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5 Attorneys for Defendant Allan Gelber, Ph.D.

6  
7 **BEFORE THE BOARD OF PSYCHOLOGIST EXAMINERS**  
8 **FOR THE STATE OF ARIZONA**

9 In the Matter of:

10 Allan Gelber, Ph.D.,  
11 Holder of License No. 887,  
For the Practice of Psychology,  
12 In the State of Arizona,

13 Respondent.

NO. 17F-1646-PSY

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
CONSENT AGREEMENT FOR THE  
VOLUNTARY SURRENDER OF  
PSYCHOLOGIST LICENSE**

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16 Having reviewed the allegations in the Request for Investigation, the Interim  
17 Findings of Fact, Conclusions of Law and Order for Summary Suspension of License and  
18 subsequent Complaint and Notice of Hearing and further considering the expense he would incur  
19 addressing the allegations at formal hearing and his plans for the future, Respondent concluded  
20 that he would consent to the surrendering of his license effective immediately and cease the  
21 practice of psychology in the State of Arizona.

22 In the interest of a prompt and judicious settlement of the above-captioned matter  
23 before the Board and consistent with public interest, statutory requirements and responsibilities of  
24 the Board, and pursuant to A.R.S. § 32-2061 *et seq.* and A.R.S. § 41-1092.07(F)(5), Respondent,  
25 holder of License No. 887 for the practice of psychology in the State of Arizona and the Board  
26 enter into this Consent Agreement for Voluntary Surrender (“Consent Agreement”) as the final  
27 disposition of this matter.  
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1 **JURISDICTION**

2 1. The Board is authorized to regulate the practice of psychology in Arizona  
3 pursuant to A.R.S. § 32-2061, *et seq.*, and the rules promulgated thereunder, found in Arizona  
4 Administrative Code (“A.A.C.” or “rules”) at R4-26-101 *et seq.*

5 2. Respondent is the holder of License No. 887 for the practice of psychology  
6 in the State of Arizona.

7 3. The Board has personal and subject matter jurisdiction over Respondent  
8 pursuant to A.R.S. § 32-2061, *et seq.*

9 **CONSENT AGREEMENT**

10 Respondent understands and agrees that:

11 1. The Board and Respondent enter into this Consent Agreement to promptly  
12 and judiciously resolve this matter, consistent with the public interest and statutory requirements  
13 of the Board.

14 2. The Board has jurisdiction over Respondent and the subject matter  
15 pursuant to A.R.S. § 32-2061, *et seq.*

16 3. Respondent has the right to consult with an attorney prior to entering into  
17 this Consent Agreement.

18 4. Respondent has a right to a public hearing concerning this case. He further  
19 acknowledges that at such formal hearing he could present evidence and cross-examine witnesses.  
20 Respondent irrevocably waives any right to such a hearing.

21 5. Respondent irrevocably waives any right to rehearing or review or to any  
22 judicial review or any other appeal of this matter.

23 6. The Consent Agreement shall be subject to approval by the Board and shall  
24 be effective only when signed by the Executive Directive and accepted by the Board. In the event  
25 that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no  
26 evidentiary value and shall not be relied upon nor introduced in any action by any party, except  
27 that the parties agree that should the Board reject this Consent Agreement and this case proceeds  
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1 to hearing, Respondent shall assert no claim that the Board was prejudiced by its review and  
2 discussion of this document or any other records relating thereto.

3 7. The Consent Agreement, once approved by the Board and signed by the  
4 Executive Director, shall constitute a public record which may be disseminated as a formal action  
5 of the Board and shall be reported to the National Practitioner Data Bank.

### 6 FINDINGS OF FACT

7 1. On or about November 17, 2016, an attorney for Respondent's former  
8 patient, S.B., submitted a Request for Investigation ("RFI") to the Board alleging that Respondent  
9 committed various statutory and ethical violations against S.B.

10 2. Respondent treated S.B. in his psychoanalytic practice for nearly three  
11 years, seeing her as many as three times per week.

12 3. On May 12, 2016, S.B. drafted a termination of therapy letter.

13 4. Respondent purchased airline and cruise tickets for the purpose of traveling  
14 with S.B. Tickets included a trip to Las Vegas in July 2016 and a cruise to Tahiti in August 2016.  
15 Respondent and S.B. traveled to Las Vegas together in July 2016.

16 5. Respondent purchased and gave S.B. a gift that consisted of a running shirt.

17 6. Respondent told S.B. about his medical condition; he gave her the names  
18 and phone numbers of his doctors and children, instructed her to contact them if he had cardiac  
19 issues, identified his preferred heart hospital, and reviewed with her information about his  
20 defibrillator, pace-maker, and medications.

21 7. During the Board meeting on November 23, 2016, to consider the summary  
22 suspension of Respondent's license, Respondent appeared personally and with legal counsel,  
23 Douglas Cullins. During the meeting Respondent made a statement to the Board and answered  
24 questions from Board members. During this time, Respondent admitted that he engaged in a  
25 sexual relationship with S.B. "about two weeks" after terminating therapy with her; he sought  
26 advice from a fellow psychologist about his romantic feelings for S.B. who told him "don't act"  
27 upon those feelings; Respondent ignored the advice and acted contrary to it; Respondent admitted  
28 that he knew that having a sexual relationship with S.B. violated the American Psychological

1 Association's Code of Conduct but that he put his needs first; he also admitted that prior to  
2 terminating therapy with S.B. he knew that his feelings for her were getting in the way of his  
3 treatment of her.

