested the two positive alcohol tests provided substantial foundation to deem Phamatech's November alcohol test invalid, but not the December alcohol test. Dr. Skipper preferred the technology used by Redwood to Phamatech's technology, but the evidence established that both Phamatech and Redwood were both federally-approved labs that met strict testing standards. Phamatech was routinely subjected to testing by the federal government and historically obtained a 98 percent passing score, without any evidence of misdiagnosis. Ken Kadoma, an experienced forensic drug testing manager and Phamatech's laboratory director, provided credible testimony of Phamatech's protocols and convincingly established that its standards did not depart from national testing protocols which Dr. Skipper helped establish. Mr. Kadoma was knowledgeable about lab protocols because he is responsible for Phamatech's specimen processing and lab certification with the Substance Abuse and Mental Health Services Administration (SAMHSA), a federal agency.

17. Dr. Skipper's experience with many reputable national labs did provide persuasive testimony that mistakes can be made and that Phamatech's November alcohol test was a mistake as the re-test did not detect any levels of EtG or EtS. Mr. Kadoma suggested that the November test sample degraded by the time it was retested because contrary to Dr. Skipper's assumption, the samples were not sent in a frozen state. Mr. Kadoma's assumption that the November alcohol test degraded was supported by the retesting results of the December test sample which was also retested six months later at Redwood, and measured much lower EtG levels than Phamatech's original test. Nevertheless, Dr. Skipper's testimony was more persuasive than Mr.

Kadoma's regarding the November alcohol test. Dr. Skipper is an expert on EtG and EtS alcohol testing, and Mr. Kadoma admitted that he was not. Dr. Skipper cogently explained Redwood's more sensitive technology better explained the disparity between its and Phamatech's test results.

18. Respondent also questioned the handling of his November urine specimen at a collection lab he did not normally use, but his testimony on this point was weak. Respondent observed that the lab assistant failed to place a label over the top of his specimen container immediately after collection and when respondent was present. Respondent's observation was insufficient to establish that his specimen was not properly labeled, tainted or otherwise confused with another individuals' specimen, because respondent did not observe the complete handling process. The Board had relied upon this well-respected lab for specimen collection for many years without any evidence of tampering or falsified testing.

19. Dr. Skippers' testimony that Phamatech's technology resulted in false positives was not persuasive with regard to the December alcohol test because the levels of EtG and EtS found in the retest of the December test far exceeded levels which could reasonably account for incidental alcohol exposure. Redwood's retest found EtG levels of 7700, less than half the EtG levels of 18436 ng/mL measured by Phamatech's December test results, but still many times higher than the acceptable cut-off of 100 ng/mL.

20. With regard to the December test, Dr. Skipper also maintained that the positive alcohol test was due to an admittedly rare "auto brewery" metabolic reaction resulting from the confluence of ethanol-inducing factors including respondent's newly identified diabetes, his possible ingestion of sugar at lunch close to the testing time, cologne, and his use of over-the-counter cold or flu medication. Contrary to Dr. Skippers' testimony regarding the auto-brewery reaction, alcohol tests vary but the popularly accepted standard in the drug testing industry is to conclude that direct alcohol consumption occurred with EtG results over 500 ng/ml and EtS results over 100 ng/mL. Redwood's retesting exceeded these guidelines.

21. Dr. Skipper's testimony regarding the likely effects of alcohol-based over-the-counter medication on the December alcohol test results was carefully considered but not persuasive. Dr. Skipper conceded that alcoholics should be cognizant of the alcohol content of over-the-counter medications and it was not "good sober behavior" to use cold medications which contained alcohol, presumably because the ingestion of large amounts of alcohol-based cold medication would mimic the consumption of an alcoholic beverage. For example, several doses of NyQuil are equivalent to a shot or two of vodka. Respondent testified that he used over-the-counter cough and cold medication during the time period of the December alcohol test.

Respondent used over-the-counter cough medication and other medication but at the time of Dr. Skipper's report in October 2014, there was no mention of NyQuil, or the amount or frequency of use. Without more information regarding respondent's medication, the Board met its burden of proof based upon the EtG levels found by Redwood, a lab Dr. Skipper preferred, and the accepted industry conclusion that alcohol was consumed where the EtG level is over 500 ng/mL.

22. No one disputes that respondent was a good and conscientious therapist, nor is there any indication that respondent's consumption of alcohol ever had an untoward effect on any of his clients or patients. Respondent has had a traumatic past, which he put behind him when he became sober in June 2007 and he remains committed to his sobriety. During his probation he married and remains committed to his marriage and family. After the Board ordered respondent's practice closed he complied in good faith with the terms of his probation, until he depleted his financial resources. The public will be adequately protected with the extension of respondent's probation.

