

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

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3   **In the Matter of:**  
4   **Michael S. Latino, LASAC-15133,**  
5   **Licensed Associate Substance Abuse Counselor,**  
6   **In the State of Arizona.**

**COMPLAINT NOS. 2016-0102 & 2018-0006**  
**FINDINGS OF FACT, CONCLUSIONS OF**  
**LAW AND ORDER OF REVOCATION**

7                   **Respondent.**

8                   On January 11, 2019, the Arizona Board of Behavioral Health Examiners (“Board”) held a formal  
9   hearing in the above matter. The State was represented by the Office of the Attorney General, Assistant  
10   Attorney General Marc H. Harris. Assistant Attorney General Michael Raine provided independent legal  
11   advice to the Board. The Respondent did not appear.

12                  After having considered all the testimony and evidence presented, the Board issues the following  
13   Findings of Fact, Conclusions of Law and Order.

14                                   **FINDINGS OF FACT**

15                                   **Case No. 2018-0006**

- 16                  1.       Respondent is the holder of License No. 15133 for the practice of substance abuse  
17   counseling in the State of Arizona.
- 18                  2.       From approximately April 2017 through June 2017, Respondent provided services to an  
19   adult female client (“Client”).
- 20                  3.       According to Client’s clinical record, Client was a Seriously Mentally Ill patient who was  
21   also diagnosed with Bipolar Disorder NOS, Alcohol Abuse Disorder, and Cannabis Abuse Disorder.
- 22                  4.       According to Client’s trauma therapist, who submitted the complaint to the Board:
- 23                           a.       She filed the complaint to inform the Board of client exploitation.
- 24                           b.       According to Client, Respondent sexually exploited her while in the position of case  
25   manager by paying Client for sexual acts after finding out about her previous history.

1 c. Client also reported that Respondent brought her to a bar to get her drunk despite  
2 telling him she could not drink due to her addiction.

3 5. In response to these allegations, Respondent submitted a one-sentence letter that read as  
4 follows: "I [Respondent] deny these accusations."

5 6. During his initial investigative interview, Respondent indicated the following regarding  
6 the allegations:

7 a. Respondent had no contact with Client outside of the case manager role.

8 b. Respondent never went anywhere with Client, and he did not engage in any sexual  
9 contact with her.

10 c. Respondent's contact with Client was always professional.

11 d. Respondent is not sure why Client would make false allegations against him.

12 7. Following Respondent's investigative interview, the Board obtained Respondent's  
13 cellphone records.

14 8. Respondent's cellphone records indicate that he engaged in over 900 communications  
15 with Client from approximately April 2017 through June 2017.

16 9. Respondent and Client's communications occurred multiple times per day and included  
17 numerous late night communications.

18 10. On at least one occasion, Respondent and Client exchanged over 100 text messages in a  
19 single day.

20 11. During a follow-up investigative interview, Respondent provided the following  
21 information:

22 a. When asked how frequent Respondent's phone contact with Client was, he stated:

- 23 • He would set up cabs for Client, just like any other person.  
24 • He documented every communication in her chart.

25 b. Respondent's communications with Client were always appropriate and professional.

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- c. When asked a series of specific questions, Respondent answered as follows:
    - Respondent never had an inappropriate relationship with Client.
    - Respondent and Client never talked about sex.
    - Respondent and Client never had sex.
    - Respondent never gave Client money.
  - d. When Respondent was advised that the Board had obtained his cellphone records, he stated that he understood that his responses were inconsistent with the cellphone documentation.
  - e. When asked what he had not been honest about, Respondent stated, "Um, I don't know. I don't know. I mean you have the proof, right?"
  - f. When asked again, Respondent indicated, "What are the penalties if you're engaged to somebody?"
  - g. When asked for clarification, Respondent stated that he and Client are engaged to be married.
  - h. When asked how this happened, Respondent stated, "I don't know. It just happened."
  - i. When asked to clarify the specific timeframe when he and Client first engaged in sexual conduct, Respondent indicated:
    - "I don't know the exact date."
    - "With all due respect, why does that timeframe matter?"
  - j. When questioned again, Respondent indicated that his relationship with Client became sexual around August 2017.
  - k. When asked again about his communications with Client, Respondent acknowledged that not all of his communications with Client were appropriate when he was her case manager, and that boundaries were crossed.

12. Based on Respondent's admissions, the following has become self-evident:

1 a. Throughout the investigation, Respondent provided the Board with multiple  
2 statements, both verbally and in writing, that were dishonest, self-serving, deceptive  
3 and misleading.

4 b. Respondent exploited his professional – client relationship with a Seriously Mentally  
5 Ill patient and engaged in an inappropriate sexual relationship with her.

