

1 **BEFORE THE ARIZONA STATE BOARD OF BEHAVIORAL HEALTH EXAMINERS**

2 **In the Matter of:**

3 **Barbara J. Brown, LPC-12928,**  
4 **Licensed Professional Counselor,**  
5 **In the State of Arizona.**

6 **RESPONDENT**

**CASE NO. 2016-0022**

**RELEASE FROM  
CONSENT AGREEMENT AND ORDER**

7 The Board received a request from Respondent to release them from the terms and  
8 conditions of the Consent Agreement and Order dated August 2, 2016. After consideration, the  
9 Board voted to release Respondent from the terms and conditions of the Consent Agreement  
10 and Order dated August 2, 2016.


11 **ORDER**

12 **GOOD CAUSE APPEARING, IT IS THEREFORE ORDERED THAT:**

13 Respondent is hereby released from all terms and conditions of the Consent Agreement  
14 and Order dated August 2, 2016.

15 Dated this 18<sup>th</sup> day of September, 2017.

17 By:

16   
18 TOBI ZAVALA, Executive Director  
19 Arizona Board of Behavioral Health Examiners

19 **ORIGINAL** of the foregoing filed  
20 This 18<sup>th</sup> day of September, 2017, with:

21 Arizona Board of Behavioral Health Examiners  
22 3443 N. Central Ave., Suite 1700  
23 Phoenix, AZ 85012

23 **COPY** of the foregoing mailed via  
24 Certified mail no. 70171450000080887707  
25 This 18<sup>th</sup> day of September, 2017, to:

25 Barbara J. Brown  
Address of Record  
Respondent

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**COPY** of the foregoing mailed via Mail  
This 18<sup>th</sup> day of September, 2017 to:

Wallace W. Brown  
Law Office of Wallace W. Brown, P.C.  
3029 N. Alma School Rd, Ste 216  
Chandler, AZ 85224  
Attorney for Respondent

1 BEFORE THE ARIZONA BOARD

2 OF BEHAVIORAL HEALTH EXAMINERS

3 In the Matter of:

4 Barbara J. Brown, LPC-12928,  
5 Licensed Professional Counselor,  
6 In the State of Arizona.

7 RESPONDENT

CASE NO. 2016-0022

CONSENT AGREEMENT

8 In the interest of a prompt and speedy settlement of the above captioned matter,  
9 consistent with the public interest, statutory requirements and responsibilities of the Arizona  
10 State Board of Behavioral Health Examiners ("Board"), and pursuant to A.R.S. §§ 32-3281(F)  
11 and 41-1092.07(F)(5), Barbara J. Brown ("Respondent") and the Board enter into this Consent  
12 Agreement, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final  
13 disposition of this matter.

14 RECITALS

15 Respondent understands and agrees that:

16 1. Any record prepared in this matter, all investigative materials prepared or  
17 received by the Board concerning the allegations, and all related materials and exhibits may be  
18 retained in the Board's file pertaining to this matter.

19 2. Respondent has the right to a formal administrative hearing at which Respondent  
20 can present evidence and cross examine the State's witnesses. Respondent hereby irrevocably  
21 waives their right to such formal hearing concerning these allegations and irrevocably waives  
22 their right to any rehearing or judicial review relating to the allegations contained in this Consent  
23 Agreement.

24 3. Respondent has the right to consult with an attorney prior to entering into this  
25 Consent Agreement.

1           4.       Respondent acknowledges and agrees that upon signing this Consent  
2 Agreement and returning it to the Board's Executive Director, Respondent may not revoke their  
3 acceptance of this Consent Agreement or make any modifications to it. Any modification of this  
4 original document is ineffective and void unless mutually approved by the parties in writing.

5           5.       The findings contained in the Findings of Fact portion of this Consent Agreement  
6 are conclusive evidence of the facts stated herein and may be used for purposes of determining  
7 sanctions in any future disciplinary matter.

8           6.       This Consent Agreement is subject to the Board's approval, and will be effective  
9 only when the Board accepts it. In the event the Board in its discretion does not approve this  
10 Consent Agreement, this Consent Agreement is withdrawn and shall be of no evidentiary value,  
11 nor shall it be relied upon or introduced in any disciplinary action by any party hereto, except  
12 that Respondent agrees that should the Board reject this Consent Agreement and this case  
13 proceeds to hearing, Respondent shall assert no claim that the Board was prejudiced by its  
14 review and discussion of this document or of any records relating thereto.