#### *Costs of Investigation*

23. The Board seeks recovery of its reasonable costs of prosecution contained in Exhibit 3. Christina Thomas, Deputy Attorney General, certified prosecution costs through June 4, 2015. Ms. Thomas's declaration and the billing statements attached thereto included the minimal level of detail required. The costs of prosecution did not include the additional time spent at the hearing. The prosecution costs included a total of 53.75 hours by Deputies Attorney General at hourly fees of \$170, and 5.0 hours of paralegal time at \$120 per hour. The total costs of prosecution were \$9,737.50. There was a duplication of work in the amount of 1.75 hours by a second Deputy Attorney General, for a total of \$297. The 8.25 hours of Deputy Attorney General time for preparation of pleadings or \$1402.50 was substantial and unreasonable given the dispute was limited to the terms of the Stipulated Settlement and during the time period billed the pleading was an amended petition. The billable time charged to pleadings was reduced by four hours, to 4.25 hours for a total of \$722.50. The total reasonable costs of prosecution costs are \$8,718.

### LEGAL CONCLUSIONS

1. The purpose of administrative license discipline is not to punish, but to protect the public by eliminating practitioners who are dishonest, immoral, disreputable or incompetent. (*Fahmy v. Medical Board of California* (1995) 38 Cal.App.4th 810, 817.)

2. The Board is responsible for consumer protection through the regulation of Licensed Marriage and Family Therapists, Licensed Clinical Social Workers, Licensed Educational Psychologists, Licensed Professional Clinical Counselors, Marriage and Family

Therapist Interns, Associate Clinical Social Workers, and Professional Clinical Counselor Interns. Protection of the public is the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (Bus. & Prof.Code, § 4990.16.)

3. While a licensing board is required to prove the allegations in an accusation by clear and convincing evidence, a licensing board is only required to prove the allegations in a petition to revoke probation by a preponderance of the evidence. (*Sandarg v. Dental Bd. of California* (2010) 184 Cal.App.4th 1434, 1442.)

4. A “preponderance of the evidence” is usually defined in terms of “probability of truth,” for example, as evidence that, “when weighed with that opposed to it, has more convincing force and the greater probability of truth.” (*Leslie G. v. Perry & Associates* (1996) 43 Cal.App.4th 472, 482-483.) In deciding whether a party has met his or her burden of proof, courts consider both direct and circumstantial evidence, and all reasonable inferences to be drawn from both kinds of evidence, giving full consideration to the negative and affirmative inferences to be drawn from all of the evidence, including that which has been produced by the opposing party. (*Ibid.*)

5. It is settled that the trier of fact may “accept part of the testimony of a witness and reject another part even though the latter contradicts the part accepted.” (*Stevens v. Parke Davis & Co.* (1973) 9 Cal.3d 51, 67.) The trier of fact may also “reject part of the testimony of a witness, though not directly contradicted, and combine the accepted portions with bits of testimony or inferences from the testimony of other witnesses thus weaving a cloth of truth out of selected material.” (*Id.*, at 67-68, quoting from *Neverov v. Caldwell* (1958) 161 Cal.App.2d 762, 767.) And, the testimony of “one credible witness may constitute substantial evidence,” including a single expert witness. (*Kearl v. Board of Medical Quality Assurance*, (1986) 189 Cal.App.3d 1040, 1052.)

6. Complainant has established by a preponderance of the evidence that respondent violated the terms of probation, Conditions 2, 3, 5 (with regard to the December 2013 alcohol test) and 9, by reason of Factual Findings 6,10-12, 19-21.

7. Complainant has not established by a preponderance of the evidence that respondent violated the terms of his probation, condition 5, with regard to his November 2013 alcohol test, by reason of Factual Findings 5,16-17. Complainant has not established by a preponderance of the evidence that respondent violated condition 18, by failing to maintain his license, as condition 18 as written does not apply to the instant circumstances by reason of Factual Findings 2-3 and 7, where respondent’s license was renewed until September 30, 2016, revoked, with revocation stayed based on the Stipulated Settlement, and ordered to stop practicing due to a violation of his probation pending revocation proceedings.

