

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

In the Matter of the Accusation and Petition to
Revoke Probation Against:

KEVIN MICHAEL KILLELEA
P.O. Box 1023
Mill Valley, CA 94942

Licensed Marriage and Family Therapist
License No. LMFT 43007

Respondent.

Case No. 2002015000285

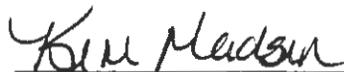
OAH No. 2015030522

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 September 4, 2015.

It is so ORDERED August 5, 2015.



FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
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Attorneys for Complainant
7

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

10
11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

12 **KEVIN MICHAEL KILLELEA**
13 **P.O. Box I023**
14 **Mill Valley, CA 94942**

15 **Licensed Marriage and Family Therapist**
License No. LMFT 43007

16 Respondent.
17

Case No. 2002015000285

OAH No. 2015030522

STIPULATED SURRENDER OF
LICENSE AND ORDER

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 Surrender of License and
21 Disciplinary Order which will be submitted to the Board for approval and adoption as the final
22 disposition of the Accusation and Petition to Revoke Probation.

23 PARTIES

24 1. Kim Madsen (Complainant) is the Executive Officer of the Board of Behavioral
25 Sciences. She brought this action solely in her official capacity and is represented in this matter
26 by Kamala D. Harris, Attorney General of the State of California, by Char Sachson, Deputy
27 Attorney General.
28

1 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
2 executed by an authorized representative of each of the parties.

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

5 **ORDER**

6 IT IS HEREBY ORDERED that Licensed Marriage and Family Therapist license No.
7 LMFT 43007, issued to Respondent Kevin Michael Killelea, is surrendered and accepted by the
8 Board of Behavioral Sciences.

9 1. The surrender of Respondent's Licensed Marriage and Family Therapist license and
10 the acceptance of the surrendered license by the Board shall constitute the imposition of
11 discipline against Respondent. This stipulation constitutes a record of the discipline and shall
12 become a part of Respondent's license history with the Board of Behavioral Sciences.

13 2. Respondent shall lose all rights and privileges as a Licensed Marriage and Family
14 Therapist in California as of the effective date of the Board's Decision and Order.

15 3. Respondent shall cause to be delivered to the Board his current license and his wall
16 certificate on or before the effective date of the Decision and Order.

17 4. Respondent shall not apply for registration or licensure for three (3) years from the
18 effective date of the Board's Decision and Order.

19 5. Respondent further understands and agrees that the Board's adoption of his license
20 surrender precludes him from petitioning the Board for reinstatement of the surrendered license.

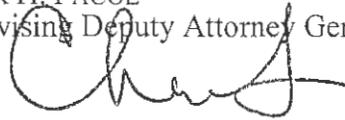
21 6. Respondent understands that should he ever reapply for licensure as a Licensed
22 Marriage and Family Therapist, Licensed Clinical Social Worker or any other registration or
23 license issued by the Board or by any other health care licensing agency in the State of California,
24 all of the charges and allegations contained in Accusation No. MF-2008-1130 and Accusation and
25 Petition to Revoke Probation No. 2002015000285 shall be deemed to be true, correct, and
26 admitted by Respondent for the purpose of any Statement of Issues or any other proceeding
27 seeking to deny such application or reapplication.
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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Behavioral Sciences of the Department of Consumer Affairs.

Dated: 6/12/15

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General


CHAR SACHSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation and Petition to Revoke Probation No. 2002015000285

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
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Attorneys for Complainant

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

10
11 In the Matter of the Accusation and Petition to
Revoke Probation Against:

Case No. 2002015000285

12 **KEVIN MICHAEL KILLELEA**
13 **P.O. Box 1023**
Mill Valley, CA 94942

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

14 **132 Rollingwood Drive**
15 **San Rafael, CA 94901**

16 **Licensed Marriage and Family Therapist**
License No. LMFT 43007

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about April 20, 2006, the Board of Behavioral Sciences issued Licensed
25 Marriage and Family Therapist license Number LMFT 43007 to Kevin Michael Killelea
26 (Respondent). The Licensed Marriage and Family Therapist license was in full force and effect at
27 all times relevant to the charges brought herein and will expire on June 30, 2015, unless renewed.
28

1 3. In a disciplinary action entitled "In the Matter of the Accusation Against Kevin
2 Michael Killelea," Case No. MF-2008-1130, the Board of Behavioral Sciences issued a Decision
3 and Order effective August 27, 2010, in which Respondent's Licensed Marriage and Family
4 Therapist license was revoked. However, the revocation was stayed and Respondent's Licensed
5 Marriage and Family Therapist license was placed on probation for five (5) years with certain
6 terms and conditions. A copy of that Decision and Order is attached as Exhibit A and is
7 incorporated by reference.

