

1 BEFORE THE ARIZONA STATE BOARD OF BEHAVIORAL HEALTH EXAMINERS

2 In the Matter of:

3 Rosemarie Ampela, LCSW-12721,
4 Licensed Clinical Social Worker,
5 In the State of Arizona.

6 RESPONDENT

CASE NO. 2017-0011

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 March 28, 2017. After consideration, the
9 Board voted to release Respondent from the terms and conditions of the Consent Agreement
10 and Order dated March 28, 2017.

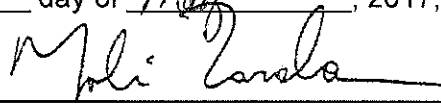
11 ORDER

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 March 28, 2017.

15 Dated this 9th day of May, 2017,

16 By:


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

19 ORIGINAL of the foregoing filed

This 9th day of May, 2017, with:

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

23 COPY of the foregoing mailed via

Certified mail no. 7016214000018040945

This 9th day of May, 2017, to:

24 Rosemarie Ampela
25 Address of Record
Respondent

1 **COPY** of the foregoing mailed via Mail
This 9th day of May, 2017 to:

2
3 Mr. Chris Smith
4 The Smith Law Group
5 262 N Main Ave
6 Tucson, AZ 85701
7 Attorney for Respondent

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

**In the Matter of:
Rosemarie Ampela, LCSW-12721,
Licensed Clinical Social Worker,
In the State of Arizona.**

**CASE NO. 2017-0011
CONSENT AGREEMENT**

RESPONDENT

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

RECITALS

Respondent understands and agrees that:

1. Any record prepared in this matter, all investigative materials prepared or received by the Board concerning the allegations, and all related materials and exhibits may be retained in the Board's file pertaining to this matter.
2. Respondent has the right to a formal administrative hearing at which Respondent can present evidence and cross examine the State's witnesses. Respondent hereby irrevocably waives their right to such formal hearing concerning these allegations and irrevocably waives their right to any rehearing or judicial review relating to the allegations contained in this Consent Agreement.
3. Respondent has the right to consult with an attorney prior to entering into this 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

FINDINGS OF FACT

1 1. Respondent is the holder of License No. LCSW-12721 for the practice of social
2 work in Arizona.

3 2. From 08/13 – 07/16, Respondent provided joint and individual counseling
4 sessions to a husband ("Husband") and wife ("Wife").

5 3. In 06/16, at the request of Husband, Respondent acknowledges writing a letter to
6 Husband's Lawyer, to be used in their divorce court proceedings.

7 4. Prior to writing the letter, Respondent made no attempt to inform Wife of her
8 intention to submit a letter.

9 5. Upon submitting her letter, Respondent only submitted her letter to Husband, and
10 not Wife.

11 6. Wife learned of the letter when Husband's lawyer informed Wife's lawyer of
12 Respondent's letter.

13 7. In review of Respondent's letter, it appears that Respondent disclosed
14 confidential information pertaining to the therapeutic services of Husband and Wife.

- 15 8. Respondent's clinical records for Husband and Wife were deficient as follows:
- 16 a. There was no signed consent for treatment from Wife.
 - 17 b. Progress notes failed to include the duration of the session and the date
18 of Respondent's signature.
 - 19 c. Billing records did not differentiate between joint and individual sessions.
 - 20 d. There was no valid written treatment plan.

CONCLUSIONS OF LAW

21 1. The Board has jurisdiction over Respondent pursuant to A.R.S. § 32-3251 *et seq.*
22 and the rules promulgated by the Board relating to Respondent's professional practice as a
23 licensed behavioral health professional.
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2. The conduct and circumstances described in the Findings of Fact constitute a violation of A.R.S. § 32-3251(16)(t), disclosing a professional confidence or privileged communication except as may otherwise be required by law or permitted by a valid written release.

3. The conduct and circumstances described in the Findings of Fact constitute a violation of A.R.S. § 32-3251(16)(p), failing to conform to minimum practice standards as developed by the Board, as it relates to the following:

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

ORDER

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

1. Respondent's license, LCSW-12721, will be placed on probation, effective from the date of entry as signed below.

2. Respondent shall not practice under their license, LCSW-12721, unless they are fully compliant with all terms and conditions in this Consent Agreement. If, for any reason, Respondent is unable to comply with the terms and conditions of this Consent Agreement, they shall immediately notify the Board in writing and shall not practice under their license until they submit a written request to the Board to re-commence compliance with this Consent Agreement. All such requests shall be pre-approved by the Board Chair or designee.