6 c. Only when presented with indisputable evidence that was collected from sources  
7 other than him, did Respondent acknowledge engaging in a sexual relationship with  
8 Client.

9 13. Regardless of their current relationship:

10 a. Respondent engaged in a sexual relationship with his client, who was Seriously  
11 Mentally Ill.

12 b. Respondent repeatedly offered false statements to the Board.

13 c. Even when informed of the potential consequences for lying, Respondent continued  
14 to offer false statements.

15 14. Additionally, with respect to Respondent's assertion that he is engaged to Client, it is  
16 important to point out that this complaint was filed only after Client made several disclosures against  
17 Respondent, including alleging that he sexually exploited her while in the position of case manager by  
18 paying her for sexual acts.

19 **Case No. 2016-0102**

20 15. From September 2014 through March 2016, Respondent worked for a behavioral health  
21 agency ("Agency").

22 16. On February 12, 2016, Agency supervisory personnel became aware of a potential issue  
23 regarding Respondent appearing to be under the influence in the workplace.

24 17. Agency alleged that Respondent smelled of alcohol and that Respondent reported that he  
25 had relapsed.

1 18. Respondent denied all allegations made by Agency. In a subsequent statement to the  
2 Board, Respondent indicated, “[Respondent] has never been diagnosed with an alcohol or substance  
3 abuse disorder; he has never been enrolled in any substance abuse program, and has never sought  
4 treatment for an alcohol or substance abuse addiction/problem.”

5 19. Respondent’s denials are contradicted by the facts.

6 20. Included in Respondent’s personnel file was the following timeline of events:

- 7 a. On March 12, 2016, HR Manager was notified of a concern that Respondent was  
8 under the influence at the facility.
- 9 b. The report indicated that Respondent smelled of alcohol and appeared to be impaired.
- 10 c. The Director spoke with Respondent and discussed the possibility of him providing  
11 an alcohol screening.
- 12 d. While preparing to leave, Respondent stated that he would rather resign than be  
13 tested.
- 14 e. When questioned, Respondent stated that he had been drinking heavily and was  
15 drinking until 3 a.m. the night before.
- 16 f. He also admitted to using prescription drugs prior to coming to work.
- 17 g. During a February 15, 2016, meeting with Respondent, HR Manager and Director:
- 18 • “[Respondent] again admitted to relapsing on Alcohol and needing to reenter  
19 counseling and meetings.”
  - 20 • Respondent stated that he has already contacted EAP and has reconnected with  
21 his home group.
- 22 h. On February 19, 2016, Respondent signed a “Last Chance Agreement,” which stated:
- 23 • “February 12, 2016, I came to work after a night of drinking alcohol and  
24 consuming prescription drugs that were either not prescribed for me or were used  
25 by me in a manner that was not prescribed. My supervisor reasonably suspected

1 that I was under the influence of one or more substance while I was at work.”

- 2 • Respondent understands that Agency could have terminated his employment
- 3 immediately but elected to give him one last chance.
- 4 • “I further acknowledge that [Agency] has offered me time off to get treatment,
- 5 and that I have declined that offer.”

6 21. Based on the information documented in his personnel record, in conjunction with  
7 Respondent’s signed “Last Chance Agreement,” it is evident that Respondent provided false statements to  
8 the Board.

9 22. Furthermore, in review of Respondent’s treatment records from his therapist, a licensed  
10 clinical social worker, there were numerous documents reflecting current and ongoing substance abuse  
11 issues, as well as documentation indicating that Respondent has had several inpatient treatments.

12 23. When interviewed by Board staff, Respondent indicated the following:

- 13 a. “They had me sign this last chance agreement, which I didn’t even read through
- 14 thoroughly.”
- 15 b. Respondent was told if he did not sign the agreement, he could not return to work, so
- 16 he signed it.
- 17 c. Respondent did not review the agreement.
- 18 d. The information in the agreement about Respondent using alcohol and Percocet was
- 19 made up and completely false.
- 20 e. When asked if he has ever received treatment for substance abuse, Respondent
- 21 indicated no.
- 22 f. When asked for a response about why his treatment records from his therapist
- 23 indicate substance abuse, Respondent indicated, “Umm, I was never in treatment.”
- 24 g. When asked why his records from his therapist contain information to reflect that he
- 25 has participated in substance abuse treatment, Respondent indicated, “Umm, I have

1 not had outpatient treatment. Never had inpatient treatment so I don't know where  
2 that came from. Umm, I don't know."

3 24. Upon the Board's review of Complaint No. 2016-0102, the Board ordered Respondent to  
4 undergo an evaluation by an addictionologist within 60 days.

5 25. Following Board staff's review of the results from Respondent's July 2016,  
6 addictionologist evaluation, Board staff contacted Respondent to discuss the option of entering into an  
7 Interim Consent Agreement, which would temporarily suspend Respondent's license.