8 **JURISDICTION AND STATUTORY PROVISIONS FOR ACCUSATION**

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

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

15 6. Section 4982 states:

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

19 "(a) The conviction of a crime substantially related to the qualifications, functions, or
20 duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive
21 evidence only of the fact that the conviction occurred. The board may inquire into the
22 circumstances surrounding the commission of the crime in order to fix the degree of discipline or
23 to determine if the conviction is substantially related to the qualifications, functions, or duties of a
24 licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a
25 plea of nolo contendere made to a charge substantially related to the qualifications, functions, or
26 duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the
27 meaning of this section. The board may order any license or registration suspended or revoked, or
28 may decline to issue a license or registration when the time for appeal has elapsed, or the

1 judgment of conviction has been affirmed on appeal, or, when an order granting probation is
2 made suspending the imposition of sentence, irrespective of a subsequent order under Section
3 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
5 indictment.

6 . . .

7 "(c) Administering to himself or herself any controlled substance or using of any of the
8 dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a
9 manner, as to be dangerous or injurious to the person applying for a registration or license or
10 holding a registration or license under this chapter, or to any other person, or to the public, or, to
11 the extent that the use impairs the ability of the person applying for or holding a registration or
12 license to conduct with safety to the public the practice authorized by the registration or license.
13 The board shall deny an application for a registration or license or revoke the license or
14 registration of any person, other than one who is licensed as a physician and surgeon, who uses or
15 offers to use drugs in the course of performing marriage and family therapy services.

16 . . ."

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

21 FIRST CAUSE FOR DISCIPLINE

22 (Use Alcohol in a Dangerous Manner)

23 8. Respondent is subject to disciplinary action under section 4982(c) in that he used
24 alcohol in a manner dangerous to himself or others. The circumstances are as follows:

25 9. On or about May 31, 2014, in San Rafael, California, Respondent was arrested after
26 San Rafael Police Department Officers observed him speeding on Lincoln Avenue. Respondent
27 failed field sobriety tests. His blood alcohol measured .14%.

28 ///

1 failed field sobriety tests. His blood alcohol measured .14%. On or about August 26, 2014, in
2 *People v. Kevin Michael Killelea*, Marin County Superior Court case no. J241481, Respondent
3 was convicted by his plea of guilty of violating Vehicle Code section 23152(b) (driving with
4 blood alcohol in excess of .08%). He was sentenced to serve 30 days in jail and three years
5 probation and was ordered to pay fines and fees in the amount of \$2,394.00.

6 **PRAYER**

7 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
8 Accusation and Petition to Revoke Probation, and that following the hearing, the Board of
9 Behavioral Sciences issue a decision:

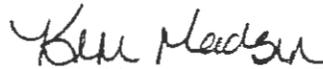
10 1. Revoking the probation that was granted by the Board of Behavioral Sciences in Case
11 No. MF-2008-1130 and imposing the disciplinary order that was stayed thereby revoking
12 Licensed Marriage and Family Therapist license No. LMFT 43007 issued to Kevin Michael
13 Killelea;

14 2. Revoking or suspending Licensed Marriage and Family Therapist license No. LMFT
15 43007, issued to Kevin Michael Killelea;

16 3. Ordering Kevin Michael Killelea to pay the Board of Behavioral Sciences the
17 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 125.3;

19 4. Taking such other and further action as deemed necessary and proper.
20
21

22 DATED: January 27, 2015



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

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Exhibit A

Decision and Order

Board of Behavioral Sciences Case No. MF-2008-1130

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

In the Matter of the Accusation Against:

KEVIN MICHAEL KILLELEA
P.O. Box 1023
Mill Valley, CA 94942
Marriage and Family Therapist License No.
MFC 43007

Respondent.

Case No. MF-2008-1130

OAH No. 2009120886

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 August 27, 2010.

It is so ORDERED July 28, 2010.

Ronnie B. Fain

FOR THE BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF BEHAVIORAL SCIENCES
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. MF-2008-1130

11 **KEVIN MICHAEL KILLELEA**
12 P.O. Box 1023
Mill Valley, CA 94942
13 Marriage and Family Therapist License No.
MFC 43007

OAH No. 2009120886
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Respondent.
15

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Kim Madsen (Complainant) is the Executive Officer of the Board of Behavioral
21 Sciences. She brought this action solely in her official capacity and is represented in this matter
22 by Edmund G. Brown Jr., Attorney General of the State of California, by Char Sachson, Deputy
23 Attorney General.

