

IN THE MATTER OF	*	BEFORE THE STATE
LEWIS OSCAR MOON, LCSW-C	*	BOARD OF SOCIAL WORK
Respondent	*	EXAMINERS
License Number: 05606	*	Case No. 969

CONSENT ORDER

PROCEDURAL BACKGROUND

On June 23, 2006, the State Board of Social Work Examiners (the "Board"), charged Lewis Oscar Moon, LCSW-C, (the "Respondent") (D.O.B. 12/18/43), License Number 05656, under the Maryland Social Workers Act (the "Act"), Md. Health Occ. Code Ann. ("H.O.") § 19-101 *et seq.* (2000 Repl. Vol. & 2004 Supp.).

The pertinent provisions under §19-311 of the Act provide the following:

Subject to the hearing provisions of § 19-312 of this subtitle, the Board, on the affirmative vote of a majority of its full authorized membership, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:

- (4) Commits any act of gross negligence, incompetence, or misconduct in the practice of social work;
- (6) Engages in a course of conduct that is inconsistent with generally accepted professional standards in the practice of social work;
- (7) Violates any provision of this title or regulations governing the practice of social work adopted and published by the Board;

The regulations, under which the Board charged Respondent with violation of, are:

Code Md. Regs. tit.10 § 42.03.03 A (2002)

The Licensee shall:

- (6) Inform the Board of unethical conduct by a licensed social worker;

Code Md. Regs. tit.10 § 42.03.03 B (2002)

In the capacity of or identity as a licensed social worker, the licensee may not:

- (3) Exploit a relationship with a client for personal advantage or satisfaction;

Code Md. Regs. tit.10 § 42.03.03 C (2002)

The licensee may not enter into a nonprofessional, social, or dual relationship with a client, or an individual with whom the client has a close personal relationship.

Respondent was notified of the Charges through service by certified mail on June 23, 2006. A hearing was scheduled for this matter before the Office of Administrative Hearings for December 12 and 13, 2006.

On November 16, 2006, Respondent, his attorney, R. Scott Krause, Esquire, and Janet Klein Brown, Assistant Attorney General, Administrative Prosecutor, appeared before the Case Resolution Conference committee (the "CRC") of the Board. As a result of negotiations with the Office of the Attorney General and the Board, Respondent agreed to enter into this Consent Order, consisting of Procedural Background, Findings of Fact, Conclusions of Law, and Order, with the terms and conditions set below.

FINDINGS OF FACT

The Board makes the following findings of facts:

I. General Findings

1. Respondent was originally issued a license to practice social work in the State of Maryland on October 17, 1987, being issued license number 05606. Respondent last renewed his license in or about November 2005. Respondent's current license will expire on October 31, 2007.

2. At all times relevant to these charges, Respondent maintained an office for the full time private practice of social work in Waldorf, Maryland, under the name of Acton Counseling. Respondent's practice is not incorporated.

3. At all times relevant to these Charges, Respondent practiced social work with his wife, also a social worker, at the office in Waldorf, Maryland. In addition, at times, Respondent and his wife have affiliated with several physicians and a psychologist.

II. Findings Pertaining to Complaint

4. On or about September 1, 2005, a former client of Respondent, Client A¹, filed a Complaint with the Board,² alleging unprofessional and unethical activities on the part of Respondent and his wife.³ Specifically, Client A alleged that Respondent and his wife "befriended" him and his fiancée, (hereinafter referred to as Client A's Partner) by taking them to dinner, going to movies, and sharing holidays. Client A alleged that he decided to move to New Zealand⁴ to be with his Partner, and discussed with Respondent his concerns in regard to arrangements he should make for a house that he owned in Waldorf, Maryland. Client A alleged that Respondent and his wife suggested that they would stay in his house which they could use as a home and an office, and where their ill mother could also reside. Client A alleged that Respondent

¹ Client names are confidential and are not used in the Consent Order. Respondent is aware of the identities of Client A and Client A's Partner.

² The complaint was originally filed with the Board of Professional Counselors and Therapists on August 11, 2005, which forwarded the complaint to the Board of Social Work Examiners on September 1, 2005.

³ Respondent's wife, an LCSW-C and maintains a separate practice of social work in the same office as Respondent. The investigation revealed that Respondent's wife did not have a social worker/client relationship with Client A or Client A's Partner.