15           7.       Respondent understands that once the Board approves and signs this Consent  
16 Agreement, it is a public record that may be publicly disseminated as a formal action of the  
17 Board, and that it shall be reported as required by law to the National Practitioner Data Bank.

18           8.       Respondent further understands that any violation of this Consent Agreement  
19 constitutes unprofessional conduct pursuant to A.R.S. § 32-3251(16)(n) and may result in  
20 disciplinary action pursuant to A.R.S. § 32-3281.

21           9.       The Board therefore retains jurisdiction over Respondent and may initiate  
22 disciplinary action against Respondent if it determines that they have failed to comply with the  
23 terms of this Consent Agreement or of the practice act.

24           The Board issues the following Findings of Fact, Conclusions of Law and Order:

25     ...

1 FINDINGS OF FACT

2 1. Respondent is the holder of License No. LPC-12928 for the practice of  
3 counseling in Arizona.

4 2. From 09/13 – 02/15, Respondent provided individual counseling services to a  
5 client ("Mother").

6 3. Respondent was made aware that Mother and her ex-husband ("Father") were  
7 involved in a court custody battle for their children.

8 4. On 09/29/14, at the request of Mother's attorney ("Attorney"), Respondent  
9 authored a 6-page letter that indicated in part:

10 a. Mother had severe anxiety due to constant abuse, threats, and  
11 intimidation by Father.

12 b. Mother reported that Father is bipolar and does not take his medication  
13 regularly.

14 c. Mother feels bullied and intimidated by the court appointed parent  
15 advisor's ("Advisor") aggressive and condescending communications.

16 d. It has been over a year and there has been no consideration of a  
17 reunification plan for Mother and the children from Advisor.

18 e. "In my opinion, there is continued penalization mostly due to the  
19 allegations towards [Mother's husband] ("Husband").

20 f. Respondent believes there are other options to reunify the family without  
21 the presence of Husband until he demonstrates participation and  
22 progress.

23 5. Respondent failed to establish Attorney's purpose for requesting the letter, and  
24 failed to provide the letter to any other parties involved in the case.

25 6. Respondent did not have a valid Release of Information ("ROI") to release or

1 discuss Mother's confidential information with Attorney.

2 7. Respondent also included confidential information regarding Husband in the  
3 09/29/14 letter provided to Attorney without an ROI to do so.

4 8. Respondent's clinical record for Mother was deficient including:

- 5 a. The consent for treatment was missing various required elements.
- 6 b. The treatment plan failed to include the date to be reviewed.
- 7 c. The progress notes lacked Respondent's dated signature.

8 9. In Respondent's 02/18/15 termination letter to Mother, Respondent indicated:

- 9 a. Respondent feels it is in Mother's best interest to be discharged from  
10 therapeutic services as Mother has met her desired goals.
- 11 b. "As agreed by both you and I, if in the future you are in need of additional  
12 sessions, I believe it to be best you contact a therapist that can take you  
13 in the direction you need with the family court system, as that is not within  
14 my scope of practice."

15 10. Respondent's decision to treat Mother and author a letter to the court despite her  
16 lack of knowledge in family court law appears very concerning and not congruent with her  
17 experience, training, or education.

#### 18 CONCLUSIONS OF LAW

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

22 2. The conduct and circumstances described in the Findings of Fact constitute a  
23 violation of A.R.S. § 32-3251(15)(l), any conduct, practice or condition that impairs the ability of  
24 the licensee to safely and competently practice the licensee's profession.

25 3. The conduct and circumstances described in the Findings of Fact constitute a

1 violation of A.R.S. § 32-3251(15)(m), engaging or offering to engage as a licensee in activities  
2 that are not congruent with the licensee's professional education, training or experience.

3 4. The conduct and circumstances described in the Findings of Fact constitute a  
4 violation of A.R.S. § 32-3251(15)(t), disclosing a professional confidence or privileged  
5 communication except as may otherwise be required by law or permitted by a valid written  
6 release.