24 2. Respondent Kevin Michael Killelea (Respondent) is represented in this proceeding by
25 attorney Thomas M. O'Connor, whose address is 1800 Sutter Street, Suite 250, Concord, CA
26 94520.

27 3. On or about April 20, 2006, the Board of Behavioral Sciences issued Marriage and
28 Family Therapist License No. MFC 43007 to Kevin Michael Killelea (Respondent). The

1 Marriage and Family Therapist License was in full force and effect at all times relevant to the
2 charges brought in Accusation No. MF-2008-1130 and will expire on June 30, 2011, unless
3 renewed.

4 JURISDICTION

5 4. Accusation No. MF-2008-1130 was filed before the Board of Behavioral Sciences
6 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
7 Accusation and all other statutorily required documents were properly served on Respondent on
8 November 25, 2009. Respondent timely filed his Notice of Defense contesting the Accusation.
9 A copy of Accusation No. MF-2008-1130 is attached as exhibit A and incorporated herein by
10 reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. MF-2008-1130. Respondent has also carefully read,
14 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
15 Disciplinary Order.

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

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

25 CULPABILITY

26 8. Respondent admits the truth of each and every charge and allegation in Accusation
27 No. MF-2008-1130.

1 first counseling session. Upon approval by the Board, respondent shall undergo and continue
2 treatment until the Board or its designee determines that no further psychotherapy is necessary.

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

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

15 3. **Supervised Practice.** Within 30 days of the effective date of this decision,
16 respondent shall submit to the Board or its designee, for its prior approval, the name and
17 qualification of one or more proposed supervisors and a plan by each supervisor. The supervisor
18 shall be a current California licensed practitioner in respondent's field of practice, who shall
19 submit written reports to the Board or its designee on a quarterly basis verifying that supervision
20 has taken place as required and including an evaluation of respondent's performance. The
21 supervisor shall be independent, with no prior business, professional or personal relationship with
22 respondent.

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

- 26 (1) Permitting the respondent to receive supervision via videoconferencing; or,
27 (2) Permitting respondent to secure a supervisor not in the respondent's field of practice.

28 The forgoing options shall be considered and exhausted by the Board in the order listed

1 above. The Board may require that respondent provide written documentation of his or her good
2 faith attempts to secure face-to-face supervision, supervision via videoconferencing or to locate a
3 mental health professional that is licensed in the respondent's field of practice.

4 Failure to file the required reports in a timely fashion shall be a violation of probation.
5 Respondent shall give the supervisor access to respondent's fiscal and client records. Supervision
6 obtained from a probation supervisor shall not be used as experience gained toward licensure.

7 If the supervisor is no longer available, respondent shall notify the Board within 15 days
8 and shall not practice until a new supervisor has been approved by the Board. All costs of the
9 supervision shall be borne by respondent. Supervision shall consist of at least one (1) hour per
10 week in individual face to face meetings. The supervisor shall not be the respondent's therapist.

11 4. **Education.** Respondent shall take and successfully complete seven (7) hours of
12 continuing education in the area of alcohol dependency. All course work shall be taken at the
13 graduate level at an accredited or approved educational institution that offers a qualifying degree
14 for licensure as a marriage and family therapist, clinical social worker or educational
15 psychologist, or through a course approved by the Board. Classroom attendance must be
16 specifically required. Course content shall be pertinent to the violation and all course work must
17 be completed within one year from the effective date of this Decision.

18 Within 90 days of the effective date of the decision respondent shall submit a plan for prior
19 Board approval for meeting these educational requirements. All costs of the course work shall be
20 paid by the respondent. Units obtained for an approved course shall not be used for continuing
21 education units required for renewal of licensure.

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

25 Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon
26 request by the Board or its designee. The length of time and frequency will be determined by the
27 Board. The respondent is responsible for ensuring that reports are submitted directly by the
28 testing agency to the Board or its designee. There will be no confidentiality in test results. Any

1 confirmed positive finding will be immediately reported to the respondent's current employer and
2 shall be a violation of probation.

3 6. **Reimbursement of Probation Program.** Respondent shall reimburse the Board for
4 the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the
5 probation period, in the amount of \$1,200.00 per year.

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

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

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

23 10. **Interviews with The Board.** Respondent shall appear in person for interviews with
24 the Board or its designee upon request at various intervals and with reasonable notice.