⁴ Client A's Partner is from New Zealand. Subsequently, Client A and Client A's Partner married, after Client A moved to New Zealand.

and his wife were in financial difficulty. Client A also alleged that Respondent and his wife requested that he give them power of attorney in order be able to take care of the house in his absence. Client A also alleged in the Complaint that Client A's Partner, a registered nurse in New Zealand, worked in the professional office of Respondent and his wife, without compensation.

5. Thereafter, the Board initiated an investigation of the Complaint. As part of the investigation, the Board subpoenaed Respondent's complete patient file for Client A and Client A's Partner, including all session notes, billing records and correspondence. The Board investigator also obtained a copy of a Power of Attorney, signed by Client A on April 5, 2004, and a copy of a Deed, dated July 30, 2004, between the holder of the Power of Attorney and Respondent and his wife, transferring the land and premises owned by Client A to Respondent and his wife for \$177,000.

6. In November 2005, the Board investigator interviewed Respondent and also interviewed his wife. Thereafter, Respondent's wife provided the investigator with copies of electronic mail ("email") between Respondent's wife and Client A's Partner in January 2006. In a January 24, 2006, email from Client A's Partner to an attorney for Client A, Client A's Partner stated that Client A had an arrangement with Respondent and his wife "in regards to taking over the mortgage on the property until they could refinance to own in (sic) and also to have all the furniture and chattels inside the house."

III. Evaluation and Treatment Sessions with Client A and Client A's Partner

7. Respondent initially saw Client A (d.o.b. 4/16/67), then a thirty five (35) year old male, and Client A's Partner, then a thirty-one (31) year old female, for an evaluative session on April 30, 2002. Respondent's intake form stated that Client A was seeking "relationship counseling." Respondent utilized a single "Initial Evaluation" form

for Client A, and included additional information about Client A's Partner in a separate column. Respondent did not complete the mental status portion of the form for Client A's Partner.

8. Respondent made a single diagnosis⁵ of "Anxiety Disorder Not Otherwise Specified, and described a single "Psychosocial and Environmental Problem," as "problems with primary support system." Respondent documented a Global Assessment of functioning as "50/60."⁶

9. Client A completed a "Marital Evaluation Checklist." At the time of the evaluation, Client A discussed issues involving his Partner, with whom he was residing in Waldorf, Maryland.

10. Client A's Partner also completed a "Marital Evaluation checklist." Client A's Partner stated that her relationship with Client A is "in trouble" and is hoping to "resolve our issues."

11. Thereafter, Respondent had weekly therapy sessions with Client A and Client A's Partner, beginning on May 8, 2002 and continuing through October 30, 2002. Respondent with Client A and Client A's Partner together for twelve (12) sessions. Respondent met with Client A alone for four (4) sessions. Respondent met with Client A's Partner alone for four (4) sessions.⁷ Respondent maintained regular progress notes of these sessions in "SOAP" format.

⁵ It is likely that the diagnosis and other assessments pertain to Client A, but Respondent did not make this clear in his documentation.

⁶ This assessment places the individual in the serious to moderate impairment range of functioning.

⁷ Respondent states that Client A's Partner was not the "identified client;" however, Respondent met with Client A and his Partner together for the majority of the sessions for "couples counseling."

12. On October 23, 2002, Respondent met with Client A and his Partner and documented that Client A is moving to New Zealand in the middle of November. On October 30, 2002, Respondent met with just Client A and documented that the last session would be "next week." Respondent closed Client A and Client A's Partner's record on November 8, 2002, when Client A failed to show for the appointment. Respondent documented, "closed as moving to New Zealand."

13. In an interview with the Board investigator, Respondent stated that the decision to terminate therapy was mutual and that it was discussed two or three times prior to termination. Respondent stated that it was coincidental that shortly after termination Client A moved to New Zealand.⁸

14. Respondent billed Client A for these services, and received a co-pay from Client A and reimbursement from Client A's health insurance plan.⁹

IV. Post-termination Social Relationships with Former Client A and Former Client A's Partner

15. A week after termination of therapy, on November 16, 2002, former Client A called Respondent and advised that he was moving to New Zealand. Respondent stated he went to former Client A's house, with his wife, "to say goodbye" because "neither of them had any family in the area so somebody ought to say 'goodbye' to them."