7 5. The conduct and circumstances described in the Findings of Fact constitute a  
8 violation of A.R.S. § 32-3251(15)(p), failing to conform to minimum practice standards as  
9 developed by the Board as it relates to the following:

- 10 a. A.A.C. R4-6-1101, Consent for Treatment
- 11 b. A.A.C. R4-6-1102, Treatment Plan
- 12 c. A.A.C. R4-6-1103, Client Record

13 **ORDER**

14 Based upon the foregoing Findings of Fact and Conclusions of Law, the parties agree to  
15 the provisions and penalties imposed as follows:

16 1. Respondent's license, LPC-12928, will be placed on probation, effective from the  
17 date of entry as signed below.

18 2. Respondent shall not practice under their license, LPC-12928, unless they are  
19 fully compliant with all terms and conditions in this Consent Agreement. If, for any reason,  
20 Respondent is unable to comply with the terms and conditions of this Consent Agreement, they  
21 shall immediately notify the Board in writing and shall not practice under their license until they  
22 submit a written request to the Board to re-commence compliance with this Consent  
23 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

24 3. In the event that Respondent is unable to comply with the terms and conditions  
25 of this Consent Agreement, all remaining time frames shall be tolled and remain tolled until

1 such time as they are granted approval to re-commence compliance with the Consent  
2 Agreement.

### 3 Continuing Education

4 4. In addition to the continuing education requirements of A.R.S. § 32-3273, within  
5 12 months of the effective date of this Consent Agreement, Respondent shall take and pass a  
6 three semester credit hour graduate level behavioral health ethics course from an accredited  
7 college or university, pre-approved by the Board Chair or designee. Upon completion,  
8 Respondent shall submit to the Board an official transcript establishing completion of the  
9 required course.

### 10 Audit

11 5. While on probation, Respondent shall submit to an audit of all of their private  
12 practice records by a pre-approved auditor. Within 30 days of this consent agreement,  
13 Respondent shall submit the name of an auditor and a plan for conducting the audit for pre-  
14 approval by the Board Chair or designee. The audit shall be completed within 60 days of the  
15 effective date of this consent agreement. Also within 60 days of the effective date of this  
16 consent agreement, the auditor shall provide an audit report and a proposed audit plan  
17 addressing any deficiencies found during the audit to the Board Chair or designee for review  
18 and approval.

### 19 Practice Monitor

20 6. While on probation, Respondent shall establish and maintain a relationship with a  
21 practice monitor who is a masters or higher level behavioral health professional licensed at the  
22 independent level. The practice monitor shall provide training and assistance to Respondent  
23 regarding setting up appropriate forms and formats for Respondent's clinical records,  
24 implementing current behavioral health standards of practice related to behavioral health  
25 assessment and treatment planning, providing treatment consistent with the documented



1 treatment plan, and documenting the treatment provided in accordance with current behavioral  
2 health standards. Respondent and the practice monitor shall review the clinical documentation  
3 produced for each and every active client Respondent sees at least once per month. The  
4 practice monitor shall ensure that Respondent complies with the audit plan approved by the  
5 Board Chair or designee. Respondent shall meet with the practice monitor a minimum of  
6 monthly first 12 months of probation and the second 12 months of probation will be at the  
7 recommendation of the practice monitor.

8 7. Within 30 days of the effective date of this Consent Agreement, Respondent shall  
9 submit the name of a practice monitor for pre-approval by the Board Chair or designee. Also  
10 within 30 days of the effective date of this Consent Agreement, the proposed Practice Monitor  
11 shall submit a letter disclosing their prior relationship to Respondent. In that letter, the practice  
12 monitor shall address why they should be approved, acknowledge that they have reviewed the  
13 Consent Agreement and include the results of an initial assessment and a monitoring plan  
14 regarding the proposed practice monitoring of Respondent. The letter from the proposed  
15 Practice Monitor shall be submitted to the Board.

#### 16 **Monitoring Quarterly Reports**

17 8. Once approved, the practice monitor shall submit quarterly reports for review and  
18 approval by the Board Chair or designee. The quarterly reports shall include issues presented in  
19 this consent agreement that need to be reported and the practice monitor shall notify the Board  
20 if more frequent monitoring is needed. The practice monitor shall submit a final summary report  
21 for review and approval by the Board Chair or designee. The final summary report submitted by  
22 the practice monitor shall address Respondent's competency to engage in independent practice  
23 in accordance with current standards of practice.