8. The preponderance of the evidence also established that, rather than revocation of respondent's license, an extension of respondent's probation would serve to adequately protect the public, by reason of Factual Findings 7-15 and 22. Respondent's failed December alcohol test represented a lapse in judgment and a violation of probation. Despite his failed December alcohol test, respondent established his continued commitment to sobriety and fidelity to AA, and the material terms of his probation. His positive test result was followed by consistently negative alcohol test results through September 2014. Respondent's support team which included Mr. Coakley and Dr. Pack were convinced of his sobriety. Respondent's probation was not conditioned upon his finances and his cessation of alcohol testing was a violation of probation and inexcusable. However, there was approximately a year-and-a-half between the time the Board ordered respondent to stop practicing and the filing of the Petition with OAH and the hearing. During that time respondent demonstrated his commitment to the Stipulated Settlement by depleting his financial resources to comply with his probation.

9. An additional term of suspension is not required to protect the public and would be counterproductive. By the time respondent resumes his probation he will have effectively been suspended for close to two years. After respondent closed his practice, he did not earn sufficient money to support his family and the cost of probation. When probation resumes respondent's obligations to log in with the Board's designated lab and test will begin immediately. Respondent he will need to earn sufficient money to pay for the alcohol tests, which are a material and critical part of his probation, in order to maintain his license, and to protect the public.

10. Under Business and Professions Code section 125.3, the Board may request the ALJ to direct licensees found to have committed a violation or violations of the licensing act in question to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. The Board is entitled to recover its reasonable costs of prosecution of this matter, including fees of the Attorney General, in the sum of \$8,718 under the provisions of Business and Professions Code section 125.3 and California Code of Regulations, title 1, section 1042. However, given respondent's evident inability to pay, as set forth in Factual Findings 9-11, in light of the holding in *Zuckerman v. State Board of Chiropractors* (2002) 29 Cal.4th 32, 45, which requires the licensing agency to take into account respondents' ability to pay costs; and in light of the duration of the Board's cease practice order, and the financial obligations of respondent's probation dire financial situation, respondent will not be required to pay the Board's prosecution costs at this time. In the event respondent's probation resumes, the Board may require respondents to pay a portion of the costs incurred herein, in the total amount of \$3500, over the term of respondent's probation, at such time and in such manner as the Board in its discretion, may direct.

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. The probation of Licensed Marriage and Family Therapist license number LMFT 18086, issued to Charles H. Strole is extended for two years so that the total length of probation is seven years from August 14, 2013, the original effective date of the Stipulated Settlement in case number MF-2010-1239.
2. The period to complete the education requirements of Condition 3 shall be one year from the effective date of this Decision.
3. All other terms and conditions of probation remain unchanged.
4. The cease practice order is dissolved.
5. Respondent shall pay reasonable costs of prosecution of \$3500 to commence at the time his probation resumes, over the term of his probation, at such time and in such a manner as the Board in its discretion may direct.

Date: July 8, 2015



EILEEN COHN  
Administrative Law Judge  
Office of Administrative Hearings

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7

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

11 In the Matter of the First Amended Petition to Revoke  
Probation Against,

Case No. 2002014000716

12 **CHARLES H. STROLE**  
13 14 Pristina Court  
14 Rancho Mirage, CA 92270  
15 Licensed Marriage and Family Therapist License No.  
LMFT 18086

**FIRST-AMENDED PETITION  
TO REVOKE PROBATION**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kim Madsen (Complainant) brings this First Amended Petition to Revoke Probation  
21 solely in her official capacity as the Executive Officer of the Board of Behavioral Sciences,  
22 Department of Consumer Affairs (Board).

23 2. On or about December 10, 1982, the Board issued Licensed Marriage and Family  
24 Therapist License No. LMFT 18086 to Charles H. Strole (Respondent). The Licensed Marriage  
25 and Family Therapist License was in effect at all times relevant to the charges brought herein and  
26 will expire on September 30, 2016, unless renewed.

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1 treatment, and to provide such other information as may be required by the Board. Respondent  
2 shall execute a Release of Information authorizing the therapist to divulge information to the  
3 Board.

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

11 6. Respondent failed to receive weekly psychotherapy as required by Condition 2 of  
12 the Stipulated Settlement and Disciplinary Order. Quarterly Reports for the January through April  
13 reporting period submitted by Respondent and Dr. Pack reflect psychotherapy only every other  
14 week.

### 15 SECOND CAUSE TO REVOKE PROBATION

#### 16 (Education)

17 7. At all times after the effective date of Respondent's probation, Condition 3 stated:

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

25 Within 90 days of the effective date of the decision, Respondent shall submit a plan for  
26 prior Board approval for meeting these educational requirements. All costs of the course work  
27 shall be paid by Respondent. Units obtained for an approved course shall not be used for  
28 continuing education units required for renewal of licensure.