16. According to Respondent, former Client A told him that he was leaving his house and was planning on allowing the bank to take it over because "he did not want to be saddled with the debt of making house payments." According to Respondent,

⁸ According to the treatment record, as of October 23, 2002, Respondent was aware that Client A and Client A's Partner planned to move to New Zealand in the middle of November 2002.

⁹ There were no Maryland Treatment Plan forms in the Respondent's treatment records of Client A or Client A's Partner.

former Client A told Respondent and his wife that they could have the house if they took over the payments.¹⁰

17. Respondent and former Client A consulted an attorney on November 18, 2002 concerning how a title transfer of the house to Respondent and his wife might be accomplished. According to Respondent, the person who obtained the Power of Attorney from former Client A was a friend of Respondent and his wife.

18. In an interview with the Board investigator, Respondent's wife stated that former Client A called Respondent when he was stopped at the U.S. border, prior to leaving the U.S.¹¹ Former Client A was upset. This occurred on November 22, 2002. Former Client A returned to his home in Waldorf, Maryland, that was mostly vacant since he had shipped his belongings to New Zealand.

19. Respondent's wife and Respondent "befriended" former Client A after he was unable to leave the country to go to New Zealand with his Partner. Respondent and his wife met with former Client A socially on several occasions where they spoke about their shared interest in science fiction books, among other things.

20. Respondent and his wife invited former Client A to their son's Thanksgiving dinner on November 28, 2002, where former Client A met Respondent's and his wife's family.

21. On one occasion in early December 2002, former Client A requested that Respondent and his wife accompany his 10 year old daughter to the movies, where

¹⁰ According to Respondent, there was more money owed on the loan for the house than the value of the house at the time.

¹¹ Respondent stated that this might possibly have had something to do with a pending court case against former Client A.

former Client A was to meet them. Respondent and his wife agreed; however, former Client A did not join them as agreed.

22. On December 11, 2002, former Client A's Partner returned from New Zealand. In mid-January 2003, Respondent and his wife went to the movies with former Client A and his Partner, and on another occasion, Respondent and his wife went to former Client A and his Partner's home for dinner.

23. Former Client A's Partner worked as a "volunteer" in the social work office of Respondent's wife for three or four days in January 2003.

24. Former Client A left the U.S. unexpectedly for New Zealand in late February 2003. Former Client A wrote Respondent and his wife and told them they could use his house. In March 2003, Respondent and his wife began making the monthly mortgage payments on the property. Respondent and his wife moved into former Client A's home in October 2003.

25. According to Respondent, and according to the document, on April 5, 2004, former Client A, while in New Zealand, signed a Power of Attorney¹² to transfer the title to former Client A's home in Waldorf, Maryland to Respondent and his wife.¹³

26. According to Respondent, and according to the document, on July 30, 2004, the holder of the Power of Attorney executed a Deed to Respondent and his wife for the home for \$177,000.¹⁴

¹² The person who obtained the power of attorney was a friend of Respondent's and his wife, and a former client of Respondent's wife.

¹³ According to Respondent, thereafter, former Client A filed suit in the circuit court to challenge Respondent's title to the property.

¹⁴ The \$177,000 figure was the approximate amount of the outstanding mortgage that became the responsibility of Respondent and his wife.

27. In July 2005, Respondent had a telephone conversation with former Client A expecting to go to New Zealand to visit former Client A and former Client A's Partner at some future time.

28. Subsequent to former Client A's move to New Zealand, during his social relationship with former Client A and former Client A's Partner, Respondent became aware that former Client A was a "very heavy drinker," possibly as a result of "extreme stress at the time."

29. At the time of his termination of services on November 8, 2002, Respondent did not document his assessment of whether Client A needed continuation of services.

30. At the time of his termination of services on November 8, 2002, Respondent did not document a method of Client A's obtaining social work resources in New Zealand if Client A needed continuation of treatment services.

31. Respondent did not document in the treatment records the out of office contacts with Client A and Client A's Partner after the termination of services on November 8, 2002.

32. Respondent denied having personal contact with Client A (or Client A's Partner) during therapy, but stated to the Board investigator that he saw no problem having contact with former Client A and his Partner "after therapy."