#### 24 **Change of Practice Monitor During Probation**

25 9. If, during the period of Respondent's probation, the practice monitor determines

1 that they cannot continue as the practice monitor, they shall notify the Board within 10 days of  
2 the end of monitoring and provide the Board with an interim final report. Respondent shall  
3 advise the Board Chair or designee within 30 days of cessation of monitoring by the approved  
4 practice monitor of the name of a new proposed practice monitor. The proposed practice  
5 monitor shall provide the same documentation to the Board as was required of the initial  
6 practice monitor.

#### 7 Early Release

8 10. After completion of the stipulations set forth in this Consent Agreement, and upon  
9 the practice monitor's recommendation, Respondent may request early release from the  
10 Consent Agreement after 12 months.

#### 11 GENERAL PROVISIONS

##### 12 Provision of Clinical Supervision

13 11. Respondent shall not provide clinical supervision while subject to this Consent  
14 Agreement.

##### 15 Civil Penalty

16 12. Subject to the provisions set forth in paragraph 13, the Board imposes a civil  
17 penalty against the Respondent in the amount of \$1,000.00.

18 13. Respondent's payment of the civil penalty shall be stayed so long as Respondent  
19 remains compliant with the terms of this Consent Agreement. If Board staff determines that  
20 Respondent is noncompliant with the terms of this Consent Agreement in any respect, with the  
21 exception of the tolling provision under paragraph 3, the stay of the civil penalty payment shall  
22 be automatically lifted and payment of the civil penalty shall be made by certified check or  
23 money order payable to the Board within 30 days after being notified in writing of the lifting of  
24 the stay.

25 14. Within 10 days of being notified of the lifting of the stay, Respondent may request

1 that the matter be reviewed by the Board for the limited purpose of determining whether the  
2 automatic lifting of the stay was supported by clear and convincing evidence. If the Board  
3 receives the written request within 10 days or less of the next regularly scheduled Board  
4 meeting, the request will not be heard at that meeting, but will be heard at the next regularly  
5 scheduled Board meeting. The Board's decision on this matter shall not be subject to further  
6 review.

7 15. The Board reserves the right to take further disciplinary action against  
8 Respondent for noncompliance with this Consent Agreement after affording Respondent notice  
9 and an opportunity to be heard. If a complaint is filed against Respondent for failure to comply  
10 with this Consent Agreement, the Board shall have continuing jurisdiction until the matter is final  
11 and the period of probation shall be extended until the matter is final.

12 16. If Respondent currently sees clients in their own private practice, and obtains any  
13 other type of behavioral health position, either as an employee or independent contractor, where  
14 they provide behavioral health services to clients of another individual or agency, they shall  
15 comply with requirements set forth in paragraphs 17 through 19 below.

16 17. Within 10 days of the effective date of this Order, if Respondent is working in a  
17 position where Respondent provides any type of behavioral health related services or works in a  
18 setting where any type of behavioral health, health care, or social services are provided,  
19 Respondent shall provide the Board Chair or designee with a signed statement from  
20 Respondent's employer(s) confirming Respondent provided the employer(s) with a copy of this  
21 Consent Agreement. If Respondent does not provide the employer's statement to the Board  
22 within 10 days of the effective date, the Board will provide Respondent's employer(s) with a  
23 copy of the Consent Agreement.

24 18. If Respondent is not employed as of the effective date of this Order, within 10  
25 days of accepting employment in a position where Respondent provides any type of behavioral

1 health related services or in a setting where any type of behavioral health, health care, or social  
2 services are provided, Respondent shall provide the Board Chair or designee with a written  
3 statement providing the contact information of their new employer and a signed statement from  
4 Respondent's new employer confirming Respondent provided the employer with a copy of this  
5 Consent Agreement. If Respondent does not provide the employer's statement to the Board  
6 within 10 days, as required, Respondent's failure to provide the required statement to the Board  
7 shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide Respondent's  
8 employer(s) with a copy of the Consent Agreement.