25 11. **Residing or Practicing Out of State.** In the event respondent should leave the State
26 of California to reside or to practice, respondent shall notify the Board or its designee in writing
27 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period
28 of time exceeding thirty calendar days in which respondent is not engaging in any activities

1 defined in Sections 4980.02, 4989.14 or 4996.9 of the Business and Professions Code.

2 All time spent in an intensive training program outside the State of California which has
3 been approved by the Board or its designee shall be considered as time spent in practice within
4 the State. A Board-ordered suspension of practice shall not be considered as a period of non-
5 practice. Periods of temporary or permanent residence or practice outside California will not
6 apply to the reduction of the probationary term. Periods of temporary or permanent residence or
7 practice outside California will relieve respondent of the responsibility to comply with the
8 probationary terms and conditions with the exception of this condition and the following terms
9 and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

10 Respondent's license shall be automatically cancelled if respondent's periods of temporary
11 or permanent residence or practice outside California total two years. However, respondent's
12 license shall not be cancelled as long as respondent is residing and practicing in another state of
13 the United States and is on active probation with the licensing authority of that state, in which
14 case the two year period shall begin on the date probation is completed or terminated in that state.

15 **12. Failure to Practice-California Resident.** In the event respondent resides in the State
16 of California and for any reason respondent stops practicing in California, respondent shall notify
17 the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and
18 return to practice. Any period of non-practice within California, as defined in this condition, will
19 not apply to the reduction of the probationary term and does not relieve respondent of the
20 responsibility to comply with the terms and conditions of probation. Non-practice is defined as
21 any period of time exceeding thirty calendar days in which respondent is not engaging in any
22 activities defined in Sections 4980.02, 4989.14 or 4996.9 of the Business and Professions Code.

23 **13. Change of Place of Employment or Place of Residence.** Respondent shall notify
24 the Board or its designee in writing within 30 days of any change of place of employment or
25 place of residence. The written notice shall include the address, the telephone number and the
26 date of the change.

27 **14. Supervision of Unlicensed Persons.** While on probation, Respondent shall not act
28 as a supervisor for any hours of supervised practice required for any license issued by the Board.

1 Respondent shall terminate any such supervisory relationship in existence on the effective date
2 of this Decision.

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

9 **16. Notification to Employer.** Respondent shall provide each of his current or future
10 employers, when performing services that fall within the scope of his practice, a copy of this
11 Decision and the Statement of Issues or Accusation before commencing employment.
12 Notification to the respondent's current employer shall occur no later than the effective date of the
13 Decision or immediately commencing employment. Respondent shall submit, upon request by
14 the Board or its designee, satisfactory evidence of compliance with this term of probation.

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

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

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

1 satisfied.

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

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

19 20. **Instruction of Coursework Qualifying for Continuing Education.** Respondent
20 shall not be an instructor of any coursework for continuing education credit required by any
21 license issued by the Board.

22 21. **Notification to Referral Services.** Respondent shall immediately send a copy of this
23 decision to all referral services registered with the Board in which Respondent is a participant.
24 While on probation, Respondent shall send a copy of this decision to all referral services
25 registered with the Board that Respondent seeks to join.

26 22. **Cost Recovery.** Respondent shall pay the Board \$1,232.50 as and for the reasonable
27 costs of the investigation and prosecution of Case No. MF-2008-1130. Respondent shall make
28 such payments pursuant to a payment plan outlined by the Board. Respondent shall make the

1 check or money order payable to the Board of Behavioral Sciences and shall indicate on the
 2 check or money order that it is the cost recovery payment for Case No. MF-2008-1130. Any
 3 order for payment of cost recovery shall remain in effect whether or not probation is tolled.
 4 Probation shall not terminate until full payment has been made. Should any part of cost recovery
 5 not be paid in accordance with the outlined payment schedule, Respondent shall be considered to
 6 be in violation of probation. A period of non-practice by Respondent shall not relieve Respondent
 7 of his obligation to reimburse the board for its costs.

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

11
 12 ACCEPTANCE

13 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
 14 discussed it with my attorney, Thomas M. O'Connor. I understand the stipulation and the effect it
 15 will have on my Marriage and Family Therapist License. I enter into this Stipulated Settlement
 16 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
 17 Decision and Order of the Board of Behavioral Sciences.