#### 4 CONCLUSIONS OF LAW

5 The conduct set forth in the above Findings of Fact constitutes unprofessional  
6 conduct as defined by the following , specifically,

7 (a) A.R.S. § 32-2061(15)(f), which is sexual intimacies or sexual intercourse  
8 with a former client or patient within two years after the cessation or termination of treatment;

9 (b) A.R.S. § 32-2061(15)(dd), which is violating an ethical standard adopted  
10 by the Board as it relates to the American Psychological Association's Ethical Principles  
11 Psychologists and Code of Conduct (2010 Amendments) and the following Standards: 10.08  
12 Sexual Intimacies with Former Therapy Clients/Patients.

#### 13 ORDER

14 Based upon the foregoing Findings of Fact and Conclusions of Law, the parties  
15 agree to the provisions and penalties imposed as follows:

16 1. **Upon the effective date of this Consent Agreement for Voluntary**  
17 **Surrender, the Respondent's license (#887) for the practice of psychology in the State of**  
18 **Arizona shall be surrendered.** Once the surrender is effectuated, Respondent **shall not practice**  
19 **psychology in the State of Arizona or hold himself out as a licensed psychologist in the State**  
20 **of Arizona.** The effective date of this Consent Agreement for Voluntary Surrender is the date the  
21 Consent Agreement for Voluntary Surrender is accepted by the Board as evidenced by the  
22 signature of the Board's Executive Director.

23 2. Respondent has read and understands this Consent Agreement for  
24 Voluntary Surrender as set forth herein, and has had the opportunity to discuss this Consent  
25 Agreement for Voluntary Surrender with an attorney or has waived the opportunity to discuss this  
26 Consent Agreement for Voluntary Surrender for the purpose of avoiding the expense and  
27 uncertainty of an administrative hearing.

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1                   3.       Respondent understands that he has the right to a public administrative  
2 hearing concerning each and every allegation set forth in the above-captioned matter, at which  
3 administrative hearing he could present evidence and cross-examine witnesses. By entering into  
4 this Consent Agreement for Voluntary Surrender, Respondent freely and voluntarily relinquishes  
5 all rights to such administrative hearing, as well as all rights of rehearing, review, reconsideration,  
6 appeal, judicial review or any other administrative and/or judicial action, concerning the matters  
7 set forth herein. Respondent affirmatively agrees that this Consent Agreement for Voluntary  
8 Surrender shall be irrevocable.

9                   4.       Respondent understands that this Consent Agreement for Voluntary  
10 Surrender, or any part thereof, may be considered in any future disciplinary action against him or  
11 in any future decision regarding re-licensure.

12                   5.       The parties agree that this Consent Agreement for Voluntary Surrender  
13 does not constitute a dismissal or resolution of other matters currently pending before the Board,  
14 if any, and does not constitute any waiver, expressed or implied, of the Board's statutory  
15 authority or jurisdiction regarding any other pending or future investigation, action or proceeding.  
16 Respondent also understands that acceptance of the Consent Agreement for Voluntary Surrender  
17 does not preclude any other agency, subdivision or officer of this state from instituting other civil  
18 or criminal proceedings with respect to the conduct that is subject of this Consent Agreement for  
19 Voluntary Surrender.

20                   6.       Respondent understands that the foregoing Consent Agreement for  
21 Voluntary Surrender shall not become effective unless and until adopted by the Board and  
22 executed on behalf of the Board. Any modification to this original document is ineffective and  
23 void unless mutually approved by both parties in writing.

24                   7.       Respondent understands that this Consent Agreement for Voluntary  
25 Surrender is a public record and may be publicly disseminated as a formal action of the Board and  
26 shall be reported to the National Practitioner Data Bank.

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DATED this 30<sup>th</sup> day of March 2017.

  
Allan Gelber, Ph.D.  
Respondent

  
Cindy Olvey, Psy.D.  
Executive Director  
Arizona Board of Psychologist Examiners

ORIGINAL of the foregoing filed  
this 30<sup>th</sup> day of March 2017, with:

The Arizona State Board of Psychologist Examiners  
1400 West Washington, Suite 240  
Phoenix, Arizona 85007

COPY mailed by Certified Mail, No. 7016 2140 0000 6959 4312  
this 30<sup>th</sup> day of March 2017, to:

Allan Gelber, Ph.D.  
Address on Record

COPY mailed  
this 30<sup>th</sup> day of March 2017, to:

Douglas R. Cullins, Bar #022402  
JONES, SKELTON & HOCHULI, P.L.C.  
40 North Central Avenue, Suite 2700  
Phoenix, Arizona 85004

COPY of the foregoing mailed by interagency  
this 30<sup>th</sup> day of March 2017, to:

Jeanne M. Galvin  
Office of the Arizona Attorney General  
SGD/LES  
1275 W. Washington  
Phoenix, AZ 85007

By: 