9 19. If, during the period of Respondent's probation, Respondent changes  
10 employment, resigns, is involuntarily terminated, resigns in lieu of termination, or goes on  
11 extended leave of absence for whatever reason that may impact their ability to timely comply  
12 with the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform  
13 the Board of their change of employment status. After the change and within 10 days of  
14 accepting employment in a position where Respondent provides any type of behavioral health  
15 related services or in a setting where any type of behavioral health, health care, or social  
16 services are provided, Respondent shall provide the Board Chair or designee a written  
17 statement providing the contact information of their new employer(s) and a signed statement  
18 from Respondent's new employer(s) confirming Respondent provided the employer(s) with a  
19 copy of this Consent Agreement. If Respondent does not provide the employer's statement to  
20 the Board within 10 days, as required, Respondent's failure to provide the required statement to  
21 the Board shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide  
22 Respondent's employer(s) with a copy of the Consent Agreement.

23 20. Respondent shall practice behavioral health using the name under which they  
24 are licensed. If Respondent changes their name, they shall advise the Board of the name  
25 change as prescribed under the Board's regulations and rules.

1 21. Prior to the release of Respondent from probation, Respondent must submit a  
2 written request to the Board for release from the terms of this Consent Agreement at least 30  
3 days prior to the date they would like to have this matter appear before the Board. Respondent  
4 may appear before the Board, either in person or telephonically. Respondent must provide  
5 evidence that they have successfully satisfied all terms and conditions in this Consent  
6 Agreement. The Board has the sole discretion to determine whether all terms and conditions of  
7 this Consent Agreement have been met and whether Respondent has adequately demonstrated  
8 that they have addressed the issues contained in this Consent Agreement. In the event that the  
9 Board determines that any or all terms and conditions of this Consent Agreement have not been  
10 met, the Board may conduct such further proceedings as it determines are appropriate to  
11 address those matters.

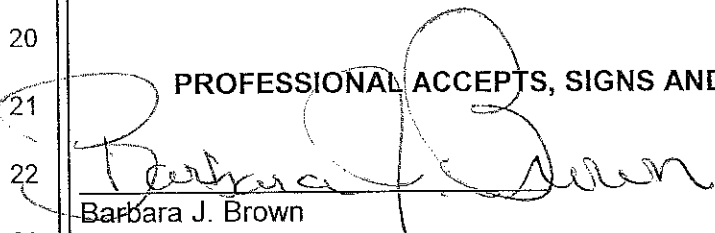
12 22. Respondent shall bear all costs relating to probation terms required in this  
13 Consent Agreement.

14 23. Respondent shall be responsible for ensuring that all documentation required in  
15 this Consent Agreement is provided to the Board in a timely manner.

16 24. This Consent Agreement shall be effective on the date of entry below.

17 25. This Consent Agreement is conclusive evidence of the matters described herein  
18 and may be considered by the Board in determining appropriate sanctions in the event a  
19 subsequent violation occurs.

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


21   
22 Barbara J. Brown

7/27/16  
Date

23 ...  
24 ...  
25 ...

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

2                   Dated this 2<sup>nd</sup> day of August, 2016.

3                   By:   
4                   TOBI ZAVALA, Executive Director  
5                   Arizona Board of Behavioral Health Examiners

6  
7                   **ORIGINAL** of the foregoing filed  
8                   This 2<sup>nd</sup> day of August, 2016 with:

9                   Arizona Board of Behavioral Health Examiners  
10                  3443 N. Central Ave., Suite 1700  
11                  Phoenix, AZ 85012

12                  **COPY** of the foregoing mailed via Interagency Mail  
13                  This 2<sup>nd</sup> day of August, 2016, to:

14                  Marc Harris  
15                  Assistant Attorney General  
16                  1275 West Washington  
17                  Phoenix, Arizona 85007

18                  **COPY** of the foregoing mailed via  
19                  Certified mail no. 70142870000189576263  
20                  This 2<sup>nd</sup> day of August, 2016, to:

21                  Barbara J. Brown  
22                  Address of Record  
23                  Respondent

24                  **COPY** of the foregoing mailed via Mail  
25                  This 2<sup>nd</sup> day of August, 2016 to:

                    Wallace W. Brown  
                    Law Office of Wallace W. Brown, P.C.  
                    3029 North Alma School Road, Suite 216  
                    Chandler, AZ 85224  
                    Attorney for Respondent