V. **Summary of Misconduct, Failing to Meet Accepted Professional Standards, and Violation of the Board's Regulations**

33. The above enumerated activities, including but not limited to:

- a. Entering into a personal relationship with former Client A and former Client A's Partner by making a social visit to former Client A and former Client A's Partner's home after termination of therapy, consulting an attorney with former Client A to discuss the transfer of title to the real property belonging to former Client A, entering into a

verbal agreement with Client A to take over monthly mortgage payments on former Client A's home after he moved to New Zealand, arranging for former Client A to give Power of Attorney to a friend of Respondent and a former client of Respondent's wife, moving into Client A's home, obtaining ownership of the real property and some personal property from Client A;

- b. Immediately after termination of therapy, entering into a social or dual relationship by visiting former Client A and his Partner at their home, subsequently going to dinners and movies, planning a possible future visit in New Zealand with former Client A and former Client A's Partner, an individual with whom former Client A had a close personal relationship, constitute:
 - i. Acts of misconduct in the practice of social work, in violation of § 19-311 (4);
 - ii. A course of conduct that is inconsistent with generally accepted professional standards in the practice of social work, in violation of § 19-311 (6); and
 - iii. Violations of provisions of this title or regulations governing the practice of social work adopted and published by the Board, in violation of § 19-311 (7), specifically Code Md. Regs tit. § 10, 42.03.03 C;
- c. Respondent's actions failed to meet his responsibility as a social worker to form and maintain a disciplined relationship, clearly focused on the needs of Client A and Client A's Partner, as well as the needs of broader society. Respondent improperly focused on his needs and the needs of his wife; and
- d. Respondent, with his wife, formed relationships with Client A and Client A's Partner that were complex and contained various roles and behaviors in addition to or other than a professional/client relationship.

CONCLUSIONS OF LAW

Based on the forgoing Findings of Fact, the Board concludes that Respondent committed prohibited acts under the Act, Md. Health Occ. Code Ann. § 19-311 (4), (6) and (7), and Code Md. Regs. tit. 10 § 42.03.03 C. Accordingly, the Board concludes as a matter of law that Respondent committed acts of misconduct in the practice of social work; engaged in a course of conduct that is inconsistent with generally accepted

standards in the practice of social work; and violated a provision of the regulations governing the practice of social work adopted and published by the Board, by entering into a social or dual relationship with a client and an individual with whom the client has a close personal relationship.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is this 17th day of November, 2006, by a majority of the full authorized membership of the Board considering this case:

ORDERED that Respondent's license to practice social work shall be **SUSPENDED** for six (6) months, effective thirty (30) days from the date of this Consent Order, with all but thirty (30) days **STAYED**; and be it further

ORDERED that within seven (7) days of the commencement of suspension, Respondent shall provide his social work license, both the wall certificate and wallet card, to the Board to be maintained at the Board's office for the duration of Respondent's suspension, and be it further

ORDERED that prior to termination of suspension Respondent:

- i. Shall provide written documentation that he has enrolled in, or completed, a Board approved one-on-one tutorial in professional ethics with a Board-approved instructor, at least 12 weeks in duration with specific emphasis on ethics of professional boundaries and social and dual relationships with clients and former clients;
- ii. Shall authorize the Board to provide the ethics tutor with the entire investigative file, including all investigative interviews and, investigative reports, and records of treatment obtained during the investigation; the Board's Disciplinary Charges and the Consent Order;
- iii. Shall provide written documentation that he has contracted with a Board-approved supervisor for his probationary period;

- iv. Shall not engage in any activity or conduct that falls within the jurisdiction of, or is governed by, any Board established by the Maryland Health Occupations Article, including but not limited to, activities which involve the provision of psychotherapy or counseling services, teaching, or any other activity which requires Respondent to have direct or indirect involvement in decisions concerning the treatment rendered to mental health patients or other recipients of counseling services, whether or not such services are compensated; and be it further

ORDERED that after thirty (30) days of active suspension, Respondent may petition the Board for termination of the active suspension; and be it further

ORDERED that the petition will be granted only if conditions have been met, reports are favorable and there are no new charges pending against Respondent; the decision to grant or deny said petition being at the Board's discretion and is not appealable;

ORDERED that when the Board terminates the active suspension, Respondent shall be on a minimum of (1) year **PROBATION** subject to the following conditions:

