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- a. A 16-year-old minor boy ("Foster Son") began attending High School.
- b. Respondent provided social work services to Foster Son within his scope as High School's social worker.
- c. Respondent became Foster Son's foster father and Foster Son moved into Respondent's home.

4. From 2005 – 2007, Foster Son continued to live with and receive social work services from Respondent.

5. Foster Son moved out of Respondent's home when Foster Son graduated from High School in 2007.

6. On 07/22/12, Foster Son filed a report with the police that alleged the following:

- a. Respondent gave massages to Foster Son while Foster Son lived with Respondent.
- b. Foster Son believed the massages were inappropriate and they made him uncomfortable.
- c. Foster Son and Respondent maintained a relationship after Foster Son moved out of Respondent's home to attend college.
- d. In 03/12, Respondent gave Foster Son a massage during which Foster Son fell asleep.
- e. Foster Son believes Respondent may have drugged him in order to make Foster Son fall into a deep sleep.
- f. When Foster Son awoke, Respondent was licking Foster Son's ear and masturbating over Foster Son.
- g. In 07/12, Respondent gave Foster Son a second massage and Foster Son again fell asleep.
- h. When Foster Son awoke:

- 1 • Foster Son found his pants and underwear around his ankles.
- 2 • Foster Son felt and heard Respondent masturbating behind Foster Son.
- 3 • Foster Son felt Respondent's erect penis between Foster Son's buttocks.
- 4 • Respondent touched Foster Son's lips and Respondent's hand smelled
- 5 like semen.

6 d. Respondent denies that he ever engaged in sexual conduct with Foster Son.

7 e. In a 04/20/12 letter to Foster Son however, Respondent apologized for
8 engaging in a "horrible sexual act" with Foster Son.

9 f. A police summary of a 07/23/12 recorded telephone call between Foster Son
10 and Respondent indicated the following:

- 11 • Respondent admitted to putting his penis on Foster Son's lower back.
- 12 • Respondent has a "twisted sense of attraction" to Foster Son.
- 13 • Respondent felt remorse about having been sexually inappropriate with
- 14 Foster Son.

15 CONCLUSIONS OF LAW

16 1. The Board has jurisdiction over Respondent pursuant to A.R.S. § 32-3251 *et seq.*
17 and the rules promulgated by the Board relating to Respondent's professional practice as a
18 licensed behavioral health professional.

19 2. The conduct and circumstances described in the Findings of Fact constitute a
20 violation of A.R.S. § 32-3251(12)(v), any sexual conduct between a licensee and a client or
21 former client.

22 3. The conduct and circumstances described in the Findings of Fact constitute a
23 violation of A.R.S. § 32-3251(12)(y), engaging in a dual relationship with a client that could
24 impair the licensee's objectivity or professional judgment or create a risk of harm to the client.

25 For the purposes of this subdivision, "dual relationship" means a licensee simultaneously

1 engages in both a professional and nonprofessional relationship with a client that is avoidable
2 and not incidental.

3 **SURRENDER ORDER**

4 Based upon the foregoing Findings of Fact and Conclusion of Law, the parties agree to
5 the provision and penalties imposed as follows:

- 6 1. Respondent's license, LCSW-2165, shall be surrendered to the Board, effective
7 from the date of entry as signed below.
- 8 2. The surrender shall be considered a revocation of Respondent's license.
- 9 3. This Consent Agreement is conclusive evidence of the matters described herein
10 and may be considered by the Board in determining appropriate sanctions in the event a
11 subsequent violation occurs.

12 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

13 Michael D White
14 Michael D. White

10-29-14
Date

15 **BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

16
17 Dated this 10th day of November, 2014.

18 By: Tobi Zavala
19 TOBI ZAVALA, Executive Director
20 Arizona Board of Behavioral Health Examiners
21

22 **ORIGINAL** of the foregoing filed
This 10th day of November, 2014 with:

23 Arizona Board of Behavioral Health Examiners
24 3443 N. Central Ave., Suite 1700
Phoenix, AZ 85012

25 **COPY** of the foregoing mailed via Interagency Mail

1 This 10th day of November, 2014, to:

2 Marc Harris
3 Assistant Attorney General
4 1275 West Washington
5 Phoenix, Arizona 85007

6 **COPY** of the foregoing mailed via
7 Certified mail no. 70141200000066331381
8 This 10th day of November, 2014, to:

9 Michael D. White
10 Address of Record
11 Respondent

12 **COPY** of the foregoing mailed via Mail
13 This 10th day of November, 2014 to:

14 _____
15 Donna Dalton, Assistant Director
16 602-542-1811

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1 3. By entering into this Interim Consent Agreement, Respondent freely and voluntarily
2 relinquishes all rights to an administrative hearing on the matters set forth herein, as well as all
3 rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative
4 and/or judicial action, concerning the matters as set forth herein.

5 4. Respondent understands that this Interim Consent Agreement does not constitute a
6 dismissal or resolution of any matters that may be currently pending before the Board and does
7 not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction
8 regarding any other pending or future investigations, actions, or proceedings. Respondent also
9 understands that acceptance of this Interim Consent Agreement does not preclude any other
10 agency, subdivision, or officer of this State from instituting civil or criminal proceedings with
11 respect to the conduct that is the subject of this Interim Consent Agreement. Respondent does
12 not intend his acceptance of this Interim Consent Agreement to constitute an admission of any
13 fact or facts and he enters into this agreement as an interim compromise of a pending matter.

