

MD#210100206D

BEFORE THE ARKANSAS PSYCHOLOGY BOARD

(MS)

IN THE MATTER OF:

93-02P R1254-  
DAVID A. MARGOLIS, Ph.D.

RESPONDENT

CASE C-12-08

CONSENT ORDER, RESOLUTION AGREEMENT

&

LETTER OF REPRIMAND

RECEIVED  
JUL 24 2014  
BY:

Comes the Arkansas Psychology Board ("APB"), in agreement with David A. Margolis, Ph.D. ("Respondent"), and states as grounds for this Consent Order the following:

HISTORY OF CASE

1. Respondent is a Psychologist licensed by APB (# 93-02P) and therefore is subject to APB's licensing law and regulations (including the American Psychological Association's *Ethical Principles of Psychologists and Code of Conduct* (2002 Edition, as amended in 2010) and APB's disciplinary jurisdiction.
2. This case was initiated by a Complainant mother who had her visitation privileges with her minor child severely curtailed and eventually suspended by circuit court orders upon the "expert witness" recommendations of the Respondent who had previously been court-assigned to provide treatment for the minor (and to subsequently make recommendations regarding visitation which he did not appropriately refuse under the APA Standards). The therapeutic relationship with the minor commenced in September 2008, as well as with the parents and step-mother; at that time the Complainant biological mother had unsupervised visitation privileges with the with her minor son according to an Arkansas standard visitation schedule. Respondent has acknowledged that he was fully aware of the animosity existing between the biological (never-married) parents as well as between the step-mother and Complainant. After a number of therapeutic sessions with the minor and collateral sessions with the adult parties, Respondent proceeded to supply professional expert opinions, at the request of the father's lawyer, in a court hearing with his opinion testimony at a 09/30/09 court hearing. That included his recommendation that the Complainant only be allowed "supervised" visitation (despite the fact that a prior psychological practitioner had recommended more visitation beyond the typical court schedule). Due to unavailability of neutral supervised-visitation providers from DHS, Complainant's visitation was severely diminished from the typical visitation schedule (e.g., no overnight weekend visitation periods) used by circuit courts throughout Arkansas.
3. After the 09/30/09 court testimony, Respondent continued to provide treatment services to the minor and others and to supply opinions with similar content. He also testified at an administrative appeal hearing with the Arkansas Department of Human Services on 06/27/11 regarding those same opinions and recommendations. Ultimately, Respondent recommended via his expert functioning that Complainant's visitation be further reduced beyond what was already a severely-diminished routine visitation schedule. Beyond that point, he also continued to provide professional psychological services to the minor into at least mid-2012.

**FINDINGS OF FACT and CONCLUSIONS OF LAW**

1. There is probable cause to determine that the following violations have been committed by Respondent in case # C-12-08: APA Standards 3.05 (a) [Multiple Relationships] and 3.04 [Avoiding Harm].

2. Respondent is fully aware that under APB's Regulations and the Arkansas Administrative Procures Act, effectuation of this Order constitutes an admission of violation of the aforementioned ethical Standards of the American Psychological Association with which Arkansas licensees must comply. Even though Respondent is entitled to an evidentiary hearing in which he could present witnesses, have legal counsel, and confront the Complainant, he has chosen to forego that legal opportunity and instead chooses to resolve this matter via this Consent Order.

**ORDER**

For the purported violations, the following are the mutually-acceptable sanctions to be applied:

1. Respondent is issued herein and hereby a Letter of Reprimand for violation of APA ethical Standards regarding Multiple Relationships and Avoiding Harm. That reprimand includes the admonishment that a psychological practitioner already providing psychological services should not accept court appointments to serve as an expert witness providing opinions nor attorney requests to provide expert opinions or recommendations in litigation or otherwise (except under extremely-limited circumstances such as initially declining to provide expert opinions and explaining to the requesting/appointing authority about the ethical conundrum that the practitioner is being subjected to under ethical Standard 3.05 to be so engaged as being unethical, and only thereafter performing such expert opinionating when nevertheless court-ordered to provide such services under the threat of being found in contempt). That same Standard 3.05 would also be violated if the practitioner thereafter provided professional services (e.g., therapy) to an individual after having served as an expert witness regarding that same individual that was opined about in such testimony, which was the case herein.

2. Respondent has requested, as is his right, to seek "voluntary inactive" licensure renewal for the 2014-15 licensure year, and APB is fully supportive of that request.

3. Respondent shall pay an immediate fine of \$500 to APB within six (6) months of the effective date of this Order. A total fine of \$2,500 (\$2,000 after deduction of the initial payment) shall be payable within six (6) months from the date of licensure reinstatement should Respondent seek and be granted reinstatement of his psychologist license to active status any time from and after the commencement of the 2014 licensure year. Should Respondent not seek voluntary inactive status, the remaining \$2,000 of his fine shall be payable within six (6) months of the effective date of this Order. If Respondent is not granted reinstatement of his psychologist license to active status at any point in the future, then the remaining \$2000 shall not become due.