8 26. Upon his review and consideration, Respondent signed and returned the Interim Consent  
9 Agreement to the Board.

10 27. According to Respondent's July 2016 addictionologist evaluation:

- 11 a. It was the doctor's opinion that Respondent may meet more of the criteria than self-  
12 admitted.
- 13 b. There are some discrepancies in the history Respondent provided.
- 14 c. For example, Respondent told his previous therapist that he had not used cocaine in 3  
15 years, but during his evaluation, stated he had not used cocaine in over 10 years.
- 16 d. Respondent denied ever having attended AA, but according to the records with his  
17 previous therapist, he told her he had attended AA.
- 18 e. There is concern that there may be an underlying substance abuse disorder.
- 19 f. It would appear that it would be good judgement on Respondent's part to avoid any  
20 unnecessary control substances and to not consume alcohol while the investigation is  
21 going on, but he has not done that.

22 28. According to Respondent, he has remained sober since July 20, 2016.

23 29. However, Respondent's proclaimed sobriety date contradicts an August 21, 2018  
24 progress note from Respondent's psychiatrist, which states, do you drink alcohol: "Yes, rarely."

25 30. When asked by Board staff if Respondent has done any of the addictionologist's

1 recommendations such as undergo a psychiatric evaluation, Respondent indicated:

- 2 a. "I don't know. I mean I'm going to a psych, so I don't know what type of psych  
3 eval."  
4 b. "A lot of his notes, there's a lot of errors in there."  
5 c. "It looks like it was hastily put together."

6 31. In addition to the concerns and discrepancies identified in the addictionologist evaluation,  
7 Respondent has engaged in a series of issues pertaining to employment, unprofessional conduct, and  
8 terminations since entering his Interim Consent Agreement.

9 32. From November 2016 through June 2017, Respondent worked for a behavioral health  
10 entity ("Entity 1").

11 33. Respondent's personnel records from Entity 1 included the following information:

- 12 a. A June 7, 2017, email from the Director of Grievance and Appeals for Mercy  
13 Maricopa to Entity 1's Site Administrator:  
14 • Mercy Maricopa received an allegation regarding Respondent that he exploited  
15 an SMI member for sex.  
16 • The allegation has been referred to AHCCCS for investigation.  
17 b. On June 20, 2017, while under investigation, Respondent submitted a notice of  
18 resignation, effective immediately.

19 34. Following his employment at Entity 1, Respondent immediately began working for  
20 another behavioral health entity ("Entity 2"), where his personnel records include a July 20, 2017  
21 Personnel Change Notice, which indicates:

- 22 a. Termination reason: Respondent has not responded to HR calls.  
23 b. Eligible for rehire: No  
24 c. No notice given.  
25



1           35.     In August 2017, Respondent began working for another behavioral health entity (“Entity  
2 3”), where his personnel records included the following:

3           a.     A October 18, 2017, file note from Entity 3 Office Manager:

- 4           •     It was made known that Respondent was seen sleeping at the table during the
- 5           event.
- 6           •     Respondent’s direct supervisor was the witness.
- 7           •     He has also been seen sleeping at his desk on several occasions.

8           b.     A October 25, 2017, file note from Entity 3 Direct Supervisor:

- 9           •     A client stated that his case manager, Respondent, indulged in an alcoholic
- 10          beverage with him when Respondent did one of his home visits.

11          c.     An October 26, 2017, Employee Status Change:

- 12          •     Involuntary termination.
- 13          •     Reason for separation: Drinking with a client.

14          36.     In February 2018, Respondent began working for another behavioral health entity  
15 (“Entity 4”), where his personnel records included the following:

16          a.     Undated File Note:

- 17          •     On March 10, 2018, Entity 4 received a formal complaint regarding
- 18          Respondent’s behavior while conducting a counseling session with a new patient.
- 19          •     A decision was made to immediately place Respondent on paid administrative
- 20          leave while the complaint was investigated.
- 21          •     Several staff reported that there were a number of occasions where Respondent’s
- 22          behavior was inappropriate and caused employees to be very uncomfortable
- 23          around him.
- 24          •     It was determined that Respondent was in violation of policy 5-1, workplace
- 25          conduct.

1 b. A March 12, 2018, email from Entity 4 Counselor to staff:

- 2 • “Last night we were doing change of shift and [Respondent] asked for a  
3 Naloxone kit. I noticed that he was mumbling his words, avoiding eye contact  
4 and very frigidity.”
- 5 • As the night went on, Respondent was talking to himself, slurring some of his  
6 words, and it was noticed that the intake person whom Respondent just finished  
7 meeting with, was very upset.
- 8 • The patient’s sister was very angry and asked to speak with a supervisor or fill  
9 out a grievance form.