18
 19 DATED: 5/18/2010 *Kevin M. Killelea*
 20 KEVIN MICHAEL KILLELEA
 Respondent

21 I have read and fully discussed with Respondent Kevin Michael Killelea the terms and
 22 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

23 I approve its form and content.
 24 DATED: 5-18-10 *Thomas M. O'Connor*
 25 Thomas M. O'Connor
 Attorney for Respondent

26 ///
 27 ///
 28 ///

Exhibit A

Accusation No. MF-2008-1130

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 BEFORE THE
BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS
9 STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. MF-2008-1130

11 KEVIN MICHAEL KILLELEA
12 P.O. Box 1023
13 Mill Valley, CA 94942

ACCUSATION

14 Marriage and Family Therapist License No.
MFC 43007

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

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

22 2. On or about April 20, 2006, the Board of Behavioral Sciences issued Marriage and
23 Family Therapist License Number MFC 43007 to Kevin Michael Killelea (Respondent). The
24 Marriage and Family Therapist License was in full force and effect at all times relevant to the
25 charges brought herein and will expire on June 30, 2011, unless renewed.

26 ///

27 ///

28 ///

JURISDICTION

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

4. Section 4982 states:

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

Unprofessional conduct includes, but not be limited to, the following:

"(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment."

"(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to

1 the extent that the use impairs the ability of the person applying for or holding a registration or
2 license to conduct with safety to the public the practice authorized by the registration or license,
3 or the conviction of more than one misdemeanor or any felony involving the use, consumption, or
4 self administration of any of the substances referred to in this subdivision, or any combination
5 thereof. The board shall deny an application for a registration or license or revoke the license or
6 registration of any person, other than one who is licensed as a physician and surgeon, who uses or
7 offers to use drugs in the course of performing marriage and family therapy services.”

8
9 5. Section 490 of the Code provides, in pertinent part, that a board may suspend or
10 revoke a license on the ground that the licensee has been convicted of a crime substantially
11 related to the qualifications, functions, or duties of the business or profession for which the
12 license was issued.

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

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

20 FIRST CAUSE FOR DISCIPLINE

21 (CRIMINAL CONVICTION)

22 3. Respondent is subject to disciplinary action under sections 4982(a), and/or 490 in that
23 on or about January 5, 2009, in a criminal proceeding entitled *The People of the State of*
24 *California v. Kevin Michael Killelea* in Marin County Superior Court, Case Number CR159011,
25 Respondent was convicted by his plea of guilty of violating Vehicle Code section 23152(b)
26 (driving with blood alcohol of .08% or more). Respondent was sentenced to three years
27 probation, 15 days in jail, and ordered to pay \$2262.00 in fees and fines. The circumstances of
28 the conviction were that on or about April 26, 2008, Respondent was arrested for driving

1 erratically on northbound Highway 101 in Sausalito, California. Respondent's blood alcohol
2 level was .11%.

3 SECOND CAUSE FOR DISCIPLINE

4 (USING ALCOHOLIC BEVERAGES IN A DANGEROUS MANNER)

5 4. Respondent is subject to disciplinary action under sections 4982(c), in that on or
6 about April 26, 2008, Respondent used alcoholic beverages in a manner dangerous to himself and
7 others. On or about January 5, 2009, in a criminal proceeding entitled *The People of the State of*
8 *California v. Kevin Michael Killelea* in Marin County Superior Court, Case Number CR159011,
9 Respondent was convicted by his plea of guilty of violating Vehicle Code section 23152(b)
10 (driving with blood alcohol of .08% or more). Respondent was sentenced to three years
11 probation, 15 days in jail, and ordered to pay \$2262.00 in fees and fines. The circumstances of
12 the conviction were that on or about April 26, 2008, Respondent was arrested for driving
13 erratically on northbound Highway 101 in Sausalito, California. Respondent's blood alcohol
14 level was .11%.

15
16 EVIDENCE IN AGGRAVATION

17 5. As relevant to discipline, if any, Complainant alleges that on or about April 15, 2004,
18 in a criminal proceeding entitled *The People of the State of California v. Kevin Michael Killelea*
19 in Marin County Superior Court, Case Number CR134107, Respondent was convicted of
20 violating Vehicle Code section 23152(b) (driving with blood alcohol of .08% or more).
21 Respondent was sentenced to three years probation, and ordered to pay \$1485.00 in fees and
22 fines. The circumstances of the conviction were that on or about February 26, 2004, Respondent
23 was arrested for speeding and erratic driving on the Golden Gate Bridge in California.
24 Respondent's blood alcohol level was .10%.

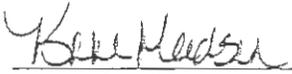
25
26 PRAYER

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

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1. Revoking or suspending Marriage and Family Therapist License Number MFC 43007, issued to Kevin Michael Killelea.
2. Ordering Kevin Michael Killelea 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: November 23, 2009



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

SF2009405338