14 5. Respondent acknowledges and agrees that upon signing this Interim Consent
15 Agreement and returning it to the Board's Executive Director, Respondent may not revoke his
16 acceptance of this Interim Consent Agreement or make any modifications to it. Any modification
17 of this original document is ineffective and void unless mutually approved by the parties in
18 writing.

19 6. Respondent understands that this Interim Consent Agreement shall not become
20 effective unless and until it is adopted by the Board and signed by its Executive Director.

21 7. Respondent understands and agrees that if the Board does not adopt this Interim
22 Consent Agreement, he will not assert in any future proceedings that the Board's consideration
23 of this Interim Consent Agreement constitutes bias, prejudice, prejudgment, or other similar
24 defense.

25 . . .

1 8. Respondent understands that this Interim Consent Agreement is a public record that
2 may be publicly disseminated as a formal action of the Board, and that it shall be reported as
3 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
4 Protection Data Bank.

5 9. Respondent understands that this Interim Consent Agreement does not alleviate his
6 responsibility to comply with the applicable license-renewal statutes and rules. If this Interim
7 Consent Agreement remains in effect at the time Respondent's behavioral health license comes
8 up for renewal, he must renew his license if Respondent wishes to retain his license. If
9 Respondent elects not to renew his license as prescribed by statute and rule, Respondent's
10 license will not expire but rather, by operation of law (A.R.S. § 32-3202), remain suspended until
11 the Board takes final action in this matter. Once the Board takes final action, in order for
12 Respondent to be licensed in the future, he must submit a new application for licensure and
13 meet all of the requirements set forth in the statutes and rules at that time.

14 10. Respondent understands that any violation of this Interim Consent Agreement
15 constitutes unprofessional conduct under A.R.S. § 32-3251(12)(n), violating a formal order,
16 consent agreement, term of probation or stipulated agreement, and may result in disciplinary
17 action under A.R.S. § 32-3281.

18 **INTERIM FINDINGS OF FACT**

19 1. The Board is the duly constituted authority for licensing and regulating the practice of
20 clinical social work in the State of Arizona.

21 2. Respondent is the holder of License No. LCSW-2165 for the practice of clinical social
22 work in Arizona.

23 3. A 07/25/12 Tempe Police Department press release indicated the following:

24 a. On 07/24/12, Respondent was arrested in connection with an ongoing sexual
25 assault investigation.

- 1 b. On 07/22/12, an adult male victim reported to police that he had been sexually
2 assaulted by a known acquaintance identified as Respondent.
- 3 c. The victim considered Respondent to be his foster father while he was growing
4 up.
- 5 d. Police investigators followed up on the initial report and developed additional
6 information and evidence leading to Respondent's arrest.
- 7 e. Police believe that prior incidents occurred between the victim and Respondent
8 when they previously resided together.
- 9 f. Respondent was a school social worker at an area high school for 15 years and
10 currently works with youth and the elderly at Tolleson's Community Services
11 Department.
- 12 g. Respondent was charged with 2 counts of sexual assault, a class 2 felony, and 1
13 count of sexual conduct with a minor, a class 2 felony.
- 14 h. There may be additional charges as well as additional victims.
- 15 i. Respondent has been jailed without bond since his arrest on 07/24/12.

16 4. The Board's work address of record for Respondent indicates he works for the City of
17 Tolleson.

18 5. Information obtained from the Maricopa County Sheriff's Office jail indicates that
19 Respondent has a court/hearing date on 08/01/12 and is being held as "not bondable".

20 **INTERIM CONCLUSIONS OF LAW**

21 1. The Board possesses subject matter and personal jurisdiction over Respondent
22 pursuant to A.R.S. § 32-3251 *et seq.*

23 2. The Board is authorized to enter into an interim consent agreement with a clinical
24 social worker to limit or restrict the professional's practice in order to protect the public and
25 ensure that the professional is able to safely engage in the practice of clinical social work.
A.R.S. § 32-3281.

1 **INTERIM ORDER**

2 Based on the Interim Findings of Fact and Interim Conclusions of Law, and pursuant to
3 the authority granted to the Board under A.R.S. § 32-3281:

4 **IT IS HEREBY ORDERED** that Respondent shall not practice under his license until
5 such time as he submits a written request for the reinstatement of his license to the Board and
6 the Board affirmatively approves Respondent's request for reinstatement. The Board may, in its
7 discretion, require any combination of staff-approved physical, psychiatric, or psychological
8 examinations, or other types of examinations, evaluations or interviews it believes are
9 necessary to assist the Board in determining whether Respondent is able to safely and
10 competently return to the practice of clinical social work. The Board's affirmative approval to
11 permit Respondent to return to practicing under his license shall not preclude the Board from
12 taking any other action it deems appropriate based upon the conduct set forth in the Interim
13 Findings of Fact.

14 Respondent's agreement not to practice under License No. LCSW-2165 will be
15 considered a suspension of his license.

16
17 **PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

18 Michael D White
19 MICHAEL D. WHITE

8-2-12
Date

20 **BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT**

21 Dated this 15th day of August, 2012.

22 Debra Rinaudo
23 By: DEBRA RINAUDO, Executive Director
24 Arizona Board of Behavioral Health Examiners
25 ...
...

1 ORIGINAL of the foregoing filed
This 15th day of August, 2012, with:

2
3 Arizona Board of Behavioral Health Examiners
3443 N. Central Ave., Suite 1700
Phoenix, AZ 85012
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5 COPY of the foregoing mailed via
Certified mail no. 7012 1010 0001 8213 4034,
6 This 15th day of August, 2012, to:

7 Michael D. White
Address of Record
8 Respondent

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10 Tobi Zavala, Compliance Officer
602-542-1617
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