FILED WITH THE BOARD OF PSYCHOLOGICAL EXAMINERS ON July 25, 2011
J. Michael Stadler
Exec. Director

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

IN THE MATTER OF THE SUSPENSION OR REVOCATION OF THE LICENSE OF DAVID BERKOVITZ, Ph. D. License No. 35SI00311900 TO PRACTICE PSYCHOLOGY IN THE STATE OF NEW JERSEY	Administrative Action CONSENT ORDER

This matter was opened to the New Jersey State Board of Psychological Examiners (hereinafter referred to as "the Board") upon receipt of information submitted by a female patient (referred to herein as "the patient") who sought psychological services from Dr. Berkovitz to assist her in dealing with a broken engagement and marital issues. The patient alleged that Dr. Berkovitz ("the Respondent") behaved inappropriately by fostering and encouraging a romantic transference and by failing to maintain appropriate therapist boundaries during the course of her treatment relationship. The patient was in treatment

from March 2004 to September 2006. Initially she was seen once a week for 45 minutes but quickly these sessions were increased to twice a week. Initially sessions were 45 minutes at 9:30 p.m. in the evening but they gradually became longer based upon approval of the patient's request for extension of time. The complainant alleges that at about eight months into treatment the tone of the treatment changed when Respondent informed her that she was having a love transference to him. The patient described the changes in treatment as centering on inappropriate tone rather than specific transgressions. The Patient acknowledged that the Respondent never touched her in an inappropriate manner nor made direct sexual comments, but claimed that the relationship was intense and highly charged with sexual overtones which made her uncomfortable. Respondent regularly extended sessions beyond the time limit but did not bill her. He called her frequently to check on her or to chat. Respondent gave her a gift of a book entitled "The Secret Life of God. " On one occasion when she did not want to leave a session, Respondent told her to stay and lock up the office when she was ready, leaving her in the building by herself. When she left, all the lights were out and no cars were in the parking lot. On another occasion she had a marathon extended session that lasted until 2:00 a.m..

The Respondent appeared with his attorney, John Mullahy, Esquire, at an investigative inquiry on June 14, 2010. Respondent confirmed that he provided psychological services to the patient. He also acknowledged that he had difficulty maintaining time boundaries with the patient as she often became distressed and emotional when the end of the session was approaching. He confirmed that when she requested an extension of a session he granted her more time. He also confirmed a

marathon session that lasted for approximately three hours along with at least four sessions where he left his office and left the patient by herself to close the building for the evening. He denied calling the patient other than for brief calls to schedule appointments. He also confirmed the transference with this patient.

Respondent testified that he sought supervision to discuss the issues of transference and difficulty in maintaining time boundaries with this patient but he did not heed the suggestions of the supervisor to maintain the therapy time frame and advice against leaving the sessions and permitting the patient to close the office. His testimony confirmed that he had given this patient a gift of a book. Upon additional questioning he did not offer any rationale as to why he gave her the book instead of a recommendation to read the book or merely providiing the title of the book to purchase on her own.

Having reviewed the entire record, including the testimony of the complainant and the respondent, it appears to the Board that respondent has committed boundary violations with this patient and inability to properly manage sexual transference issues which he compounded by not setting concrete parameters for the treatment sessions and permitting extended sessions, by leaving the office for the evening and permitting the patient to close the office. This conduct is deemed to constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e) establishing a basis for disciplinary action.

The respondent being desirous of resolving this matter without resort to formal proceedings, and the Board having determined that the following provisions are sufficiently protective of the public interest and welfare, and for good cause shown,

IT IS ON THIS 25th DAY OF July, 2011

HEREBY ORDERED AND AGREED THAT:

1. Respondent is cautioned to meet acceptable standards of practice when dealing with transference issues and the management of psychological treatment sessions.

2. Respondent's practice shall be limited to practice under supervision for a minimum of one year. The supervisor shall be approved by the Board prior to being engaged by the Respondent. Respondent shall submit the names and curriculum vitae of three potential supervisors for approval by the Board within thirty days of the entry of this order. The minimum of one year of supervision shall begin immediately upon receipt of approval by the Board. The approved supervisor shall have face-to-face meetings with respondent a minimum of once per month and review all of the cases, patient records and psychological reports prepared by the respondent in his practice. And discuss boundary and transference issues. The approved supervisor shall report in writing to the Board on a monthly basis for the first three months regarding the respondent's progress and supply quarterly reports thereafter. The supervisor's report shall provide an informative evaluation of the respondent's professional practice including his application of accepted standards of practice for maintaining control of client sessions, his dealings with transference issues, and the establishing and maintaining of boundaries with his clients. The supervisor shall pay particular attention to respondent's dealing with psychological issues and the evaluation of psychological issues. The cost of supervision is the sole responsibility of the

respondent. The supervisor shall agree to immediately (within 48 hours of occurrence) notify the Board orally and in writing, of any actions by Respondent which fail to meet the acceptable standards of professional practice, any boundary violations or transference issues.

3. At the end of one year of supervision, the Respondent may apply to terminate or modify the supervision. In such event he shall appear before the Board or a committee of the Board which will assess whether the condition imposed by this order should be continued in whole or in part. The supervisor shall submit a written recommendation to the Board assessing respondent's ability to resume practice without supervision.

4. Failure to comply with the terms of this Consent Order shall constitute a violation of the Order which will constitute grounds for disciplinary action. Similarly, any allegations of sexual misconduct and/or violations of the Practicing Psychology Licensing Act and/or its accompanying regulations on the part of the respondent during the period of supervision which are substantiated by the Board, shall also serve as grounds for the imposition of any other appropriate disciplinary action as the Board may determine.

STATE BOARD OF PSYCHOLOGICAL EXAMINERS

Nancy E. Friedman, Ph.D.
Chair

I have read and understand the
within Consent Order and agree
to be bound by its terms. Consent

is hereby given to the Board to enter this Order.

David Berkovitz, Ph.D. DATED: 7/4/11

~~This Order is agreed to as to form and entry.~~

~~John Mullaly, Esquire~~ ~~DATED:~~