

1 BEFORE THE ARIZONA STATE BOARD OF BEHAVIORAL HEALTH EXAMINERS

2 In the Matter of:

3 Luciano De La O, LISAC-0569,
4 Licensed Independent Substance Abuse
5 Counselor,
6 In the State of Arizona.

7 RESPONDENT

CASE NO. 2012-0105

RELEASE FROM
CONSENT AGREEMENT AND ORDER

8 The Board received a request from Respondent to release him from the terms and
9 conditions of the Consent Agreement and Order dated September 10, 2015. After consideration,
10 the Board voted to release Respondent from the terms and conditions of the Consent
11 Agreement and Order dated September 10, 2015.

12 ORDER

13 GOOD CAUSE APPEARING, IT IS THEREFORE ORDERED THAT:

14 Respondent is hereby released from all terms and conditions of the Consent Agreement
15 and Order dated September 10, 2015.

16 Dated this 10th day of March, 2016.

17 By: Moli Zavala
18 TOBI ZAVALA, Executive Director
19 Arizona Board of Behavioral Health Examiners

20 ORIGINAL of the foregoing filed
21 This 10th day of March, 2016, with:

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

25 COPY of the foregoing mailed via
26 Certified mail no. 70142870000189575556
27 This 10th day of March, 2016, to:

28 Luciano De La O
29 Address of Record
30 Respondent

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

In the Matter of:

**Luciano De La O, LISAC-0569,
Licensed Independent Substance Abuse
Counselor,
In the State of Arizona.**

**CASE NO. 2012-0105
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), Luciano De La O ("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 his right to such formal hearing concerning these allegations and irrevocably waives his right to any rehearing or judicial review relating to the allegations contained in this Consent Agreement.

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

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

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

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

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

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

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

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

2 **FINDINGS OF FACT**

3 1. Respondent is the holder of License No. LISAC-0569 for the practice of
4 substance abuse counseling in Arizona.

5 2. Respondent owned and operated an agency ("Agency") licensed by the Arizona
6 Department of Health Services ("ADHS") which provided alcohol evaluation and counseling
7 services.

8 3. ADHS forwarded information to the Board that indicated:

9 a. Agency's license was closed effective 12/21/11.

10 b. Agency provided the following to a client ("Client") after the license was
11 closed:

12 i. A 01/31/12 DUI screening

13 ii. 16 hours of DUI education

14 iii. 4 hours of DUI treatment

15 c. Phoenix Municipal Court was unable to accept Client's DUI treatment
16 through Agency causing additional delay and financial burden to Client.

17 4. In response to a subpoena from Board staff to obtain Client's records,
18 Respondent indicated:

19 a. Due to his inability to make a lease payment, the property management
20 company would not allow him access to the Agency office.

21 b. He had no access to any client files or treatment records.

22 5. Respondent failed to take reasonable efforts to ensure the proper safety, storage
23 and access of client records.

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1 CONCLUSIONS OF LAW

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

5 2. The conduct and circumstances described in the Findings of Fact constitute a
6 violation of A.R.S. § 32-3251(12)(l), any conduct, practice or condition that impairs the ability of
7 the licensee to safely and competently practice the licensee's profession.

8 3. The conduct and circumstances described in the Findings of Fact constitute a
9 violation of A.R.S. § 32-3251(12)(hh), failing to retain records pursuant to section 12-2297.

10 ORDER

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

13 1. Respondent's license, LISAC-0569, will be placed on probation, effective from
14 the date of entry as signed below.

15 2. Respondent shall not practice under his license, LISAC-0569, unless he is fully
16 compliant with all terms and conditions in this Consent Agreement. If, for any reason,
17 Respondent is unable to comply with the terms and conditions of this Consent Agreement, he
18 shall immediately notify the Board in writing and shall not practice under his license until he
19 submits a written request to the Board to re-commence compliance with this Consent
20 Agreement. All such requests shall be pre-approved by the Board Chair or designee.

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

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1 Continuing Education

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

8 Early Release

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

12 GENERAL PROVISIONS

13 Provision of Clinical Supervision

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

16 Civil Penalty

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

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

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 substantial evidence. If the Board receives the
4 written request within 10 days or less of the next regularly scheduled Board meeting, the
5 request will not be heard at that meeting, but will be heard at the next regularly scheduled Board
6 meeting. The Board's decision on this matter shall not be subject to further review.

7 10. 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 11. 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 he provides behavioral health services to clients of another individual or agency, he shall
15 comply with requirements set forth in Paragraphs 12 through 14 below.

16 12. 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 13. 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 his 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 14. 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 his ability to timely comply with
12 the terms of probation, Respondent shall, within 10 days of the aforementioned acts, inform the
13 Board of his change of employment status. After the change and within 10 days of accepting
14 employment in a position where Respondent provides any type of behavioral health related
15 services or in a setting where any type of behavioral health, health care, or social services are
16 provided, Respondent shall provide the Board Chair or designee a written statement providing
17 the contact information of his new employer(s) and a signed statement from Respondent's new
18 employer(s) confirming Respondent provided the employer(s) with a copy of this Consent
19 Agreement. If Respondent does not provide the employer's statement to the Board within 10
20 days, as required, Respondent's failure to provide the required statement to the Board shall be
21 deemed a violation of A.R.S. § 32-3251(16)(n) and the Board will provide Respondent's
22 employer(s) with a copy of the Consent Agreement.

23 15. Respondent shall practice behavioral health using the name under which he is
24 licensed. If Respondent changes his name, he shall advise the Board of the name change as
25 prescribed under the Board's regulations and rules.

1 16. 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 he 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 he has successfully satisfied all terms and conditions in this Consent Agreement.
6 The Board has the sole discretion to determine whether all terms and conditions of this Consent
7 Agreement have been met and whether Respondent has adequately demonstrated that he has
8 addressed the issues contained in this Consent Agreement. In the event that the Board
9 determines that any or all terms and conditions of this Consent Agreement have not been met,
10 the Board may conduct such further proceedings as it determines are appropriate to address
11 those matters.

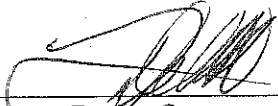
12 17. Respondent shall bear all costs relating to probation terms required in this
13 Consent Agreement.

14 18. 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 19. This Consent Agreement shall be effective on the date of entry below.

17 20. 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**

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Luciano De La O

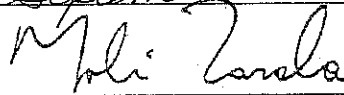
9.08.2015

Date

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

2 Dated this 10th day of September, 2015.

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

6 **ORIGINAL** of the foregoing filed
7 This 10th day of September, 2015 with:

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

10 **COPY** of the foregoing mailed via Interagency Mail
 This 10th day of September, 2015, to:

11 Marc Harris
12 Assistant Attorney General
13 1275 West Washington
 Phoenix, Arizona 85007

14 **COPY** of the foregoing mailed via
15 Certified mail no. 70142870000189571109
 This 10th day of September, 2015, to:

16 Luciano De La O
17 Address of Record
18 Respondent
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