3. In the event that Respondent is unable to comply with the terms and conditions of this Consent Agreement, all remaining time frames shall be tolled and remain tolled until such time as they are granted approval to re-commence compliance with the Consent Agreement.

Continuing Education

1 4. In addition to the continuing education requirements of A.R.S. § 32-3273, within
2 12 months of the effective date of this Consent Agreement, Respondent shall complete 6 clock
3 hours of the NASW Staying Out of Trouble continuing education course or an equivalent course.
4 All required continuing education shall be pre-approved by the Board Chair or designee. Upon
5 completion, Respondent shall submit a certificate of completion of the required continuing
6 education.

Early Release

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8 5. After completion of the continuing education requirements set forth in this
9 Consent Agreement, Respondent may request early release from the Consent Agreement if all
10 other terms of the Consent Agreement have been met.

GENERAL PROVISIONS

Provision of Clinical Supervision

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

Civil Penalty

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16 7. Subject to the provisions set forth in paragraph 8, the Board imposes a civil
17 penalty against the Respondent in the amount of \$1,000.00.

18 8. 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.
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1 9. Within 10 days of being notified of the lifting of the stay, Respondent may request
2 that the matter be reviewed by the Board for the limited purpose of determining whether the
3 automatic lifting of the stay was supported by clear and convincing evidence. If the Board
4 receives the written request within 10 days or less of the next regularly scheduled Board
5 meeting, the request will not be heard at that meeting, but will be heard at the next regularly
6 scheduled Board meeting. The Board's decision on this matter shall not be subject to further
7 review.

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

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

17 12. Within 10 days of the effective date of this Order, if Respondent is working in a
18 position where Respondent provides any type of behavioral health related services or works in a
19 setting where any type of behavioral health, health care, or social services are provided,
20 Respondent shall provide the Board Chair or designee with a signed statement from
21 Respondent's employer(s) confirming Respondent provided the employer(s) with a copy of this
22 Consent Agreement. If Respondent does not provide the employer's statement to the Board
23 within 10 days of the effective date, the Board will provide Respondent's employer(s) with a
24 copy of the Consent Agreement.
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13. If Respondent is not employed as of the effective date of this Order, within 10 days of accepting employment in a position where Respondent provides any type of behavioral health related services or in a setting where any type of behavioral health, health care, or social services are provided, Respondent shall provide the Board Chair or designee with a written statement providing the contact information of their new employer and a signed statement from Respondent's new employer confirming Respondent provided the employer with a copy of this Consent Agreement. If Respondent does not provide the employer's statement to the Board within 10 days, as required, Respondent's failure to provide the required statement to the Board shall be deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide Respondent's employer(s) with a copy of the Consent Agreement.

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

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1 15. Respondent shall practice behavioral health using the name under which they
2 are licensed. If Respondent changes their name, they shall advise the Board of the name
3 change as prescribed under the Board's regulations and rules.

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

15 17. Respondent shall bear all costs relating to probation terms required in this
16 Consent Agreement.

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

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

20 20. This Consent Agreement is conclusive evidence of the matters described herein
21 and may be considered by the Board in determining appropriate sanctions in the event a
22 subsequent violation occurs.
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PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

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Rosemarie Ampela
Rosemarie Ampela

3.22.17
Date

BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

Dated this 28th day of March, 2017.

By: M. Zaval
TOBI ZAVALA, Executive Director
Arizona Board of Behavioral Health Examiners

ORIGINAL of the foregoing filed
This 28th day of March, 2017 with:

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

COPY of the foregoing mailed via Interagency Mail
This 28th day of March, 2017, to:

Marc Harris
Assistant Attorney General
1275 West Washington
Phoenix, Arizona 85007

COPY of the foregoing mailed via
Certified mail no. 7016214000018040365
This 28th day of March, 2017, to:

Rosemarie Ampela
Address of Record
Respondent

COPY of the foregoing mailed via Mail
This 28th day of March, 2017 to:

Chris Smith
Smith Law Group
Davis House, 262 N. Main Ave.
Tucson, AZ 85701
Attorney for Respondent