10 c. A March 12, 2018, email from Entity 4 Medical Assistant to staff:

- 11 • Respondent made inappropriate jokes about asking for lotion and then going to  
12 the bathroom with it.
- 13 • A couple of them were doing some stretching and Respondent walked in saying  
14 he should go put on a speedo and join them.

15 37. In response to the Board’s inquiry, Entity 4 indicated that, after a thorough investigation,  
16 it was determined that Respondent’s behavior was detrimental to the organization and he was terminated.

17 38. In April 2018, Respondent began working for another behavioral health entity (“Entity  
18 5”), where his personnel records included a Termination Detail document indicating, “Written notice of  
19 resignation effective July 8<sup>th</sup>. No rehire. Performance below standard.”

20 39. Respondent failed to update the Board of his multiple places of employment, as required  
21 by rule.

22 **CONCLUSIONS OF LAW**

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

1           2.       The conduct and circumstances described in the Findings of Fact constitute a violation of  
2 A.R.S. § 32-3251(16)(v), engaging in any sexual conduct between a licensee and a client or former client.

3           3.       The conduct and circumstances described in the Findings of Fact constitute a violation of  
4 A.R.S. § 32-3251(16)(y), engaging in a dual relationship with a client that could impair the licensee's  
5 objectivity of professional judgment or create a risk of harm to the client. For the purposes of this  
6 subdivision, "dual relationship" means a licensee simultaneously engaged in both a professional and  
7 nonprofessional relationship with a client that is avoidable and not incidental.

8           4.       The conduct and circumstances described in the Findings of Fact constitute a violation of  
9 A.R.S. § 32-3251(16)(x), exploiting a client, former client or supervisee. For the purposes of this  
10 subdivision, "exploiting" means taking advantage of a professional relationship with a client, former  
11 client or supervisee for the benefit or profit of the licensee.

12           5.       The conduct and circumstances described in the Findings of Fact constitute a violation of  
13 A.R.S. § 32-3251(16)(c)(ii), making any oral or written misrepresentation of a fact in any statements  
14 provided during an investigation or disciplinary proceeding by the Board.

15           6.       The conduct and circumstances described in the Findings of Fact constitute a violation of  
16 A.R.S. § 32-3251(16)(l), engaging in any conduct, practice or condition that impairs the ability of the  
17 licensee to safely and competently practice the licensee's profession.

18           7.       The conduct and circumstances described in the Findings of Fact constitute a violation of  
19 A.R.S. § 32-3251(16)(ii), violating any federal or state law, rule or regulations applicable to the practice  
20 of behavioral health, as it relates to A.A.C. R4-6-205 Change of Contact Information.

**ORDER**

21           Based on the foregoing Findings of Fact and Conclusions of Law, the Board issues the following  
22 order:

23 License No. LASAC-15133, issued to Michael S. Latino is hereby REVOKED.

24 ...

25 ...

Civil Penalty

The Board imposes a civil penalty against Respondent. Within 90 days of the effective date of this Order, Respondent shall submit a certified check or money order payable to the Arizona Board of Behavioral Health Examiners in the amount of \$6,000.

**RIGHT TO PETITION FOR REHEARING OR REVIEW**

Respondent is hereby notified of the right to petition for a rehearing or review by filing a petition with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09. The petition must set forth legally sufficient reasons for granting a rehearing. A.A.C. R4-6-1002. Service of this order is effective five (5) days after date of mailing. If a motion for rehearing is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing is required to preserve any rights of appeal to the Superior Court.

Dated this 5<sup>th</sup> day of February, 2019.



Tobi Zavala, Executive Director  
Arizona Board of Behavioral Health Examiners

**ORIGINAL** of the foregoing filed  
This 5<sup>th</sup> day of February, 2019, with:

The Board of Behavioral Health Examiners  
1740 W. Adams Street, Suite 3600  
Phoenix, AZ 85007

**COPY** of the foregoing mailed via  
Certified mail no. 9449009000276044089465,  
This 5<sup>th</sup> day of February, 2019, to:

Michael S. Latino  
Address of Record  
Respondent

1 **COPY** of the foregoing sent by mail  
2 This 5<sup>th</sup> day of February, 2019 to:

3 Marc Harris  
4 Assistant Attorney General  
5 2005 North Central Avenue  
6 Phoenix, AZ 85004  
7 Attorney for the State of Arizona

8 **COPY** of the foregoing sent by mail  
9 This 5<sup>th</sup> day of February, 2019 to:

10 Michael Raine  
11 Assistant Attorney General  
12 2005 North Central Avenue  
13 Phoenix, AZ 85004  
14 Attorney for the Board of Behavioral Health Examiners

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