1. Shall successfully complete, or have completed, the Board approved individual tutorial in professional ethics, with specific emphasis on ethics of professional boundaries;
2. Shall submit a written paper to the Board on the topic of professional boundaries and dual relationships with clients and former clients, that meets the requirements of the ethics tutor;
3. Shall meet at least once a month with a Board approved supervisor, who is not connected with Respondent through any current or past collegial, professional or academic affiliation, who will review Respondent's cases on a random basis and promote Respondent's skill in identifying clients where there is potential for crossing professional boundaries and in mechanisms for maintaining boundaries;
4. Respondent shall authorize the Board to provide the supervisor with the entire investigative file, including all investigative interviews and, investigative reports, and records of treatment obtained during the investigation; the Board's Disciplinary Charges and the Consent Order;

5. Respondent shall ensure that the supervisor submits quarterly reports to the Board; the first quarterly report shall be due within three (3) months of the date of reinstatement of the license;
6. Respondent shall pay a fine in the amount of Two Hundred and Fifty Dollars (\$250) to the General Fund;
7. Respondent shall be responsible for all costs associated with fulfilling the terms and conditions of this Consent Order;
8. Respondent shall complete the ethics tutorial prior to termination of probation;
9. There shall be no early termination of probation; and be it further

ORDERED that after a minimum of one year probation, Respondent may petition the Board for termination of probation; and be it further

ORDERED that the petition will be granted only if conditions have been met, reports are favorable and there are no new charges pending against Respondent; the decision to grant or deny said petition being at the Board's discretion and is not appealable; and be it further

ORDERED that Respondent will comply and practice within all statutes and regulations governing the practice of social work in the State of Maryland; and be it further

ORDERED that any violation of any of the terms of this Order shall constitute unprofessional conduct; and be it further

ORDERED that if the Board has probable cause to believe that the public health, safety or welfare imperatively requires emergency action, the Board, without prior notice and an opportunity for a hearing, may summarily suspend the Respondent's license, provided that Respondent is given prompt written notice of the Board's suspension, the finding, and the reasons in support thereof, and an opportunity for a hearing within thirty

(30) days after requesting same in accordance with Md. State Govt. Code Ann. § 10-226(c) (2004 Repl. Vol.); and be it further

ORDERED that if Respondent violates any of the terms of Respondent's probation, or fails to comply with the terms of this probation, the Board, after notice and a hearing, and a determination of violation, may impose any other disciplinary sanctions it deems appropriate, said violation of probation being proved by a preponderance of evidence; and be it further

ORDERED that this Consent Order is a public document pursuant to Md. State Govt. Code Ann. § 10-611 *et seq.*

11/17/06
Date

Yvonne M. Perret LCSW-C
Yvonne M. Perret, LCSW-C, Chair
Board of Social Work Examiners

CONSENT

I, LEWIS OSCAR MOON, LCSW-C, acknowledge that I am represented by counsel and have reviewed this Consent Order with my attorney, R. Scott Krause, Esquire, before signing this document.

I am aware that I am entitled to a formal evidentiary hearing before an administrative law judge of the Office of Administrative Hearings. I acknowledge the validity and enforceability of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have the right to counsel, to confront witnesses, to give testimony, to call witnesses on my own behalf, and to all other procedural and substantive protections to which I am entitled by law. I am waiving those procedural and substantive protections.

I voluntarily enter into and agree to abide by the foregoing Findings of Fact, Conclusions of Law, and Order and agree to abide by the terms and conditions set forth herein as a resolution of the Charges against me. I waive any right to contest the Findings of Fact and Conclusions of Law and I waive my right to a full evidentiary hearing as set forth above, and any right to appeal this Consent Order or any adverse ruling of the Board that might have followed any such hearing.

I acknowledge that by failing to abide by the conditions set forth in this Consent Order, I may be subject to disciplinary actions, which may include revocation of my license to practice social work.

I sign this Consent Order voluntarily, without reservation, and I fully understand and comprehend the language, meaning and terms of this Consent Order, consisting of sixteen (16) pages.

11-16-2006

Date

Lewis O. Moon, LCSW-C

Lewis Oscar Moon, LCSW-C
Respondent

Reviewed and approved by:



R. Scott Krause, Esquire
Attorney for Respondent

NOTARY

STATE OF MARYLAND
CITY/COUNTY of Baltimore

I **HEREBY CERTIFY** that on this 16th day of November, 2006,

before me, a Notary Public of the State and County aforesaid, personally appeared Lewis Oscar Moon, LCSW-C, and made oath in due form of law that the foregoing was his voluntary act and deed.

AS WITNESS my hand and Notarial Seal.

Gloria N. Sementa
Notary Public

My Commission Expires: 9/1/07