

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.
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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 8th. 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.

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 5th day of February, 2019.



Tobi Zavala, Executive Director
Arizona Board of Behavioral Health Examiners

ORIGINAL of the foregoing filed
This 5th 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 5th day of February, 2019, to:

Michael S. Latino
Address of Record
Respondent

1 **COPY** of the foregoing sent by mail
2 This 5th 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 5th 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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**BEFORE THE ARIZONA BOARD
OF BEHAVIORAL HEALTH EXAMINERS**

In the Matter of:

**Michael S. Latino, LASAC-15133,
Licensed Associate Substance Abuse
Counselor,
In the State of Arizona.**

Respondent

**CASE NO. 2016-0102
INTERIM CONSENT AGREEMENT**

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By mutual agreement and understanding, between the Arizona State Board of Behavioral Health Examiners ("Board") and Michael S. Latino ("Respondent"), the parties enter into this Interim Consent Agreement, Findings of Fact, Conclusions of Law and Order ("Interim Consent Agreement") as an interim disposition of this matter.

RECITALS

Respondent understands and agrees that:

1. The Board may adopt this Interim Consent Agreement, or any part thereof, pursuant to A.R.S. § 32-3251 *et seq.* and A.R.S. § 41-1092.07(F)(5).
2. Respondent has read and understands this Interim Consent Agreement as set forth herein, and has had the opportunity to discuss this Interim Consent Agreement with an attorney or has waived the opportunity to discuss this Interim Consent Agreement with an attorney. Respondent voluntarily enters into this Interim Consent Agreement and by doing so agrees to abide by all of its terms and conditions.
3. By entering into this Interim Consent Agreement, Respondent freely and voluntarily relinquishes all rights to an administrative hearing on the matters set forth herein, as well as all rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action, concerning the matters related to the Interim Consent Agreement.

1 4. Respondent understands that this Interim Consent Agreement does not
2 constitute a dismissal or resolution of this matter or any matters that may be currently pending
3 before the Board and does not constitute any waiver, express or implied, of the Board's
4 statutory authority or jurisdiction regarding any other pending or future investigations, actions,
5 or proceedings. Respondent also understands that acceptance of this Interim Consent
6 Agreement does not preclude any other agency, subdivision, or officer of this State from
7 instituting civil or criminal proceedings with respect to the conduct that is the subject of this
8 Interim Consent Agreement. Respondent does not intend their acceptance of this Interim
9 Consent Agreement to constitute an admission of any fact or facts and they enter into this
10 agreement as an interim compromise of a pending matter. Respondent further does not
11 relinquish their rights to an administrative hearing, rehearing, review, reconsideration, judicial
12 review or any other administrative and/or judicial action, concerning the matters related to a
13 final disposition of this matter, unless they affirmatively does so as part of the final resolution of
14 this matter.

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

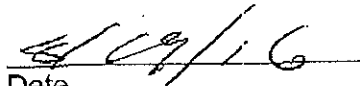
20 6. Respondent understands that this Interim Consent Agreement shall not become
21 effective unless and until it is adopted by the Board and signed by its Executive Director.

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

PROFESSIONAL ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT



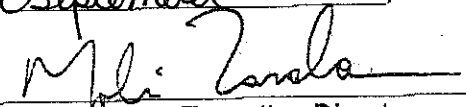
Michael S. Latino



Date

BOARD ACCEPTS, SIGNS AND DATES THIS CONSENT AGREEMENT

Dated this 12th day of September, 2016.

By: 

TOBI ZAVALA, Executive Director
Arizona Board of Behavioral Health Examiners

ORIGINAL of the foregoing filed

This 12th day of September, 2016, 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 12th day of September, 2016, to:

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

COPY of the foregoing mailed via

Certified mail no. 7014270000189572340

This 12th day of September, 2016, to:

Michael S. Latino
Address of Record
Respondent