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BEFORE THE ARKANSAS PSYCHOLOGY BOARD

IN THE MATTER OF:

DAVID A. MARGOLIS, Ph.D. P. 251
RESBONDENT

CASE C-12-08

CONSENT ORDER, RESOLUTION AGREEMENT

LETTER OF REPRIMAND

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 stepmother; 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:

- I. 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.

- 4. Respondent shall participate in a "continuing education" (CE) course that is specifically focused on multiple relationships ethical issues. That course may be APA-approved or not, in-person or on-line, but it must be approved by APB prior to its engagement to be a satisfactory fulfillment of this requirement. Sufficient proof of participation (and satisfactory completion of same, if applicable) in this CE endeavor shall be subsequently supplied to APB. This CE requirement is in addition to the normal twenty (20) hours of CE required of all licensees annually. The multiple relationships CE shall be completed prior to any reinstatement of licensure and will be in addition to any required annual continuing hours required for licensure reinstatement.
- 5. Respondent shall immediately cease all services to the minor in question, whether as a prohibited treatment provider or in a prohibited expert capacity. Respondent is not to provide any psychological services to this minor or regarding this minor as long as the latter is a minor under Arkansas' definition.
- 6. A copy of this Consent Order, Resolution Agreement, & Letter of Reprimand shall be placed in Respondent's general licensure file, as well as the maintained specific complaint file. Both files are subject to the Arkansas Freedom of Information Act.
- 7. Failure to comply with all of the Consent Order's terms and conditions may result in further disciplinary proceedings, including, but not limited to, further disciplinary sanctions. Such failure and/or additional violations may consider the nature and results of this complaint in terms of subsequent violations and sanctions.
- 8. The effective date of this Order shall be the latter date by which both signatories have executed it.
- 9. It is acknowledged by the parties to this Consent Order that APB shall report it, as required, to any necessary national disciplinary data-base due to the sanction(s) imposed.

RESPONDENT:		ARKANSAS PSYCHOLOGY BOARD
David Allangalid, Rh. D.	BY:	
David A. Margolis, Ph.D.		den Executive Director
7-19-14		7/28/14
DATED		DATED