ON S. CORZINE
Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Psychological Examiners
124 Halsey Street, 6th Floor, Newark, NJ 07102

STUART RABNER
Attorney General

STEPHEN B. NOLAN
Acting Director

Mailing Address:
P.O. Box 45017
Newark, NJ 07101
(973) 504-6470

June 13, 2007

RECEIVED
JUN 26 2007
Psychology Board

By Certified and Regular Mail

David W. Ellis, Ph.D.
1405 Route 70 West
Cherry Hill, New Jersey 08002

FILED WITH THE BOARD OF PSYCHOLOGICAL EXAMINERS ON June 26, 2007

Re: I/M/O David W. Ellis, Ph.D.
Docket No. 07-62618

Offer of Settlement in Lieu of Disciplinary Proceeding

Dear Dr. Ellis,

This letter is to advise you that the New Jersey State Board of Psychological Examiners (hereinafter referred to as the "Board") has had an opportunity to review information it received concerning your professional conduct following its consideration of a consumer complaint filed by Ellen Harbinson. The complaint alleges, among other contentions, that you engaged in questionable record keeping, questionable billing practices, insurance fraud, and harassment.

Specifically, the information reviewed by the Board included, but is not limited to, the following documents:

1. A complaint filed by Mrs. Ellen Harbinson, your patient, with the Board's administrative office on or about February 24, 2007, as well as any and all attachments and exhibits; and

2. A correspondence, dated March 27, 2007, from David W. Ellis, Ph.D., to the Board, as well as any and all attachments and exhibits.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you violated and/or failed to comply with the provisions of the Practicing Psychology Licensing Act and its accompanying regulations which are administered by the Board, in violation of N.J.S.A. 45:14B-1, in that you failed to adequately complete forms for third party reimbursement of client treatment expenses contrary to N.J.A.C. 13:42-8.3(g).

Specifically, the Board's review of this matter appears to reveal that on November 14, 2002, Ellen Harbinson came to you for a one time psychological evaluation. At this time Mrs. Harbinson payed her $15.00 co-payment which was then deposited by you on November 15, 2002. However, a claim was not submitted to Mrs. Harbinson's insurance company, Aetna, until June 15, 2004, nineteen months after her initial evaluation. At this point Aetna denied one of the two claims

submitted due to the tardiness of the claim. Then in May of 2005, Mrs. Harbinson was requested to send her $15.00 co-payment which she had already submitted in November of 2002.

Later, in August of 2006, you submitted Mrs. Harbinson's claim to a collection agency, Apex Asset, for collection. Mrs. Harbinson then proceeded to communicate with the collection agency as well as her insurance company to resolve the issue. Mrs. Harbinson received another notification from Apex Asset in September of 2006. Mrs. Harbinson continued her communication with the insurance company and collection agency in an effort to resolve the issue. On October 31, 2006, Aetna issued you a check in the amount of $305.00. It appears that in November of 2006, the collection process was started all over again, with claims being submitted to Aetna again for the services rendered on November 14, 2002. An additional claim was submitted on February 2, 2007. Due to this repeated process and your failure to timely submit the billing forms for the third party reimbursement, Mrs. Harbinson feels harassed.

Additionally, in its review of this matter, the Board had the opportunity to review the billing records submitted in this matter. The review of your billing records indicated that you failed to complete forms required for third party reimbursement of client treatment expenses in a timely manner. Specifically, you failed to submit claims to a third party in order to receive payment.

N.J.A.C. 13:42-8.3(g) provides, in the pertinent portion, that:

> The licensee's obligation hereunder to release information shall include the obligation to complete forms or reports required for third party reimbursement of client treatment expenses.

The Board has concluded that your failure to submit the claim as necessary constitutes a violation of N.J.A.C 13:42-8.3(g)and N.J.S.A. 45:1-21(h).

At this juncture, the Board has determined that the above violation is sufficient to warrant the initiation of formal disciplinary proceedings against you. Notwithstanding the determination, however, the Board has determined that it will first offer you an opportunity to settle this matter, and thereby avoid the initiation of disciplinary proceedings, should you consent to:

1. Cease and desist from violations of the billing records rule namely N.J.A.C. 13:42-8.3(g); and

2. Pay a penalty in the amount of **$500.00**, to be paid immediately upon your signing of the acknowledgment at the bottom of this letter for your violation of N.J.A.C. 13:42-8.3(g).

3. A formal reprimand for your violation of the board's regulation as required by N.J.S.A. 45:1-21(h).

If you are willing to settle this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter, and returning it to the Board office. In such event, this letter will be a matter of public record.

In the event you are unwilling to settle this matter on the offered terms, it will be referred to the Office of the Attorney General for the initiation of appropriate disciplinary action. In such event, you will be afforded an opportunity to defend against the alleged violations. If an evidentiary hearing is deemed warranted, the Board will either conduct that hearing at a date and time to be scheduled or refer that matter to the Office of Administrative Law. You are advised; however, that in the event formal charges are filed, the Board may assess civil penalties in an amount greater than that herein offered in settlement should any charges against you be sustained. Additionally, the Board may, if the facts are found to so warrant, enter an order, requiring you to reimburse certain monies and/or requiring you to pay costs incurred by the Board. Should you have any questions concerning this letter or the settlement offer herein, I suggest that you contact Deputy Attorney General Carmen A. Rodriguez at 973-648-3696.

If you elect to settle this matter presently, you should sign the acknowledgment at the bottom of this letter and return it to the Board within fifteen (15) days following your receipt of this letter. In the event that the Board receives no response from you within fifteen (15) days, the Board's settlement offer will be with drawn, and the matter will be referred to the Office of the Attorney General for the initiation of the appropriate enforcement action.

NEW JERSEY STATE BOARD OF
PSYCHOLOGICAL EXAMINERS

By: J. Michael Walker
J. Michael Walker
Executive Director

ACKNOWLEDGMENT: I, **DAVID W. ELLIS, Ph.D.**, hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledgment the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record, and that this letter is a public document. I hereby agree to pay a penalty in the amount of $500.00, which is to be paid upon signing of this acknowledgment, for failing to comply with the requirements of N.J.A.C. 13:42-8.3(g). I also agree to comply with all other requirements set forth in this settlement letter.

David W. Ellis
DAVID W. ELLIS, Ph.D.

DATED: June 20, 2007

c: Carmen A. Rodriguez
Deputy Attorney General