6. Respondent failed to complete the required equivalency of two (2) semester units in the  
area of Alcohol and Substance Abuse as required by Condition 3 of the Stipulated Settlement and  
Disciplinary Order [NOTE: Two semester units is equivalent to 30 classroom instruction hours.]  
This was to be completed no later than August 14, 2014. Respondent's file reflects completion  
of one 6 hour training on October 25, 2013 and, although previous and subsequent trainings were  
approved, there is no documentation in Respondent's file to demonstrate completion.

### THIRD CAUSE TO REVOKE PROBATION

#### (Abstain from Use of Alcohol / Submit to Biological Fluid Testing and Samples)

8. At all times after the effective date of Respondent's probation, Condition 5 stated:

1                   **Abstain from Use of Alcohol / Submit to Biological Fluid Testing and Samples**  
Respondent shall completely abstain from the use of alcoholic beverages during the period  
2 of probation.

3                   Respondent shall immediately submit to biological fluid testing, at Respondent's  
4 cost, upon request by the Board or its designee. The length of time and frequency will be  
5 determined by the Board. The Respondent is responsible for ensuring that reports are  
submitted directly by the testing agency to the Board or its designee. There will be no  
6 confidentiality in test results. Any confirmed positive finding will be immediately reported  
to Respondent's current employer and shall be a violation of probation.

7                   9. Respondent's probation is subject to revocation because he failed to comply with  
8 Probation Condition 5, Abstain from Use of Alcohol / Submit to Biological Fluid Testing and  
9 Samples, referenced above, in that Respondent tested positive for Ethyl Glucuronide (Alcohol) on  
November 26, 2013, and December 23, 2013.

10                   10. Respondent is required to call in or log on to Phamatech, the Board's biological  
fluid test vendor, daily between 5:00 a.m. and 5:00 p.m., to determine if he is selected to test.

11                   Respondent failed to login/call in on September 7, 2014, September 13, 2014, September  
12 21, 2014, September 27, 2014, September 28, 2014, October 5, 2014, October 12, 2014, October  
13 13, 2014, October 19, 2014, October 29, 2014, November 8, 2014, November 27, 2014,  
14 November 30, 2014, December 5, 2014, December 24, 2014, December 25, 2014, December 30,  
15 2014 and all dates following December 30, 2014.

16                   11. When selected to test, Respondent is required to submit to testing that day. He has  
17 failed to test as required December 29, 2014, December 30, 2014, January 2, 2015, January 5,  
18 2015, January 15, 2015, January 28, 2015, February 5, 2015, February 10, 2015, February 19,  
19 2015, February 27, 2015, March 5, 2015, March 13, 2015, March 18, 2015, March 23, 2015,  
20 April 2, 2015, April 14, 2015, and April 22, 2015.

#### 21                   **FOURTH CAUSE TO REVOKE PROBATION**

##### 22                   **(Comply with Board's Probation Program)**

23                   12. At all times after the effective date of Respondent's probation, Condition 9 stated:

24                   **Comply with Board's Probation Program.** Respondent shall comply with the probation  
25 program established by the Board and cooperate with representatives of the Board in its monitoring  
and investigation of the Respondent's compliance with the program.

26                   13. Respondent's probation is subject to revocation because he failed to comply with Probation  
27 Condition 9, referenced above. The facts and circumstances regarding this violation are set forth in  
28

1 paragraphs 5 through 12, above.

2 **FIFTH CAUSE TO REVOKE PROBATION**

3 **(Failure to Maintain Current and Active License)**

4 14. At all times after the effective date of Respondent's probation, Condition 18 stated:

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

10 15. Respondent's probation is subject to revocation because he failed to comply with  
11 Probation Condition 18, Maintain Valid License, referenced above, in that on or about January 9,  
12 2014, Respondent failed to maintain a current and active license when the Board issued  
13 Respondent an order to cease practice pursuant to Business and Professions Code section 315.2 as  
14 a result of his positive test result for Alcohol on November 26, 2013 and December 21, 2013.

15 **PRAYER**

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

18 1.1. Revoking the probation that was granted by the Board of Behavioral Sciences in Case  
19 No. MF 2011-628 and imposing the disciplinary order that was stayed thereby revoking Licensed  
20 Marriage and Family Therapist license No. LMFT 18086 issued to Charles H. Strole;

21 1.2. Revoking or suspending Licensed Marriage and Family Therapist License No. LMFT  
22 18086, issued to Charles H. Strole; and,

23 1.3. Taking such other and further action as deemed necessary and proper.

24 DATED: May 27, 2015



25 KIM MADSEN  
26 Executive Officer  
27 Board of Behavioral Sciences  
28 Department of Consumer Affairs  
State of California  
*Complainant*