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FILED WITH THE BOARD OF  
PSYCHOLOGICAL EXAMINERS  
ON April 22, 2009

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF PSYCHOLOGICAL EXAMINERS

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IN THE MATTER OF THE SUSPENSION :  
OR REVOCATION OF THE LICENSE OF : Administrative Action  
: :  
ALVIN KRASS, Ph.D. : SUPPLEMENTAL ORDER  
License No. 275 :  
: :  
TO PRACTICE PSYCHOLOGY :  
IN THE STATE OF NEW JERSEY :

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This matter was reopened before the New Jersey State Board of Psychological Examiners (the "Board") for consideration of the issue of the amount of costs to be assessed upon respondent Alvin Krass, Ph.D. which issue was specifically reserved at the time that we entered our order in this matter both to afford the Attorney General an opportunity to make a cost application and to allow respondent to submit written objections to any items sought to be recovered as costs by the Attorney General. Pursuant to the Final Order Granting Summary Decision to the State, (entered March 6, 2009 effective March 16, 2009), the Attorney General was directed to file a final application for costs and attorney's

fees.\* The Final Order permitted the Respondent ten days from the its filing date to reply to the certification submitted by the State. The State was afforded five days from the date of any submissions by the Respondent to reply. Upon review of the submissions made by the State, we conclude, as announced on the record in open session at the April 6, 2009 Board meeting, that respondent is to be required to pay a total of \$8,239.00 in costs, consisting of the following cost assessments:

<u>Costs</u>	<u>Amount Assessed</u>
Transcript and court reporter costs	\$ 604.00
Counsel fees	\$ 7,035.00
Expert fees	\$ <u>600.00</u>
Total costs	\$ 8,239.00

Set forth below is a summation of the history of this matter (limited to submissions made in support of or opposition to the Attorney General's cost application) and the conclusions we have reached which support the within Order.

#### DISCUSSION

The Attorney General submitted a certification detailing all costs sought on February 3, 2009 with attachments and a corrected certification of costs submitted February 18, 2009 including costs for the oral argument on the State's Motion for

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\* The Board's determination regarding liability and a schedule for the parties' cost submissions was announced on the record at the conclusion of the February 2, 2009 hearing.

Summary Decision and the attorney's fees for the mitigation hearing held on February 2, 2009 with the following attached exhibits:

Exhibit A - memorandum dated June 29, 2005 by the Department of Law and Public Safety setting forth a Uniform Rate of Compensation

Exhibit B - time sheet report of DAG Kim Ringler

The Attorney General documented a total of \$604.00 in shorthand reporting costs, \$7,035.00 in counsel fees and \$600.00 in expert witness fees that had been incurred in the course of the proceedings regarding Dr. Krass. The Attorney General's certification was supported by the time sheets of DAG Ringler. A memorandum by Nancy Kaplan, then Acting Director of the Department of Law and Public Safety detailing the uniform rate of compensation for the purpose of recovery of attorney fees (see State v. Waldron, Docket No. L702-99 (Law Div. December 4, 2001) established in 1999 and amended in 2005, sets the hourly rate of a DAG with ten plus years of legal experience at \$175.00 per hour.

We have received and reviewed the submissions of the State. Respondent's submissions were due by March 16, 2009 and none were received. Thus, the Board concluded that the Respondent is not challenging the costs submitted by the Attorney General in this matter. The Attorney General submits proofs supporting 40.2

hours spent on researching, analyzing, drafting, preparing, editing, revising and finalizing a Complaint filed on October 16, 2008 and a Brief and Appendix with multiple attachments in Support of Complainant's Motion for Summary Decision submitted on February 2009. The Board finds the total amount of time expenditure on this matter is reasonable and necessary to appropriately prosecute the case and declines to modify those cost assessments.

#### Conclusions and Order

We note initially that, at this time, there is no dispute between the parties on the items sought for any of the costs including transcript costs in the amount of \$604 or expert witness fees of \$600. Nor is there any objection by respondent to the hourly rates at which attorneys fees were calculated. We also note that the rates charged by the Division of Law of \$175 for a DAG with 10 or more years of experience has been approved in prior litigated matters and appears to be well below the community standard.

Moreover, we find the application as supplemented to be sufficiently detailed to permit our conclusion that the amount of time spent, and the overall fees sought to be objectively reasonable as well. (See, Poritz v. Stang, 288 N.J. Super 217 (App. Div. 1996).) The Board has determined that the 40.2 hours (at \$175.00 an hour totaling \$7,035.00) that DAG Ringler recorded with narratives reasonably represents the time spent on this matter. We

find that in regard to all other charges the Attorney General has adequately documented the legal work which was performed and find that the work documented was work necessary to advance the prosecution of this case. We are thus satisfied that the Attorney General has adequately documented the tasks performed to support her application for attorney's fees and that her claims are reasonable especially when viewed in the context of the seriousness and scope of the action maintained against Dr. Krass. Furthermore, the costs are justified in this case involving the protection of the public safety and welfare as the conduct involves violations of the Board's regulations concerning boundary issues, conflicts of interest and a prohibition on entering into financial transactions with clients.

In sum, we find that the Attorney General may be awarded the attorney's fees assessed herein pursuant to N.J.S.A. 45:1-25, and we further determine that the Attorney General should be awarded all expert witness fees, transcript and court reporter costs.

**IT IS THEREFORE** on this *22nd* day of *April*, 2009,

**ORDERED THAT:**

Respondent Dr. Krass is shall pay costs incurred by the State pursuant to N.J.S.A. 45:1-25 in the amount of \$8,239.00 within thirty (30) days of the date of this Order by certified check or money order made payable to the Treasurer of New Jersey

and delivered to Michael Walker, Executive Director, at the office of the Board of Psychological Examiners. In the event the costs are not timely satisfied a Certificate of Debt may be filed.

NEW JERSEY STATE BOARD OF  
PSYCHOLOGICAL EXAMINERS

By: Nancy E. Friedman Ph.D.  
Nancy E. Friedman  
Chair